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WILLIAM M. HANLON, JR
YOUNG & BASILE, P.C.
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084

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JUL 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Thomas Wurster, et. al. :
Application No. 10/432,061 : DECISION ON PETITION
Filed: May 19, 2003 : TO WITHDRAW
Attorney Docket No. DFS-167-A : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 10, 2007.

The request is **NOT APPROVED**.

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

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

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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: PAUL DAVIS, ESQ.
SILICON VALLEY
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

09 SEP 2004

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M. Reed Staheli
FOLEY & LARDNER
777 East Wisconsin Avenue
Suite 3800
Milwaukee, WI 53202-5308

In re Application of:	:	
PORTER, Michael, A., et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/432,094	:	REVIVE ABANDONED
PCT No.: PCT/US01/43303	:	APPLICATION UNDER 37
International Filing Date: 20 November 2001	:	CFR 1.137(b)
Priority Date: 21 November 2000	:	
Attorney's Docket No.: 023829-0223	:	
For: MODIFIED OIL-SEED MATERIAL	:	

The petition to revive under 37 CFR 1.137(b) filed 02 June 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

Applicants included with the petition payment for the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

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

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David A Farah
Sheldon & Mak
9th Floor
225 South Lake Avenue
Pasadena CA 91101

In re Application of:	:	
MORFINO, GUISEPPE	:	
Application No. 10/432,125	:	DECISION ON PETITION
Filed: May 20, 2003	:	TO MAKE SPECIAL
Attorney Docket No. : 1449US	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed May 20, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(i), (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition lacks items (d) and (e) in accordance with M.P.E.P., Section 708.02, Item VIII. The petitioner provided a copy of the WO 0178265 JP083. However, a copy of JP08314831 was not provided. Additionally, the petitioner provides a general discussion as to how the claimed subject matter is distinguishable over the references cited. However, Section 708.02, Item VIII, of the M.P.E.P. requires a detailed description of each of the submitted references and a discussion pointing out how the claimed subject matter is distinguishable over each of the references.

Accordingly, the petition is dismissed.

Should petitioner desire reconsideration, the petitioner should supplement this petition by a statement providing 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.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (572) 272-1596.

3/5/04

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

23 SEP 200

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Steven Hultquist
Intellectual Technology Law
PO Box 14329
Research Triangle Park, NC 27709

In re Application of	:	
Powell, et al.	:	
Application Serial No.: 10/432,149	:	
PCT No.: PCT/US01/16904	:	DECISION ON PETITION UNDER
Intl. Filing Date: 24 May 2003	:	
Priority Date: 16 May 2003	:	37 CFR 1.137(b)
Attorney's Docket No.: 4115-121	:	
For: Method for Introducing and Expressing Genes in	:	
Animal Cells and Bacterial Blebs for Use in Same	:	

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED APPLICATION", filed 16 May 2003.

BACKGROUND

On 24 May 2001, applicants filed international Application PCT/US01/16904 which claimed priority to an earlier application filed 16 May 2003. A demand for international preliminary examination, in which the United States was elected, was filed on 13 December 2001, within nineteen months of the international filing date . Accordingly, pursuant to 37 CFR 1.495, the thirty month period for paying the basic national fee expired at midnight 24 November 2002.

On 16 May 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and the requisite petition fee.

DISCUSSION

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

As to item (1), the petition is accompanied by the required reply in the form of a check for the basic national filing fee.

As to item (2), the petition was also accompanied by the petition fee.

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

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

CONCLUSION

The petition under 37 CFR 1.137 (b) to revive the international application abandoned under 35 USC 371(d) is **granted** as to the national stage in the United States of America.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 305-0010
Facsimile: (703) 308-6459

Kenya A. McLaughlin
PCT Legal Office Detailee
PCT Legal Office

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Paper No.

STEVEN J. HULTQUIST
INTELLECTUAL PROPERTY/TECHNOLOGY LAW
P.O. BOX 14329
RESEARCH TRIANGLE PARK, NC 27709

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APR 15 2004

OFFICE OF PETITIONS

In re Application of:	:	
Powell et al.	:	DECISION GRANTING
Application No. 10/432,149	:	STATUS
Filed: May 24, 2001	:	UNDER 37 CFR 1.47(a)
Title of Invention: METHOD FOR	:	
INTRODUCING AND EXPRESSING GENES	:	
IN ANIMAL CELLS, AND BACTERIAL	:	
BLEBS FOR USE IN SAME	:	

This is in response to a Petition under 37 CFR 1.47(a), filed August 25, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. The delay in treating this petition is regretted.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, David Hone, refuses to join in the application.

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

The application file is being 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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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DAVID HONE
7927 RUSTLING BARK COURT
ELLICOTT CITY, MD 21043

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APR 15 2004
OFFICE OF PETITIONS

In re Application of:
Powell et al.
Application No. 10/432,149
Filed: May 24, 2001
Title of Invention: METHOD FOR INTRODUCING AND EXPRESSING GENES IN ANIMAL CELLS, AND BACTERIAL BLEBS FOR USE IN SAME

LETTER

Dear Dr. Hone:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 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) 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: STEVEN J. HULTQUIST
INTELLECTUAL PROPERTY/TECHNOLOGY LAW
P.O. BOX 14329
RESEARCH TRIANGLE PARK, NC 27709

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MILLEN, WHITE, ZELANO &
BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of

Hildebrand, et al.

Application No. 10/432,156

Filed: November 24, 2003

Attorney Docket No. SCH-1792

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed March 16, 2006.

The petition is **granted**.

This application was held abandoned on October 10, 2005, after no reply was received to the "Notice to File Corrected Applications Paper" mailed September 9, 2005. The notice set forth a period of reply of one month from its mailing date. Extensions under 37 CFR 1.136(a) were not available. No response was received within the allowable period and the application became abandoned on October 10, 2005. A Notice of Abandonment was mailed March 10, 2006. The instant petition was filed on March 16, 2006. Petitioner maintains that the notice of September 9, 2005, was never received and provides a copy of the relevant docketing calendar as proof of the same.

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

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

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

Questions 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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MILLEN WHITE ZELANO
& BRANIGAN, P.C.
2200 CLARENDON BOULEVARD
SUITE 1400
ARLINGTON, VA 22201

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OFFICE OF PETITIONS

In re Application of	:	
Gesine Hildebrand et al	:	
Application No. 10/432,156	:	ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. SCH-1792	:	

This is a decision on the petition under 37 CFR 1.182, filed May 31, 2006, to list Helmut Kaeufer as the third named inventor.

The petition is **DISMISSED AS MOOT.**

The Office records show that Helmut Kaeufer is the third named inventor.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Patent No. 6,914,025	:	
Issued: July 5, 2005	:	
Application No. 10/432,165	:	NOTICE
Filed: September 22, 2003	:	
Patentee: Thommy Ekstrom, et al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This patent no longer qualifies for small entity status. Accordingly, any future fees paid in this patent must be paid at the large entity rate.

The present communication is not signed by a registered patent practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of Kendal M. Sheets 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. While a courtesy copy of this communication is being mailed, the appropriate power of attorney or authorization of agent must be submitted if Mr. Sheets desires to receive future correspondence regarding this patent.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KENDAL M. SHEETS
CPA GLOBAL
225 REINEKERS LANE, SUITE 400
ALEXANDRIA, VA 22314

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Michael L Charney	: DECISION ON REQUEST FOR
Patent Number	: 7640163	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/432,188	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1510** 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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12 SEP 2003

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Henkel Loctite Corporation
Legal Department
1001 Trout Brook Crossing
Rocky Hill, CT 06067

In re Application of :
Attarwala et al. :
US Application No.: 10/432,199 : **DECISION ON**
PCT Application No.: PCT/US01/29680 : **PETITION FOR REVIVAL**
International Filing Date: 21 September 2001 : **UNDER 37 CFR 1.137(b)**
Priority Date: 25 September 2000 :
Attorney's Docket No.: LC-416-PCT-US :
For: RAPID CURING ANAEROBIC :
COMPOSITIONS :

The petition to revive under 37 CFR 1.137(b), filed on 20 May 2003 in the above-captioned application, is hereby **GRANTED** as follows.

BACKGROUND

On 21 September 2001, Applicants filed international application PCT/US01/29680, which claimed priority of an earlier U.S. provisional application filed on 25 September 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 04 April 2002. The period for paying the basic national fee is 30 months and ended at midnight on 25 March 2003.

The basic national fee was not paid on or before 25 March 2003. The international application became abandoned as to the United States on 26 March 2003.

The instant petition encloses, *inter alia*,

(1) A transmittal letter for entry into the national stage in the United States (Form PTO-1390), along with an authorization for the USPTO to charge the $720 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.495(a)(1) to Deposit Account No.12-2135;

(2) An authorization for the USPTO to charge the $1,300 petition fee to the above deposit account;

(3) A statement to the effect that the entire delay in filing a proper oath or declaration from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

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

However, the declaration also enclosed with the petition does not comply with 37 CFR 1.497(a):

(A) The declaration lists the first name of the 4th inventor as "Vic," which differs from that shown in the published international application: "Victor." If this is the result of a name change, a petition under 37CFR 1.182 is required. Otherwise, a new oath or declaration with this inventor's correct name and executed by all the inventors must be submitted. 37 CFR 1.497(a)(3).

(B) Instead of identifying the instant application, the specification of which the declaration is directed to, Applicants referred to provisional application No. 60/235,076 in the declaration. In this respect, an oath or declaration that identifies the instant application must be submitted. 37 CFR 1.497(a)(2).

CONCLUSION

In view of the above, the request to revive the application is **GRANTED** as to the national stage in the United States.

To prevent abandonment of this application, an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be submitted within **TWO MONTHS** of the mailing date of this decision. This period is extendable 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
PO Box 1450
Alexandria, VA 22313-1450

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

07 JUN 2005
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Steven C Bauman
Henkel Loctite Corporation
1001 Trout Brook Crossing
Rocky Hill CT 06067

In re Application of	:	
ATTARWALA et al.	:	
Application No.: 10/432,199	:	DECISION ON
PCT No.: PCT/US01/29680	:	
Int. Filing Date: 21 September 2001	:	PETITION UNDER
Priority Date: 25 September 2000	:	
Attorney Docket No.: LC-416-PCT-US	:	37 CFR 1.137(b)
For: RAPID CURING ANAEROBIC COMPOSITIONS	:	

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office (USPTO) on 11 April 2005.

BACKGROUND

On 21 September 2001, applicants filed international application PCT/US01/29680 which designated the U.S. and claimed a priority date of 25 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 04 April 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 25 March 2003.

On 20 May 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, a declaration of inventors, and a petition under 37 CFR 1.137(b).

On 12 September 2003, a decision was mailed granting applicants' petition under 37 CFR 1.137(b). The decision also noted that the declaration of inventors failed to comply with 37 CFR 1.497(a)-(b) and set a two-month extendable time period for filing a declaration of inventors in compliance with 37 CFR 1.497(a)-(b).

On 10 March 2005, a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) was mailed indicating that the application was abandoned as to the United States of America for failure to timely file a proper reply to the decision mailed 12 September 2003.

On 11 April 2005, applicants filed a second petition under 37 CFR 1.137(b).

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), the declaration of inventors filed 11 April 2005 is in compliance with 37 CFR 1.497(a)-(b).

As to item (2), applicant submitted the petition fee on 11 April 2005.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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12 SEP 2003

Weiner & Burt PC
635 N. US-23
PO Box 186
Harrisville, MI 48740

In re Application of
BEDNARCZYK, January Lech
Application No.: 10/432,209
PCT No.: PCT/GB00/03980
Int. Filing Date: 17 October 2000
Priority Date: None
Docket No.: WAR-103-A
For: SLATE LAYERING SYSTEMS

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 22 May 2003 is **GRANTED**.

Applicant states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and the petition have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted. The fee for late filing of the oath or declaration has not been provided.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the surcharge for late filing of the oath or declaration is required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RATNERPRESTIA
P O BOX 980
VALLEY FORGE, PA 19482-0980

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MAY 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Mikhiro Shimada et al	:	
Application No. 10/432,212	:	DECISION GRANTING PETITION
Filed: October 24, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MTS-3428US	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 31, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

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

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

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KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA, VA 22314-2848

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FEB 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Nobuhito Ohnuma, et al.	:	
Application No. 10/432,224	:	ON PETITION
Filed: June 19, 2003	:	
Attorney Docket No. D - 1480	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 16, 2005. A Notice of Abandonment was mailed on November 18, 2005. In response, on October 2, 2006, the present petition was filed.

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

This application is being referred to Technology Center AU 2838 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,478,042 B2
Serial No. : 10/432,237
Inventor(s) : Ehara et al.
Issued : January 13, 2008
Title : **SPEECH DECODER THAT DETECTS STATIONARY NOISE SIGNAL REGIONS**
Docket No. : **L9289.03130**

Re: Request for Reconsideration

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.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request to add Assignee.

Furthermore, Assignees' and/ or Co-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, which requires petition 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 B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

A certificate of correction will issue for the remaining error noted in your request.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, NW., Suite 1200
WASHINGTON DC 20006

ecw

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DICKINSON WRIGHT, PLLC
JAMES E. LEDBETTER, ESQ.
IINTERNATIONAL SQUARE
1875 EYE STREET NW, SUITE 1200
WASHINGTON, DC 20006

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MAY 2 4 2010

OFFICE OF PETITIONS

In re Patent No. **7,478,042**
Issue Date: January 13, 2009
Application No. 10/432,237
Filed: May 22, 2003
Attorney Docket No. **L9289.03130**

DECISION ON PETITION
UNDER 37 CFR 3.81(b)

This is a decision on the petition filed February 26, 2010, 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 Monica A. Graves at (571) 272-7253. 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

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(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
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ALEXANDRIA VA 22313-1404

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OFFICE OF PETITIONS

In re Application of :
Forsberg et al. :
Application No.10/432,246 : ON PETITION
Filed: October 15, 2003 :
Attorney Docket No.:016901-139 :

This is in response to the petition filed May 9, 2006 under 37 CFR 1.181 to withdraw the holding of abandonment.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed September 20, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on September 21, 2005. A Notice of Abandonment was mailed on April 5, 2006.

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

A review of the record shows that the non-final Office Action was inexplicably returned to the Office on September 21, 2005. The returned envelope is illegible.

In view of the evidence presented by petitioner and review of the Office record the Notice of Abandonment in the above-referenced application is hereby **vacated** and the holding of abandonment **withdrawn**.

This application is being forwarded to Art Unit 3724 for re-mailing of the non-final Office Action and the period for reply will be restarted. The three (3) month extendable time period for responding to the Office Action, will be set to run from the mailing date of the new Office Action.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

21 JUN 2004

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

In re Application of	:	
BERTIN-MOUROT et al.	:	
Application No.: 10/432,269	:	DECISION
PCT No.: PCT/FR01/03658	:	
Int. Filing Date: 21 November 2001	:	
Priority Date: 22 November 2000	:	
Attorney Docket No.: 236738US2PCT	:	
For: PROCESS AND DEVICE FOR SCANNING THE SURFACE OF A SUBSTRATE	:	

This is a decision on applicants' "PETITION UNDER 37 C.F.R. 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 05 April 2004.

BACKGROUND

On 21 November 2001, applicants filed international application PCT/FR01/03658, which designated the United States and claimed priority of an earlier application filed on 22 November 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 30 May 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 May 2003.

On 21 May 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 05 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b).

On 05 April 2004, applicants filed the instant "PETITION UNDER 37 C.F.R. 1.47(a)". The petition was accompanied by: a declaration of inventors; a petition/fee for a five month extension of time; a declaration of facts by Muriel Appetit; a copy of a letter sent by Muriel Appetit to the non-signing inventor Yves Surrel dated 06 October 2003 and an English translation thereof; a copy of a mail receipt dated 10 October 2003; a copy of a letter sent by Yves Surrel to Muriel Appetit dated 20 October 2003 and a translation thereof; a copy of a letter

sent by Muriel Appetit to Yves Surrel dated 13 February 2004 and a translation thereof; and a copy of a mail receipt dated 14 February 2004.

DISCUSSION

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

Items (1), (3), and (4) have been satisfied.

Item (2) has not been satisfied. To establish a refusal to sign, it is required that the inventor be presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). It appears that the non-signing inventor Mr. Yves Surrel did not receive a copy of the application papers until after his refusal to sign. Mr. Surrel only appears to have been presented with a declaration of inventors and an assignment document before his refusal to sign dated 20 October 2003 (see translation of letter dated 06 October 2003 and translation of letter dated 20 October 2003). The specification does not appear to have been sent to Mr. Surrel until February 2004 (see English translation of letter dated 13 February 2004). Although Mr. Surrel did not respond to the February 2004, this lack of response is not being construed as a refusal to sign; there does not appear to have been any follow-up to the February 2004 letter to determine whether Mr. Surrel was still unwilling to sign. "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)." Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(a) at this time.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT,

Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

24 OCT 2005

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

In re Application of	:	
BERTIN-MOUROT et al.	:	
Application No.: 10/432,269	:	DECISION
PCT No.: PCT/FR01/03658	:	
Int. Filing Date: 21 November 2001	:	
Priority Date: 22 November 2000	:	
Attorney Docket No.: 236738US2PCT	:	
For: PROCESS AND DEVICE FOR SCANNING	:	
THE SURFACE OF A SUBSTRATE	:	

This is a decision on applicants' " RENEWED PETITION UNDER 37 C.F.R. 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 23 August 2004.

BACKGROUND

On 21 November 2001, applicants filed international application PCT/FR01/03658, which designated the United States and claimed priority of an earlier application filed on 22 November 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 30 May 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 May 2003.

On 21 May 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 05 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b).

On 05 April 2004, applicants filed a "PETITION UNDER 37 C.F.R. 1.47(a)". The petition was accompanied by: a declaration of inventors; a petition/fee for a five month extension of time; a declaration of facts by Muriel Appetit; a copy of a letter sent by Muriel Appetit to the non-signing inventor Yves Surrel dated 06 October 2003 and an English translation thereof; a copy of a mail receipt dated 10 October 2003; a copy of a letter sent by Yves Surrel to Muriel Appetit dated 20 October 2003 and a translation thereof; a copy of a letter sent by Muriel Appetit to Yves Surrel dated 13 February 2004 and a translation thereof; and a copy of a mail receipt dated 14 February 2004.

On 21 June 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application had not been provided.

On 23 August 2004, applicants submitted the instant "RENEWED PETITION UNDER 37 CFR 1.47(a)" which was accompanied by, *inter alia*, a second declaration of facts by Muriel Appetit.

DISCUSSION

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

As noted in the decision mailed 21 June 2004, items (1), (3), and (4) have been satisfied.

Item (2) has now been satisfied as well.

CONCLUSION

For the above reasons, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

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

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **05 April 2004**.

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

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#5

Trexler Bushnell Giangiorgi
Blackstone and Marr Ltd.
105 W. Adams Street
Chicago, IL 60603

In re Application of :
KADDATZ, Uwe :
Application No.: 10/432,279 : DECISION ON
PCT No.: PCT/DE01/02933 :
Int. Filing Date: 02 August 2001 : PETITION
Priority Date: 04 August 2000 :
Attorney Docket No.: 2086/40792 : UNDER 37 CFR 1.181
For: APPARATUS AND METHOD FOR :
LOADING A RIVETING MODULE :
WITH BLIND RIVET NUTS :

This decision is in response to applicant's "Status Inquiry and Request That Application Be Accepted and Accorded a Filing Date of January 31, 2003," filed on 16 May 2003. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 02 August 2001, applicant filed international application PCT/DE01/02933. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 February 2002. A demand for international preliminary examination was filed 21 February 2002, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, 04 February 2003.

On 31 January 2003, applicant filed the basic national fee.

On 16 May 2003, applicant filed the instant petition under 37 CFR 1.181, accompanied by, *inter alia*, a translation and a copy of a negotiated check.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has provided copies of various paperwork and a translation of the international application that applicant claims to have submitted on 31 January 2003. The response indicates that the return postcard was not received. Applicant has filed a petition under 37 CFR 1.10(e), but that is not appropriate as the submission was not lost in its entirety as applicant indicates that the check was cashed.

However, in the absence of the return postcard, applicant must still prove the contents of the package. Applicant has furnished a copy of the check that was received on 31 January 2003. That check could not have been properly processed without the transmittal letter (Form PTO-1390). Since another document must have been received by the Office for the Office to apply the check it received to the correct fee codes and the Office cannot locate any of the documents applicant claims to have sent, convincing evidence has been provided that the Office received and misplaced documents mailed on 31 January 2003.

As such, the translation and various papers submitted on 16 May 2003 are accorded a receipt date of 31 January 2003.

Applicant has requested a filing receipt for the above captioned application. A filing receipt is issued when applicant completes the 35 U.S.C. §371 requirements for entry into the national stage. A review of the record indicates that applicant has not furnished an executed oath or declaration in compliance with 37 CFR 1.497(a)-(b). As such, applicant has not satisfied the 35 U.S.C. §371 requirements and a filing receipt cannot be properly issued.

CONCLUSION

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

Applicant's request for a filing receipt is **REFUSED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for late filing of the oath or declaration are required.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

23 SEP 2003

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Lowe Hauptman Gilman & Berner, LLP
1700 Diagonal Road
Suite 300
Alexandria, VA 22314

In re Application of :
Guiragossian, et al. :
Application Serial No.: 10/432,285 :
PCT No.: PCT/FR01/02190 : DECISION ON PETITION
Intl. Filing Date: 06 July 2001 : UNDER 37 CFR 1.137(b)
Priority Date: 11 July 2000 :
Attorney's Docket No: 4590-178 :
For: Liquid Crystal Optical Display Head :

This decision is in response to applicants' "PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)", filed 20 May 2003.

BACKGROUND

On 6 July 2001, applicants filed International Application PCT/FR01/02190 which claimed priority to an earlier French application filed on 11 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau. A demand for international preliminary examination, in which the United States was elected, was filed on 16 January 2002 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee expired on at midnight on 11 January 2003.

On 20 May 2003, applicants filed national stage papers in the United States including, inter alia, a transmittal letter stating that the application was being filed under 35 U.S.C. 371, an English translation of the international application, the oath or declaration, and an assignment. On 20 May 2003, applicants filed the instant petition.

Applicant is advised that an incorrect inventor name and invention title was cited on the petition. Applicant is cautioned to ensure that correct identifiers are used on future communications filed.

10/08/2003 MKAYPAGH 00000008 071337 10432285

01 FC:1618 130.00 DA
02 FC:1617 130.00 DA

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of

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

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

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

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

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

CONCLUSION

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

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

Deposit account 07-1337 will be charged $130.00 for filing the oath or declaration after twenty or thirty months from the priority date and $130.00 for filing the English translation after twenty or thirty months from the priority date.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the present application, including according the present application a 35 USC 371 (c) date of 20 May 2003.

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

Kenya A. McLaughlin
PCT Legal Office Detailee
PCT Legal Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 18, 2008

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No 10/432288 patent no7253299

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: _____

/Janet L. Andres — **SPE**

1625 — **Art Unit**

06 MAY 2004

#5

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William A. Jividen
Dinsmore & Shohl, LLP
One Dayton Centre
One South Main Street, Suite 500
Dayton, Ohio 45402-2023

In re Application of
JALOWIECKI, et al.
Application No.: 10/432,307
PCT No.: PCT/GB01/05134
Int. Filing Date: 21 November 2001
Priority Date: 21 November 2000
Atty. Docket No.: ASP 00003 PA/41173.3
For: IMPROVEMENTS RELATING TO CONTENT-ADDRESSABLE (ASSOCIATIVE) MEMORY DEVICES

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 16 April 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has now provided an executed declaration of the inventors which complies with 37 CFR 1.497 (a)-(b). Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application has an international filing date of 21 November 2001 under 35 U.S.C. 363 and will be given a date of **16 April 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

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

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

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OFFICE OF PETITIONS

Applicant: Blin et a.
Appl. No.: 10/432,329
International Filing Date: November 22, 2001
Title: COSMETIC COMPOSITION COMPRISING INTERFERENTIAL PARTICLES AND A COLOURING MATERIAL
Attorney Docket No.: 05725.1192-00
Pub. No.: US 2004/0076650 A1
Pub. Date: April 22, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on June 22, 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

09 NOV 2004

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Ronald P. Kananen, Esq.
RADER. FISHMAN & GRAUER PLLC
1233 20th Street, NW
Suite 501
Washington, DC 20036

In re Application of	:	
Yamamoto et al.	:	
Application No.: 10/432,330	:	
PCT Application No.: PCT/JP02/10755	:	DECISION TO
International Filing Date: 16 OCTOBER 2002	:	
Priority Date: 16 OCTOBER 2001	:	VACATE
Attorney Docket No.: SON-2518	:	
For: INFORMATION RECORDER AND ELECTRONIC APPARATUS WITH MOUNTED INFORMATION RECORDER		

This is a response to applicant's status inquiry of U.S. Application No. 10/432,330. The USPTO has vacated the Notification of Missing Requirements under 35 USC 371 in the U.S. Designated /Elected Office (Form 905 PCT/DO/EO).

BACKGROUND

On 16 October 2002, applicant filed International Application No. PCT/JP02/10755, which claimed priority to an earlier application filed on 16 October 2001 and designated the United States.

On 22 May 2003, Applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, a translation of the international application, the basic national filing fee, and priority documents.

On 24 September 2003, the United States Patent and Trademark Office (hereinafter the "USPTO") mailed to attorney Ronald P. Kananen of the firm Rader Fishman & Grauer, a Notification of Missing Requirements under 35 USC 371 in the U.S. Designated /Elected Office (Form PCT/DO/EO/905). The Form PCT/DO/EO/905 was mailed to an incomplete address. Thus, the applicant's representative did not receive the Form PCT/DO/EO/905.

CONCLUSION

For the reason discussed above, Form PCT/DO/EO/905 mailed on 24 September 2003 is **VACATED.**

The application is being returned to the National Stage processing division for re-mailing of the Form PCT/DO/EO/905.

Robert D. Harlan
Detailee
Office of PCT Legal Administration

Leonard Smith
PCT Legal Examiner
Office of PCT Legal

07 JAN 2005

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

In re Application of VELLINGA Application No.: 10/432,333 PCT No.: PCT/NL01/00857 Int. Filing: 23 November 2001 Priority Date: 24 November 2000 Attorney Docket No.: 2001-1262 For: DEVICE AND METHOD FOR CLEANING A FLUID, SUCH AS WATER	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS", a copy of which was filed in the United States Patent and Trademark Office (USPTO) via facsimile on 20 October 2004. The communication requests withdrawal of the holding of abandonment as a response to the Notification of Missing Requirements was filed. The communication is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 22 May 2003, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 23 September 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), was required.

On 18 October 2004, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the 23 September 2003 Notification of Missing Requirements within the time period set therein.

On 20 October 2004, in response to the Notification of Abandonment, applicant filed the instant response with a copy of 20 November 2003 response to Missing Requirements, a copy of the declaration and an itemized USPTO date-stamped postcard indicating that an executed declaration was filed on 20 November 2003.

DISCUSSION

The original declaration filed on 20 November 2003 is not located in the application file. A review of the finance records for 10/432,333 indicates that on 22 May 2003, the $130 surcharge for filing the declaration after the thirty month period was paid.

As stated in section 503 of the Manual of Patent Examining Procedure (Rev. 2, May

2004)(MPEP):

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the an executed declaration was deposited with the USPTO on 20 November 2003.

The evidence submitted is sufficient to establish that a declaration for this application was received in the USPTO on 20 November 2003. The communication filed 20 October 2004 includes a copy of the executed declaration. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 20 November 2003. The evidence submitted by applicant, the postcard receipt date stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself.

A review of the declaration reveals that the declaration identifies the inventor, and states the citizenship and mailing address of the inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Abandonment mailed on 18 October 2004 is hereby **VACATED**.

The copy of the declaration originally submitted on 20 November 2003 and resubmitted on 20 October 2004 is acceptable and meets the requirements of 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **20 November 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Josef Constantin Szeles	: DECISION ON REQUEST FOR
Patent Number	: 7660637	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/432,336	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **370** 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.

26 NOV 2003

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Summer C. Rosenberg
Needle & Rosenberg, P.C.
Suite 1000
999 Peachtree Street
Atlanta, GA 30309-3915

In re Application of	:	
HARVEY, et al.	:	DECISION ON REQUEST
Application No.: 10/432,337	:	
PCT No.: PCT/AU01/01503	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 20 November 2001	:	
Priority Date: 20 November 2000	:	
Attorney Docket No.: 07082.0010U1	:	
For: METHOD FOR TREATING FILMS	:	

This decision is in response to applicant's "Statement of Added Inventor David Lee Carew Regarding Request to Correct Inventorship Under 37 C.F.R. § 1.497(d)(1)" filed 27 October 2003.

BACKGROUND

On 20 November 2001, applicant filed international application PCT/AU01/01503, which claimed priority of an earlier application filed 20 November 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 May 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 20 May 2003.

On 20 May 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a First preliminary amendment.

On 29 August 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 27 October 2003, applicant responded with the present petition accompanied by a combined declaration and power of attorney executed by Erol Craig Harvey, Ramon Glenny Waycott and David Lee Carew and a signed statement from David Lee Carew.

DISCUSSION

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

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

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

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

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

As to Item (1), applicant has provided a statement from David Lee Carew declaring that he was erroneously omitted as an inventor and avowing that the error in inventorship occurred without deceptive intent.

Regarding Item (2), applicant has filed a combined declaration and power of attorney executed by Erol Craig Harvey, Ramon Glenny Waycott and David Lee Carew.

As Item (3), applicant has authorized the deduction of the $130.00 petition fee from Deposit Account No.: 14-0629.

Regarding Item (4), applicant has not filed an assignment for the present national stage application.

As such, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

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

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of **20 November 2001** and a date of **27 October 2003** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision

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

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DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
BOISE ID 83701-0877

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OFFICE OF PETITIONS

In re Patent No. 7,048,948 :
Application No. 10/432,338 :
Filed: May 20, 2003 : ON PETITION
Issued: May 23, 2006 :
Attorney Docket No. CHI101 :

This is a decision on the petition filed September 11, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the partial assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned 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.

Liana Walsh
Petitions Examiner
Office of Petitions

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

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Sol Sheinbein
G.E. Ehrlich (1995) Ltd.
2001 Jefferson Davis Hwy.
Suite 207
Arlington, VA 22202

In re Application of:	:	
Olshenitsky et al.	:	
Application No.: 10/432,346	:	DECISION
PCT No.: PCT/IL01/01088	:	
Int. Filing Date: 27 November 2001	:	UNDER
Priority Date: 30 November 2000	:	
Atty. Docket No.: 26228	:	37 CFR 1.47
For: Bacterial Strain, Processed Plant Extracts,	:	
Compositions Containing Same, Processes...	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 12 December 2003.

BACKGROUND

This international application was filed on 27 November 2001 and claimed earliest priority of an application filed on 30 November 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 06 June 2002. Accordingly, the 30 month time period for 29 May 2003, applicants filed *inter alia* the basic national fee.

On 16 September 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

DISCUSSION

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

Regarding requirement (1), the petition included authorization to charge the petition fee to counsel's Deposit Account, thereby satisfying requirement (1).

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Genadi Buchman be excused because he has refused to sign a declaration after having been presented with the declaration and a copy of the application. In support of this contention, petitioner provides a "Supporting Declaration..." which states that, in a telephone conversation with Mr. Buchman on 09 December 2003, Mr. Buchman confirmed having received the declaration and patent application, and verbally refused to sign the declaration. Based on the totality of the evidence of record, it would be appropriate to conclude that requirement (2) has been satisfied.

Regarding requirement (3), the petition includes a statement the last known addresses of Genadi Buchman. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the declaration filed on 12 December 2003 is acceptable for purposes of compliance with 35 U.S.C. 371, thereby satisfying requirement (4).

CONCLUSION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **12 December 2003**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

25 JUN 2004

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

In re Application of CULLEN et al	:	
U.S. Application No.: 10/432,348	:	
PCT Application No.: PCT/IB01/02255	:	DECISION
Int. Filing Date: 29 November 2001	:	
Priority Date Claimed: 29 November 2000	:	
Attorney Docket No.: 237162US3PCT	:	
For: TOOL INSERTS	:	

This is in response to applicant's letter filed 23 June 2004, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 29 November 2001, applicant filed international application PCT/IB01/02255, which claimed priority of an earlier South Africa application filed 29 November 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 06 June 2002. The thirty-month period for paying the basic national fee in the United States expired on 29 May 2003.

On 29 May 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 30 September 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 10 November 2003, applicant purportedly filed an executed declaration.

On 23 June 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 10 November 2003. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 10 November 2003, serves as *prima facie* evidence that the declaration was received by the USPTO on 10 November 2003.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 29 November 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 10 November 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

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

In re Application of :
Joachim CHARZINSKI :
Application No. 10/432,367 : DECISION ON PETITION
Filed: February 19, 2003 : TO WITHDRAW
Attorney Docket No. 449122048700 : 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 18, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed April 19, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: JOACHIM CHARZINSKI
AM GLASANGER 24
OBERSCHLEISSHEIM, 85764
GERMANY

cc: KEVIN SPIVAK,
BELL, BOYD & LLOYD LLC
70 WEST MADISON STREET,
SUITE 3100
CHICAGO, IL 60602

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/432,367	05/21/2003	Joachim Charzinski	449122048700

CONFIRMATION NO. 8480

OC000000024516292

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/18/2007.

- 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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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1650 TYSONS BOULEVARD
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MCLEAN, VA 22102

In re Application of :
Joachim CHARZINSKI :
Application No. 10/432,367 : DECISION ON PETITION
Filed: February 19, 2003 : TO WITHDRAW
Attorney Docket No. 449122048700 : 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 18, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed April 19, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: JOACHIM CHARZINSKI
AM GLASANGER 24
OBERSCHLEISSHEIM, 85764
GERMANY

cc: KEVIN SPIVAK,
BELL, BOYD & LLOYD LLC
70 WEST MADISON STREET,
SUITE 3100
CHICAGO, IL 60602

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Alexandria, VA 22313-1450
www.uspto.gov

MYRON KEITH WYCHE
CONNOLLY BOVE LODGE & HUTZ
1990 M STREET N W
SUITE 800
WASHINGTON DC 20036-3425

MAILED

MAY 06 2010

OFFICE OF PETITIONS

In re Patent No. 7,072,722
Issued: July 4, 2006
Application No. 10/432,377
Filed: May 21, 2003
Attorney Docket Number: 22106-00025-US

ON PETITION

This is a decision on the petition, filed March 11, 2010, under 37 CFR 3.81 to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the assignee is ABB TECHNOLOGY AG, and that the failure to include the correct assignee name on the Fee(s) Transmittal form PTOL-85(b) was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

Office assignment records reflect that ABB TECHNOLOGY AG is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Petitioner's credit card has been charged in the amount of $130.00 for the petition and $100.00 for the certificate of correction.

Additionally, while the firm of CONNOLLY BOVE LODGE & HUTZ is of record, there is no indication that the attorney signing the petition and the change of address was ever empowered to handle matters related to this patent. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. If the new power of attorney and/or change of address is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). In view thereof, the correspondence address cannot be changed. A courtesy copy of this decision will be mailed to petitioner at the address indicated on the change of address, however, all future correspondence will be mailed solely to the current correspondence address of record.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, NW
SUITE 1100
WASHINGTON, DC 20006

16 DEC 2003

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70570
OCT 29 2003
PATENT & TRADEMARK OFFICE

Herbert B. Keil
Keil & Weinkauf
1350 Connecticut Avenue, N.W.
Washington, D.C. 20036

RECEIVED
DEC 18 2003
KEIL & WEINKAUF

In re Application of
FISCHER, et al.
Application No.: 10/432,387
PUT No.: PCT/HU01/00111
Int. Filing Date: 14 November 2001
Priority Date: 23 November 2002
Attorney Docket No.: 004701
For: NEW DESLORATADINE SALTS, PROCESS FOR THEIR SYNTHESIS AND PHARMACEUTICAL COMPOSITIONS THEREOF

DECISION ON RENEWED PETITION UNDER 37 CFR 1.42

This is a decision on applicant's renewed petition under 37 CFR 1.42 filed in United States Patent and Trademark Office on 29 October 2003.

BACKGROUND

On 21 October 2003, applicant was mailed a decision refusing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period was extendable pursuant to 37 CFR 1.136(a).

On 29 October 2003, applicant filed the present response accompanied by three complete, combined declarations and powers of attorney.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

Applicant's original request for status under 37 CFR 1.42 was dismissed as the filed contained three pages "3 of 3" suggesting that the declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signatures pages of the declaration and thus defective under 37 CFR 1.497. Applicant has presently filed three complete,

combined declarations and powers of attorney. As such, it is proper grant applicant's request for status under 37 CFR 1.42 at this time.

CONCLUSION

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

This application will be given an international application filing date of 14 November 2001 and a date of **29 October 2003** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

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

21 OCT 2003

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OCT 23 2003
KEIL & WEINKAUF

Herbert B. Keil
Keil & Weinkauf
1350 Connecticut Avenue, N.W.
Washington, D.C. 20036

In re Application of
FISCHER, et al.
Application No.: 10/432,387
PUT No.: PCT/HU01/00111
Int. Filing Date: 14 November 2001
Priority Date: 23 November 2002
Attorney Docket No.: 004701
For: NEW DESLORATADINE SALTS, PROCESS FOR THEIR SYNTHESIS AND PHARMACEUTICAL COMPOSITIONS THEREOF

DECISION ON PETITION

UNDER 37 CFR 1.42

This is a decision on the papers filed in United States Patent and Trademark Office on 21 May 2003, which are being treated as a request for acknowledgment of status under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 14 November 2001, applicant filed the international application, which claimed a priority date of 23 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 May 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 May 2003.

On 21 May 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; a translation of the International Application into English; an assignment document for recording and a declaration/power of attorney executed by joint inventors Janos Fischer, Tamas Fodor, Sandor Levai and Endrene Petenyi. Additionally, the declaration/power of attorney was executed by Ferenc Trischler, Jr., Tamas Robert Trischler and Gabriel Maria Trischler as sole heirs to the estate of deceased inventor Ferenc Trischler. Applicant also included an executed declaration from Ferenc Trischler, Jr., Tamas Robert Trischler and Gabriel Maria Trischler detailing their position as sole heirs to the estate, as well as an English translation of Estate Distribution Order.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The declaration filed 21 May 2003 is executed by Ferenc Trischler, Jr., Tamas Robert Trischler and Gabriel Maria Trischler as sole heirs to the estate of deceased inventor Ferenc Trischler. In addition, applicant has provided sufficient proof to show that the above individuals are indeed all of the heirs to the estate. The submission of the declaration executed by all of the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

Applicant is advised that the filed declaration signed by the remaining inventors and by Ferenc Trischler, Jr., Tamas Robert Trischler and Gabriel Maria Trischler behalf of Ferenc Trischler contains three pages "3 of 3." This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signatures pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.) Absent a compliant oath or declaration it is not possible to grant applicant's request at this time.

CONCLUSION

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

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

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WELSH & KATZ, LTD
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22ND FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
Boudy, et al. :
Application No. 10/432,389 : ON PETITION
Filed: November 7, 2003 :
Attorney Docket No. 7549-89904 :
For: POROUS PLYMERIC
BIOMATERIALS, PREPARATION
METHOD AND USES

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

This application became abandoned for failure to properly respond to the final Office action mailed on March 28, 2006, which set an extendable three month period for reply. Applicants submitted a three month extension of time with $1,020.00 fee and an amendment after final on September 27, 2006. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the November 2, 2006 Advisory action. Accordingly, this application became abandoned on September 29, 2006. A Notice of Abandonment was mailed on January 11, 2007.

Applicants have submitted a RCE and $790.00 fee and a request to use the previously filed amendment (of September 27, 2006) as the submission in reply to the March 28, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the March 28, 2006 final Office action, and the $1,500.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1615 for consideration of the RCE filed on November 10, 2006.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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)
7014457	2006-03-21	10432392	2003-12-09	2001-1263

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	/Benoit Castel/	Date (YYYY-MM-DD)	2010-03-31
Name	Benoit Castel	Registration Number	35041

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 7014457
Issue Date: March 21,2006
Application No. 10432392
Filed: December 9,2003
Attorney Docket No. 2001-1263

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

This is a decision on the electronic petition, filed March 31,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 31,2010 . 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.

31 OCT 2003

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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON. DC 20005

In re Application of ERLACH et al. Application No.: 10/432,393 PCT No.: PCT/AT01/00371 Int. Filing Date: 22 November 2001 Priority Date: 22 November 2000 Attorney Docket No.: 66374-139-7 For: METHOD FOR SUPPLYING AN INTERNAL COMBUSTION....	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "Response to Notification of Missing Parts" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 22 September 2003. The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 21 May 2003, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee and purported English translation of the international application.

On 16 June 2003, applicants allegedly filed an executed declaration, in compliance with 37 CFR 1.497(a) & (b) along with the $130 surcharge for filing the declaration after the 30 month period.

On 09 September 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497, an English translation of the drawings, and $130 processing fee for filing the English translation after thirty month period were required. The Notification further indicated that the text in the drawings had not been properly translated.

On 22 September 2003, applicants, in response to the Notification of Missing Requirements, filed a copy of the USPTO mail room date-stamped postcard indicating that an executed declaration was filed on 16 June 2003.

DISCUSSION

The original declaration filed on 16 June 2003 is not located in the application file. However, a review of the finance records for 10/432,393 indicates that the $130 surcharge for filing the declaration after the thirty month period was paid on 17 June 2003.

As stated in section 503 of the Manual of Patent Examining Procedure (8th Ed., August 2001)(MPEP):

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the combined declaration and power of attorney was deposited with the USPTO on 16 June 2003.

The evidence submitted is sufficient to establish that a declaration for this application was received in the USPTO on 16 June 2003. The communication filed 22 September 2003 includes a copy of the executed declaration. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 16 June 2003. The evidence submitted by applicant, the postcard receipt date stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself.

A review of the declaration reveals that the declaration identifies each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

However, as noted in the Notification of Missing Requirements, an English translation of the text in the drawings is required and remains outstanding.

CONCLUSION

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

The copy of the declaration originally submitted on 16 June 2003 and resubmitted on 22 September 2003 is acceptable and meets the requirements of 37 CFR 1.497.

The requirement for an English translation of the text in the drawings associated with this application remains outstanding. The time period for response set forth in the Notification of Missing Requirements mailed on 09 September 2003 remains in effect.

The application will be held in the PCT Legal office to await applicant's further reply to the Notification of Missing Requirements.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

13 NOV 2003

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Wenderoth, Lind & Ponack, LLP
2033 K Street, NW, Suite 800
Washington, DC 20006-1021

In re Application of	:	
Yasuda et al.	:	
Application No.: 10/432,396	:	
PCT No.: PCT/JP01/10215	:	
Int. Filing Date: 22 November 2001	:	DECISION
Priority Date: 22 November 2000	:	
Attorney Docket No.: 2003_0705 A	:	
For: Apparatus For Microscopic Observation	:	
Of Long-Term Culture Of Single Cell	:	

This is a decision on applicants' "Petition Under 37 CFR 1.182 To Accept Correction In Inventor's Name" filed on 07 October 2003.

BACKGROUND

This international application was filed on 22 November 2001 and claimed a priority date of 22 November 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 30 May 2002. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 22 May 2003.

On 21 May 2003, applicants filed *inter alia* the basic national fee.

On 16 September 2003, a Notification of Missing Requirements (Form PCT/DO/EO/909) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and the surcharge under 37 CFR 1.492(e).

DISCUSSION

Review of the declaration of the inventors filed on 07 October 2003 reveals that it itemizes a joint inventor, Tetsuya YOMO, whose name does not appear in the published international application, and that the published international application itemizes a joint inventor, Tetsuya SHIKATA, whose name does not appear in the declaration. Counsel indicates that "The error occurred due to an incorrect translation of the Japanese name," and that "The error was made without deceptive intent." The petition is accompanied by a statement from Tetsuya YOMO, attesting that "the name 'Tetsuya SHIKATA' listed on the PCT publication refers to me, but that such is not my correct name. I further state that my correct name is -- Tetsuya YOMO --, and not Tetsuya SHIKATA as listed on the PCT publication." The statement further indicates that this "error was mad without deceptive

intent." Based on the totality of the evidence now of record, it would be appropriate to conclude that the discrepancy in the inventor's name arose from the error described by counsel. As such, it would be appropriate to grant the requested relief.

CONCLUSION

The petition to accept the declaration as filed on 07 October 2003 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371 (c)(1), (2) and (4) is **07 October 2003**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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United States Patent and Trademark Office
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application :
Ying Wang et al. :
Application No. 10/432,406 : DECISION ON APPLICATION
Filed: November 20, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **B0801,70199US01** :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(B)" filed May 6, 2009. Applicant requests that the determination of patent term adjustment be corrected from six hundred fifty-eight (658) days to one thousand one hundred forty-two (1142) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

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

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

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

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

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

COPY MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Application of :
Wang :
Application No. 10/432,406 : DECISION ON PETITION
Filed: November 20, 2003 :
Attorney Docket No. B0801.70199US01 :

This is a decision on the petition under 37 CFR 1.182, filed, April 7, 2009, to change the name of inventor "Ying Wang" to – JULIA YING WANG--.

The petition is GRANTED.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3205. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to the Office of Data Management.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/432,406	11/20/2003	1623	2612	B0801.70199US01	29	8

CONFIRMATION NO. 8665

CORRECTED FILING RECEIPT

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Date Mailed: 10/26/2009

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

Applicant(s)

Julia Ying Wang, Brookline, MA;
Michael H Roehrl, Brookline, MA;
Dennis L Kasper, Charlestown, MA;

Power of Attorney:
Alan Steele--45128

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US01/47251 12/05/2001

Foreign Applications

If Required, Foreign Filing License Granted: 10/21/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/432,406**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

USE OF ZWITTERIONIC POLYSACCHARIDES FOR THE SPECIFIC MODULATION OF IMMUNE PROCESSES

Preliminary Class

514

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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OFFICE OF PETITIONS

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

In re Patent No. 7,629,330
Issued: December 8, 2009
Application No. 10/432,406
Filed: November 20, 2003
Attorney Docket No.
B0801.70199US01

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR CONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(D) filed on February 5, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 595 days to 1183 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred eighty-two (1182) 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 "B" delay period, the over three year period begins on June 5, 2003, the date the national stage commenced under 35 U.S.C. 371(f), and ends on September 15, 2008, the day before the RCE was filed, and the B delay considering the 246 days of overlap is 833 (not 834) days. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 587 days. As such, the patent term adjustment is 1182, not 1183 days. Accordingly, the patent term adjustment determination is 1182 days (840 "A" delay+ 833 "B" delay -246 days of overlap between A and B, - 245 days of applicant delay = 1182).

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred eighty-two (1182)** days.

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

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office Of Patent Legal Administration
Office of Associate Commissioner for
Patent Examination Policy
Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,629,330 B2

DATED : December 8, 2009

INVENTOR(S) : Ying Wang

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 (595) days

Delete the phrase "by 595 days" and insert – by 1182 days--

Day : Wednesday

PALM INTRANET

Date: 6/2/2010
Time: 15:03:11

PTA Calculations for Application: 10/432406			
Application Filing Date:	11/20/2003	PTO Delay (PTO):	840
Issue Date of Patent:	12/08/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	245
Post-Issue Petitions:	0	Total PTA (days):	1182
PTO Delay Adjustment:	587		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
100	06/02/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	587		
95.5	11/18/2009	PTA 36 MONTHS			
95	12/08/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	93		83
94	11/09/2009	EXPORT TO FINAL DATA CAPTURE			
93	11/06/2009	DISPATCH TO FDC			
92	11/05/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
91	10/26/2009	MAIL-PETITION DECISION - GRANTED			
90	10/26/2009	PETITION DECISION - GRANTED			
89	10/26/2009	FILING RECEIPT - CORRECTED			
88	06/08/2009	PUBS CASE REMAND TO TC			
87	05/28/2009	MAIL-PETITION DECISION - DISMISSED			
86	05/28/2009	PETITION DECISION - DISMISSED			
85	05/07/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
84	05/06/2009	MISCELLANEOUS INCOMING LETTER		120	92
83	05/06/2009	ISSUE FEE PAYMENT VERIFIED			
82	05/06/2009	PETITION ENTERED			
81	05/06/2009	ISSUE FEE PAYMENT RECEIVED			
80	04/24/2009	RESPONSE TO AMENDMENT UNDER RULE 312			
79	04/17/2009	FINISHED INITIAL DATA CAPTURE			
78	04/07/2009	PETITION ENTERED			
77	04/07/2009	MISCELLANEOUS INCOMING LETTER		29	92
76	04/07/2009	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		0	92
75	04/03/2009	MAIL PUB NOTICE OF NON-COMPLIANT IDS			

74	04/03/2009	PUB NOTICE OF NON-COMPLIANT IDS			
73	03/31/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
72	03/31/2009	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		7	92
71	03/31/2009	MISCELLANEOUS INCOMING LETTER		0	
70	03/31/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
69	03/09/2009	RESPONSE TO REASONS FOR ALLOWANCE			
68	02/17/2009	RESPONSE TO REASONS FOR ALLOWANCE			
67	02/09/2009	EXPORT TO INITIAL DATA CAPTURE			
65	02/06/2009	MAIL NOTICE OF ALLOWANCE			
64	02/03/2009	ISSUE REVISION COMPLETED			
63	02/03/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	02/03/2009	CASE DOCKETED TO EXAMINER IN GAU			
61	02/03/2009	DOCUMENT VERIFICATION			
60	02/02/2009	EXAMINER'S AMENDMENT COMMUNICATION			
59	02/02/2009	NOTICE OF ALLOWABILITY			
58	01/27/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
57	01/16/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
56	01/14/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
55	11/10/2008	MAIL NON-FINAL REJECTION			
54	11/07/2008	NON-FINAL REJECTION			
53	09/18/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
52	09/18/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
51	09/18/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
50	09/16/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
49	09/25/2008	DATE FORWARDED TO EXAMINER			
48	09/16/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
47	09/25/2008	DATE FORWARDED TO EXAMINER			
46	09/16/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		87	42

45	09/25/2008	DISPOSAL FOR A RCE / CPA / R129			
44	09/16/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	09/16/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
42	03/21/2008	MAIL FINAL REJECTION (PTOL - 326)			
41	03/18/2008	FINAL REJECTION			
35	01/07/2008	DATE FORWARDED TO EXAMINER			
34	12/13/2007	RESPONSE AFTER NON-FINAL ACTION		2	33
33	09/11/2007	MAIL NON-FINAL REJECTION			
32	09/04/2007	NON-FINAL REJECTION			
31	08/16/2007	DATE FORWARDED TO EXAMINER			
30	08/08/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
29	07/11/2007	MAIL RESTRICTION REQUIREMENT	181		26
28	07/05/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
27	06/08/2007	DATE FORWARDED TO EXAMINER			
26	09/11/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
22	08/09/2006	MAIL RESTRICTION REQUIREMENT	566		-1
21	08/07/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
19	11/20/2003	REFERENCE CAPTURE ON IDS			
17	02/22/2005	MAIL OF WITHDRAW OF INFORMAL AMENDMENT NOTICE			
16	02/18/2005	WITHDRAW OF INFORMAL AMENDMENT NOTICE			
15	02/07/2005	MAIL NON-COMPLIANT PRELIMINARY AMENDMENT			
14	02/07/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	02/07/2005	NON-COMPLIANT PRELIMINARY AMENDMENT			
11	02/07/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	03/19/2004	REFERENCE CAPTURE ON IDS			
9	02/02/2004	CLEARED BY OIPE CSR			
8	11/20/2003	371 COMPLETION DATE			
7	12/15/2003	APPLICATION DISPATCHED FROM OIPE			
6	12/15/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	11/20/2003	ADDITIONAL APPLICATION FILING FEES			
3	11/20/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/7/07

Paper No.: —

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/432441 Patent No.: 6940444B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: OK

TL

SPE

2827
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,944,044

DATED: September 13, 2005

INVENTOR(S): Holger Goebel et al.

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

On the front page, field number (75) listed as Inventors: delete "NY" and add -- VT --;

On the front page, field number (75) listed as Inventors:, please add to the bottom of the inventor list the name -- Marc Ullmann, Altdorf (DE) --.

On the front page, field number (30) listed as Foreign Application Priority Data delete " 100 64 031 " and add -- 100 64 031.1 --.

On the front page, under the listing OTHER PUBLICATIONS, the second publication delete " 1998 " and add -- 1996 --.

Column 4, line 47 delete "ferro electric" and add -- ferroelectric --;

Column 4, line 53 delete "ferro electric" and add -- ferroelectric --;

Column 4, line 55 delete "ferro electric" and add -- ferroelectric --.

MAILING ADDRESS OF SENDER:
Altera Law Group, LLC
6500 City West Parkway, Suite 100
Minneapolis, Minnesota 55344

PATENT NO. 6,944,044

No. of additional copies: 0

FEB 0 9 2007

17 SEP 20[redacted]

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BASF CORPORATION
Patent Department
1609 Biddle Avenue
Wyandotte, Michigan 48192

In re Application of: HEIDER, Wolfgang, et al.	:	
U.S. Application No.: 10/432,474	:	
PCT No.: PCT/EP01/13619	:	DECISION ON PAPERS
International Filing Date: 2122 November 2001	:	SUBMITTED UNDER
Priority Date: 22 November 2000	:	37 CFR 1.42
Attorney's Docket No.: IN-12212	:	
For: A PROCESS FOR WORKING UP POLYETHER ALCOHOLS	:	

This decision is issued in response to the 22 May 2003 submission of a declaration executed on behalf of deceased inventor Thomas Barth by joint heirs Hannelore BARTH and Georg Hans BARTH, treated herein as a submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 22 May 2003, applicants filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. The Transmittal Letter was accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and a declaration executed by the ten surviving inventors and on behalf of deceased inventor Thomas Barth by joint heirs Hannelore BARTH and Georg Hans BARTH.

DISCUSSION

Pursuant to 37 CFR § 1.42, first sentence:

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

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

The declaration submitted on 22 May 2003 identifies the deceased inventor and states the inventor's country of citizenship and residence, as required for compliance with 37 CFR 1.497(a)(3). The declaration is signed by the "Joint Heirs" of the deceased inventor's estate, states the heirs relationship to the deceased (i.e., heirs), and provides the heirs' country of citizenship and residency. The accompanying materials provide evidence that these heirs are all the sole heirs of the deceased inventor. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2).

The submission of the declaration executed by heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect, applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

Based on the above, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**. The declaration filed on 22 May 2003 is accepted as complying with 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office (US/DO/EO) for further processing. The 35 U.S.C. 371 date is 22 May 2003.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Darby & Darby, P.C.
P.O. Box 5257
New York, NY 10150-5257

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NOV 1 8 2004

OFFICE OF PETITIONS

In re Application of: Yoshihisa Ueda, et. al. :
Application No. 10/432,491 : NOTICE
Filed: May 27, 2003 :
Attorney Docket No. 9621/0L182US0 :

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

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

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

This file is being referred to the Office of Publications for further processing into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROSS J. OEHLER
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Philippe R. Bovy, et al.	:	
Application No. 10/432,493	:	DECISION GRANTING PETITION
Filed: May 21, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. IVD 1219	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 9, 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 January 31, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

09 JAN 2004

#7

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SANOFI-SYNTHELABO, INC.
9 Great Valley Parkway
PO Box 3026
Malvern, PA 19355

In re Application of :
BOKOTEY, Sandor, et al. :
Application No.: 10/432,494 : DECISION ON PETITION
PCT No.: PCT/HU01/00121 : UNDER 37 CFR 1.182
Int. Filing Date: 27 November 2001 :
Priority Date: 28 November 2000 :
Attorney Docket No.: IVD 1177 :
For: CHEMICAL PROCESS AND NEW INTERMEDIATES :

This decision is in response to applicants' "Response To Notification Of Defective Response" filed on 06 November 2003, which is being treated as a petition under 37 CFR 1.182 to change the name of the inventor Jozsefne Ivanics to Maria Uzsoki. Deposit Account No. 19-0091 will be charged the required petition fee.

BACKGROUND

On 21 May 2003, applicants filed materials initiating this national stage application. These materials did not include an executed declaration.

On 10 September 2003, the DO/EO/US mailed a "Notification Of Missing Requirements" stating that an executed declaration and the $130 surcharge for filing the declaration later than thirty months after the priority date were required.

On 06 October 2003, applicants filed a response to the Notification Of Missing Requirements that included payment of the surcharge and an executed declaration. However, the name of the sixth inventor in the declaration differed from the international application. Specifically, this inventor was identified as Jozsefne Ivanics in the international application and as Maria Uzsoki in the declaration.

On 24 October 2003, the DO/EO/US mailed a Notification Of A Defective Response indicating that the declaration could not be accepted based on the discrepancy in the sixth inventor's name.

On 06 November 2003, applicants responded with the submission considered herein as a petition under 37 CFR 1.182. The petition consists of a statement by counsel that the name change was due to the inventor's divorce and taking back of here maiden name.

DISCUSSION

In instances where an inventor has changed his or her name after the application has been filed, the Manual of Patent Examining Procedure at § 605.04(c) requires a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed by the inventor with both names setting forth the procedure whereby the change of name was effected, or certified copy of the court order.

Here, applicants' original 21 May 2003 submission included the authorization to charge Deposit Account No. 19-0091 for required fees. Based on this authorization, Deposit Account No. 19-0091 will be charged the required $130 petition fee. However, applicants have not submitted the required affidavit signed by the inventor identified in the international application as Jozsefne Ivanics (and in the declaration as Maria Uzsoki) using both her former and present names and stating that the name change resulted from her divorce.

Based on the above, the name-of-record for the sixth inventor here remains Jozsefne Ivanics, as set forth in the international application. The declaration filed on 06 October 2003 is therefore defective (on the present record) for failure to properly identify all the inventors herein.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Jozsefne Ivanics to Maria Uzsoki is **DISMISSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date of this decision to file a renewed petition under 37 CFR 1.182. Such renewed petition must include the required affidavit from the inventor whose name has changed or a certified copy of the applicable court order (with English translation).

Failure to file a timely and proper response will result in abandonment of the application.

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

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

10 FEB 2004

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SANOFI-SYNTHELABO, INC.
9 Great Valley Parkway
PO Box 3026
Malvern, PA 19355

In re Application of	:	
BOKOTEY, Sandor, et al.	:	
Application No.: 10/432,494	:	DECISION ON RENEWED
PCT No.: PCT/HU01/00121	:	PETITION
Int. Filing Date: 27 November 2001	:	
Priority Date: 28 November 2000	:	
Attorney Docket No.: IVD 1177	:	
For: CHEMICAL PROCESS AND NEW INTERMEDIATES	:	

In a decision mailed by this Office on 09 January 2004, applicants' petition under 37 CFR 1.182 seeking to change the name of the inventor Jozsefne Ivanics to Maria Uzsoki was dismissed without prejudice because applicants did not provide the required affidavit signed by the inventor and stating that the name change resulted from divorce.

On 05 February 2004, applicants filed the renewed petition considered herein, with accompanying materials. The renewed petition includes a declaration executed by the inventor in her present name and explaining that the name change resulted from divorce. Based on the above, applicants have now submitted all the requirements for a grantable petition to change the inventor's name. The renewed petition to change the name of the inventor Jozsefne Ivanics to Maria Uzsoki is therefore appropriately **GRANTED**.

Based on this change of name, the declaration filed on 06 October 2003 is now acceptable in compliance with 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Office for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2) and (c4) is 06 October 2003.

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

24 MAR 2004

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Bayer Polymers LLC
100 Bayer Road
Pittsburgh, PA 15205

In re Application of:	:	
Brandt et al.	:	
Application No.: 10/432,496	:	DECISION
PCT No.: PCT/EP01/13164	:	
Int. Filing Date: 14 November 2001	:	UNDER
Priority Date: 27 November 2000	:	
Atty. Docket No.: PO7793/LeA 34,829	:	37 CFR 1.42
For: Optical Fibers	:	

This is in response to the papers filed on 09 October 2003.

BACKGROUND

This international application was filed on 14 November, claimed a priority date of 27 November 2000, and designated the United States. The International Bureau communicated a copy of the published international application to the USPTO on 30 May 2002. Accordingly, the 30-month period to pay the basic national fee expired at midnight on 27 May 2003.

On 21 May 2003, applicant filed *inter alia* the basic national fee.

On 04 September 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the filing of an executed oath or declaration and a surcharge under 37 CFR 1.492(e).

On 12 June 2003, counsel filed the surcharge under 37 CFR 1.492(e) along with the instant papers.

DISCUSSION

The current papers include a declaration indicating that joint inventor Heinz-Dieter Brandt is "deceased," and signed by the remaining joint inventors and by Martina Brandt for herself and for Franziska Hanne Brandt and Inken Margarethe Brandt. The declaration indicates that the capacity of each of Martina, Franziska and Inken Brandt is "heir," and that Martina Brandt has signed for "minor" heirs Franziska and Inken Brandt as "guardian."

37 CFR 1.42 provides in part that

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

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

> If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

The submission of the declaration executed by all of the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

Review of the declaration filed on 09 October 2003 reveals that it is acceptable under 37 CFR 1.42.

CONCLUSION

The submission under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **09 October 2003**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Hame,Schumann,Mueller & Larson,P.C.
P.O. BOX 2902-0902
Minneapolis MN 55402

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OFFICE OF PETITIONS

In re Application of :
Fujisawa et al. :
Application No. 10/432,505 : DECISION ON PETITION
Filed: August 22, 2003 :
Patent No.7,332,226 :
Issued: February 19, 2008 :
Attorney Docket No. 14434.0039USWO :

This is a decision on the request under 37 CFR 3.81(b)[1] filed June 27, 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 **GRANTED**.

Petitioner indicates that the correct assignees are both Nippon Sheet Glass Company, Ltd. and Kaneka Corporation, and that Kaneka Corporation does not appear on the face of the patent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignees on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by the processing fee set forth in § 1.17(i) ($130.00) and a certificate of correction (and fee), as required by 3.81(b). Further, Office assignment records

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

reflect that Nippon Sheet Glass Company, Ltd. and Kaneka Corporation, and that Kaneka Corporation are the assignees of record, which assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692. 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.

Christopher Bottorff
Petitions Examiner
Office of Petitions

14 NOV 2003

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#4

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

BRIAN J. KLEIN
SENNINGER, POWERS, LEAVITT & ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST. LOUIS, MO 63102

In re Application of
BOVIO et al.
Application No.: 10/432,513
PCT No.: PCT/IT00/00471
Int. Filing Date: 21 November 2000
Priority Date: None
Attorney Docket No.: MEMC TP-00-1951 (2783.8)
For: SEMICONDUCTOR WAFER, POLISHING APPARATUS AND METHOD

DECISION ON REQUEST

UNDER 37 CFR 1.497(d)

This is in response to applicants' letter communication filed in the United States Patent and Trademark Office (USPTO) on 14 October 2003, in response to the Notification of Missing Requirements mailed 09 September 2003. The 14 October 2003 communication seeks to add the middle initial "D."to inventor Peter Albrecht's name in the above referenced application. The $130 surcharge for filing the declaration after the 30 month period was provided.

On 09 September 2003, a Notification of Missing Requirements was mailed to applicants, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and either 37 CFR 1.66 or 1.68 was required. On 14 October 2003, in response to the Notification of Missing Requirements, applicants filed an executed declaration, identifying PCT/IT00/00471. The declaration was signed by the inventors named in the international application publication and by Peter D. Albrecht. Applicant requests that the middle initial "D." be added to Mr. Albrecht's name.

Upon the request of the undersigned, counsel of record provided a copy of Notification of Recording of a Change (Form/PCT/IB/ 306) mailed on 21 November 2000, which indicates that Peter D. Albrecht was added as an inventor. The request to add the middle initial is MOOT since the International Bureau added Peter D. Albrecht as an inventive entity.

The declaration submitted on 14 October 2003 is acceptable and meets the requirements of 37 CFR 1.497. The application will be forwarded to the US Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **14 October 2003**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

12 FEB 2004

#8

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Charles L. Gagnebin III
WSGL WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI L.L.P.
Ten Post Office Square
Boston, Massachusetts 02109

In re Application of	:	
Benjamin CAMBIER	:	
Application No.: 10/432,518	:	DECISION ON
PCT No.: PCT/FR01/03709	:	PETITION
Int. Filing Date: 23 November 2001	:	UNDER 37 CFR 1.181
Priority Date: 24 November 2000	:	
Attorney Docket No.: BDLLE-425XX	:	
For: A GRINDER BODY PRESENTING CONCAVE PORTIONS	:	

This decision is in response to the "REQUEST FOR ACCEPTANCE OF APPLICATION PAPERS AS FILED ON 16 JUNE 2003" filed by facsimile on 19 November 2003 and on 04 February 2004. The request is being treated as a petition under 37 C.F.R. 1.181 requesting acceptance of a copy of the papers filed with the petition as being submitted on 16 June 2003 in the above-captioned application. The petition is **GRANTED** as follows:

No petition fee is required.

The evidence submitted by applicant, which includes a copy of the postcard receipt with a USPTO mailroom stamped date of 16 June 2003 itemizing all the papers submitted on filing in the above-captioned application, is sufficient to establish that a Declaration of the Inventor along with other papers has been received in the Office on 16 June 2003. The postcard receipt clearly shows that a Transmittal Letter, a Declaration and Power of Attorney, a Request for Refund,an Assignment document, and two checks in the amount of $65.00 and $40.00 for applicant Benjamin Cambier bearing docket No. BDLLE-425XX and having a title "A GRINDER BODY PRESENTING..." were addressed to the "USPTO". Accordingly, acceptance of a copy of all the papers submitted with the petition as being filed on 16 June 2003 is appropriate.

June 2003, the Notification of Missing Requirements (Form PCT/DO/EO/905) issued by the Office on 30 September 2003 is unnecessary and is hereby VACATED.

With regard to the request for refund of one-half of the application fee, since all the requirements under 37 CFR 1.28(a) have been satisfied, applicant is hereby notified that $450.00 will be refunded to Deposit Account No. 23-0804, as requested.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision, that is, a) for entry of the papers submitted on 04 February 2004 as being filed on 16 June 2003, and b) for a refund of $450.00 (Fee Code 1613) to Deposit Account 23-0804.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/LES:hn

Tel: (703) 308-6508

24 MAY 2004

#6

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Joseph R. Robinson
Darby & Darby PC
PO Box 5257
New York, NY 10150-5257

In re Application of
DE MELLO, et al.
Application No.: 10/432,540
PCT No.: PCT/BR01/00147
Int. Filing Date: 28 November 2001
Priority Date: 04 December 2000
Attorney's Docket No.: 4304-om824us
For: HINGE ARRANGEMENT FOR A CABINET DOOR

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371. A review of the declaration reveals an indication that joint inventor Paulo de Mello is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 28 November 2001, applicants filed international application PCT/BR01/00147, which claimed a priority date of 04 December 2000. On 23 May 2002, a demand for international preliminary examination was filed within nineteen months from the priority date. A copy of the international application was transmitted to the Office by the International Bureau on 13 June 2002. As such, the deadline for entry into the national stage in the United States was 04 June 2003.

On 21 May 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 24 September 2003, the Office mailed Notification of Missing Requirements (Form PCT/FO/RO/905) indicating that an oath or declaration and the surcharge for late filing fo the oath or declaration were required.

On 26 April 2004, applicants submitted the instant declaration, the surcharge for late filing of the oath or declaration and the fee for a five month extension of time.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

Applicants have indicated that inventor de Mello is deceased, but they have not provided a declaration executed by his legal representative. As such, the declaration does not comply with 37 CFR 1.497(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicants are required to submit a declaration in compliance with 37 CFR 1.497(a)-(b) and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

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

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

01 DEC 2004

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Joseph R. Robinson
Darby & Darby PC
PO Box 5257
New York, NY 10150-5257

In re Application of	:	
DE MELLO, et al.	:	
Application No.: 10/432,540	:	DECISION ON
PCT No.: PCT/BR01/00147	:	
Int. Filing Date: 28 November 2001	:	REQUEST
Priority Date: 04 December 2000	:	
Attorney's Docket No.: 4304-om824us	:	UNDER 37 CFR 1.42
For: HINGE ARRANGEMENT FOR A CABINET DOOR	:	

The decision is in response to applicants' renewed request under 37 CFR 1.42 filed in the United States Patent and Trademark Office on 14 July 2004.

BACKGROUND

On 28 November 2001, applicants filed international application PCT/BR01/00147, which claimed a priority date of 04 December 2000. On 23 May 2002, a demand for international preliminary examination was filed within nineteen months from the priority date. A copy of the international application was transmitted to the Office by the International Bureau on 13 June 2002. As such, the deadline for entry into the national stage in the United States was 04 June 2003.

On 21 May 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 24 September 2003, the Office mailed Notification of Missing Requirements (Form PCT/FO/RO/905) indicating that an oath or declaration and the surcharge for late filing fo the oath or declaration were required.

On 26 April 2004, applicants submitted a declaration, the surcharge for late filing of the oath or declaration and the fee for a five month extension of time.

On 24 May 2004, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicants' request.

On 14 July 2004, applicants submitted a renewed request under 37 CFR 1.42.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

Applicants have indicated that inventor de Mello is deceased and the declaration is signed by the person identified in the petition as the executor, but the declaration does not state that she is the executor or legal representative or sole heir. 37 CFR 1.497(b)(2).

Additionally, the declaration must list the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497. The declaration appears to list the information for the inventors, but does not list the information for the legal representative. 37 CFR 1.497(b)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicants are required to submit a declaration in compliance with 37 CFR 1.497(a)-(b) and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

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

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

22 MAR 2005

#10

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Joseph R. Robinson
Darby & Darby PC
PO Box 5257
New York, NY 10150-5257

In re Application of	:	
DE MELLO, et al.	:	
Application No.: 10/432,540	:	DECISION ON
PCT No.: PCT/BR01/00147	:	
Int. Filing Date: 28 November 2001	:	REQUEST
Priority Date: 04 December 2000	:	
Attorney's Docket No.: 4304-om824us	:	UNDER 37 CFR 1.42
For: HINGE ARRANGEMENT FOR A CABINET DOOR	:	

The decision is in response to applicants' "Renewed Submission Under 37 C.F.R. §1.42," filed in the United States Patent and Trademark Office on 31 January 2005.

BACKGROUND

On 28 November 2001, applicants filed international application PCT/BR01/00147, which claimed a priority date of 04 December 2000. On 23 May 2002, a demand for international preliminary examination was filed within nineteen months from the priority date. A copy of the international application was transmitted to the Office by the International Bureau on 13 June 2002. As such, the deadline for entry into the national stage in the United States was 04 June 2003.

On 21 May 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 24 September 2003, the Office mailed Notification of Missing Requirements (Form PCT/FO/RO/905) indicating that an oath or declaration and the surcharge for late filing fo the oath or declaration were required.

On 26 April 2004, applicants submitted a declaration, the surcharge for late filing of the oath or declaration and the fee for a five month extension of time.

On 24 May 2004, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicants' request.

On 14 July 2004, applicants submitted a renewed request under 37 CFR 1.42.

On 01 December 2004, the Office mailed Decision on Request, refusing applicants' request.

On 31 January 2005, applicants submitted a second renewed request.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

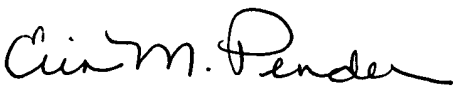
The declaration must list the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497. The 31 January 2005 declaration of the executor lists the executor's information and the deceased inventor and his citizenship, but does not list the other inventors and their citizenships. As such, it does not comply with 37 CFR 1.497(a).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicants are required to submit a declaration in compliance with 37 CFR 1.497(a)-(b) and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

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



Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

20 JUL 2005

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Joseph R. Robinson
Darby & Darby PC
PO Box 5257
New York, NY 10150-5257

In re Application of	:	
DE MELLO, et al.	:	
Application No.: 10/432,540	:	DECISION ON
PCT No.: PCT/BR01/00147	:	
Int. Filing Date: 28 November 2001	:	REQUEST
Priority Date: 04 December 2000	:	
Attorney's Docket No.: 4304-om824us	:	UNDER 37 CFR 1.42
For: HINGE ARRANGEMENT FOR A CABINET DOOR	:	

The decision is in response to applicants' "Renewed Submission Under 37 C.F.R. §1.42," filed in the United States Patent and Trademark Office on 06 May 2005.

BACKGROUND

On 28 November 2001, applicants filed international application PCT/BR01/00147, which claimed a priority date of 04 December 2000. On 23 May 2002, a demand for international preliminary examination was filed within nineteen months from the priority date. A copy of the international application was transmitted to the Office by the International Bureau on 13 June 2002. As such, the deadline for entry into the national stage in the United States was 04 June 2003.

On 21 May 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 24 September 2003, the Office mailed Notification of Missing Requirements (Form PCT/FO/RO/905) indicating that an oath or declaration and the surcharge for late filing fo the oath or declaration were required.

On 26 April 2004, applicants submitted a declaration, the surcharge for late filing of the oath or declaration and the fee for a five month extension of time.

On 24 May 2004, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicants' request.

On 14 July 2004, applicants submitted a renewed request under 37 CFR 1.42.

On 01 December 2004, the Office mailed Decision on Request, refusing applicants' request.

On 31 January 2005, applicants submitted a second renewed request.

On 22 March 2005, the Office mailed Decision On Request, refusing applicants' request.

BEST AVAILABLE COPY

On 06 May 2005, applicants submitted a third renewed request.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The declaration lists the inventors, including the deceased inventor and their citizenships and the legal representative and the legal representative's citizenship, residence and mailing address. The declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application has an international filing date of 28 November 2001 under 35 U.S.C. §363 and a date of 06 May 2005 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

04 DEC 2003

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Richard G. Besha
Nixon & Vanderhye, P.C.
1100 N. Glebe Road
8th Floor
Arlington, VA. 22201-4714

In re Application of	:	
HOVMARK, et al.	:	
U.S. Application No.: 10/432,547	:	COMMUNICATION
PCT No.: PCT/SE01/02612	:	
Int. Filing Date: 26 November 2001	:	
Priority Date: 24 November 2000	:	
Attorney's Docket No.: 3682-36	:	
For: METHOD FOR HANDOVER BETWEEN HETEROGENEOUS COMMUNICATIONS NETWORKS	:	

This communication is in response to applicant's filing of 03 November 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 November 2001, applicant filed international application PCT/SE01/02612, which claimed priority of an earlier application filed 24 November 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 May 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 24 May 2003.

On 23 May 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia:* the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a First preliminary amendment.

On 01 August 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 15 August 2003, applicant filed a response including a combined declaration and power of attorney executed by Torbjorn Hovmark and Lars Resenius.

On 26 August 2003, applicant was mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) informing applicant of the need to provide an oath or declaration of the inventor as the filed declaration was not properly executed and identified an inventor, Lars Resenius, who does not appear on the published international application. Applicant was afforded one month from the mailing of the Form PCT/DO/EO/916 or within the time remaining in the response set forth in the Form PCT/DO/EO/905, whichever was longer.

On 03 November 2003, applicant filed the present response, including a combined declaration and power of attorney, discussed herein. In addition, applicant filed a petition for a one-month extension of time.

DISCUSSION

The combined declaration and power of attorney filed on 03 November 2003 does not comply with 37 CFR 1.497 (a)-(b). Specifically, as detailed in the Form PCT/DO/EO/916 mailed 26 August 2003, the filed declaration sets forth an additional inventor, Lars Resenius, who was not named in the international application. In order to proceed with national stage processing applicant is required to file either: 1) a submission under 37 CFR 1.497(d) requesting correction of the inventors named in the international application to include Lars Resenius, (2) a new declaration naming and signed by only Torbjorn Hovmark accompanied by an acceptable explanation of the misnaming of the inventor on the present declaration, or (3) a showing that a change under PCT Rule 92bis was made prior to the National stage filing, i.e. a copy of form PCT/IB/306.

CONCLUSION

Applicant is hereby accorded the extendable time remaining from the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 01 August 2003 to file a proper reply as discussed above. Failure to file the reply within the time period provided will result in abandonment.

Please direct future correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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

22 MAR 2004

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

Richard G. Besha
Nixon & Vanderhye, P.C.
1100 N. Glebe Road
8th Floor
Arlington, VA. 22201-4714

In re Application of
HOVMARK, et al.
U.S. Application No.: 10/432,547
PCT No.: PCT/SE01/02612
Int. Filing Date: 26 November 2001
Priority Date: 24 November 2000
Attorney's Docket No.: 3682-36
For: METHOD FOR HANDOVER BETWEEN HETEROGENEOUS COMMUNICATIONS NETWORKS

DECISION ON PETITION

UNDER 37 CFR 1.497(d)

This decision is in response to applicant's "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" filed 30 December 2003. The petition is being considered under 37 CFR 1.497(d). Applicant has included the appropriate petition fee.

BACKGROUND

On 04 December 2003, applicant was mailed a communication that the filed combined declaration and power of attorney filed on 03 November 2003 did not comply with 37 CFR 1.497 (a)-(b) as the declaration set forth an additional inventor, Lars Resenius, who was not named in the international application.

On 30 December 2003, applicant responded with the present petition accompanied by a signed statement from Lars Resenius and the assignee, COLUMBITECH, AB.

DISCUSSION

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

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

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

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

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

As to Item (1), applicant has provided a statement from Lars Resenius declaring that the error in inventorship occurred without deceptive intent.

Regarding Item (2), applicant has previously filed a combined declaration and power of attorney executed by the inventor named in the published international application, as well as, Lars Resenius.

As Item (3), applicant has provided payment of the $130.00 petition fee.

Regarding Item (4), applicant has provided the written consent of the assignee, COLUMBITECH, AB.

As such, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

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

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 26 November 2001 and a date of **03 November 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision

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

#11

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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Wood Phillips Katz Clark & Mortimer
Citicorp Building - Suite 3800
500 West Madison Street
Chicago IL 60661-2511

In re Application of	:	
JENNE, Andreas et al.	:	
Application No.: 10/432,560	:	
PCT No.: PCT/EP01/13568	:	
Int. Filing Date: 21 November 2001	:	DECISION
Priority Date: 22 November 2000	:	
Attorney Docket No.: BOH6278P0060US	:	
For: METHOD FOR IDENTIFYING ...	:	
RNA/PROTEIN INTERACTIONS	:	

This decision is in response to applicant's "Response to Notification of a Defective Response," filed on 14 March 2005.

BACKGROUND

On 21 November 2001, applicant filed international application PCT/EP01/13568. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 30 May 2002. On 04 December 2002, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 22 May 2003.

On 22 May 2003, applicant submitted a transmittal letter under 35 USC 371 and the basic national fee.

On 28 July 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration, the surcharge for late filing of the oath or declaration, an English translation, the processing fee for late furnishing of the translation, a sequence listing in computer readable form (CRF) and the statement under 37 CFR 1.821 were required.

On 28 October 2003, applicant submitted a response to the Notification of Missing Requirements, including, an English translation, a declaration, the surcharge, the processing fee, a substitute CRF, the statement and the fee for a one month extension of time.

On 12 July 2004, the Office mailed Notification of Defective Response Abandonment (Form PCT/DO/EO/918) indicating the application was abandoned for failure to properly reply to the Notification of Missing Requirements.

On 06 October 2004, applicant submitted petitions to revive.

On 04 March 2005, the Office mailed Notification of a Defective Response, dismissing applicants petitions to revive as moot and setting a one month non-extendable time period to supply the missing requirements.

On 14 March 2005, applicant submitted the instant response.

DISCUSSION

Applicants have supplied an English translation of Fig. 16, as required and a statement indicating that the discrepancy in spelling inventor Andreas Jenne's name was the result of a typographical error and the declaration should of read "Andreas Jenne" as listed in the international publication. The statement is satisfactory.

CONCLUSION

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of **28 October 2003** under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

11 DEC 2003
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#5

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Catherine Menes
Schlumberger Technology Corporation
110 Schlumberger Drive, MD-1
Sugar Land, Texas 77478

In re Application of:
SERVICES PETROLIERS SCHLUMBERGER ET AL.
Application No.: 10/432,579 : DECISION ON
PCT No.: PCT/EP01/11483 : PETITION
Int. Filing Date: 04 October 2001 : UNDER 37 CFR 1.137(b)
Priority Date: 29 November 2000
Docket No.: WO 55.0224 :

For: FLUID MIXING SYSTEM :

This is in response to the petition filed 18 November 2003 under 37 CFR 1.137 (b) to revive the above-identified abandoned application for "unintentional" delay.

BACKGROUND

On 04 October 2001, the applicants filed international application PCT/EP01/11483, which claimed priority to an earlier application, filed 29 November 2000. A copy of the international application was communicated on 06 June 2002 from the International Bureau to the United States Patent and Trademark Office. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 29 May 2003.

On 18 November 2003, the present petition was submitted. This petition further includes an authorization to charge Deposit Account No. 50-2183 the amount of basic national fee of $1080.00, and $ 1330.00 for petition fee. A Declaration executed by the inventor as required by 35 U.S.C.371 (c)(4) is also submitted with the petition.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (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 under 37 CFR 1.137(b) was unintentional, and (4) a terminal disclaimer with disclaimer fee (only for utility and plant applications filed before 08 June 1995).

Regarding items (1) and (2), applicants furnished the U.S. Basic National Fee of $1080.00 and petition fee of $1330.00 paid via counsel's Deposit Account No. 50-2183. However, the basic national fee is $920.00 where the European Patent Office prepared the International Search Report. The $160.00 excess could be credited to the counsel's Deposit Account 50-2183.

Regarding item (3), the petition includes 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 under 37 CFR 1.137(b) was unintentional.

Regarding item (4), because applicants' filing date of 04 October 2001 is after 08 June 1995, the requirement of a terminal disclaimer with disclaimer fee is not applicable in this case.

A surcharge of $130.00 for submitting Declaration executed by the inventor as required by 35 U.S.C.371 (c)(4) later than 30 months from the priority date of 29 November 2000 will be charged to the Deposit Account.

Accordingly, applicants have satisfied each of the requirements of 37 CFR 1.137(b).

CONCLUSION

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

Applicant's claim for priority of 29 November 2000 is acknowledged. The application has an international filing date of 04 October 2001 under 35 U.S.C. 363, and a date of **18 November 2003** under 35 U.S.C. 371.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further review and processing in accordance with this communication.

Shih-yung Hsieh
PCT Legal Detailee
PCT Legal Office
Telephone: (703) 308-6162
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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STIENNON & STIENNON
612 W. MAIN ST., SUITE 201
P.O. BOX 1667
MADISON, WI 53701-1667

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Lipponen et al.	:	
Application No. 10/432,584	:	
Filed: November 10, 2003	:	
Atty Docket No.: FORSAL-80	:	

This is a decision on the Petition to Withdraw a Holding of Abandonment Under 37 CFR 1.181, filed July 18, 2005. The delay in treating this petition is regretted.

The petition is **granted**.

Petitioner avers non-receipt of the non-final office action, mailed July 22, 2004. Applicant provides that a Declaration which instructed all correspondence be sent to customer number 36528 was filed November 10, 2005; however, the Office action was incorrectly mailed to an address unassociated with Applicant's customer number.

A review of the application file reveals that applicant filed a Declaration which instructed all correspondence be sent to customer number 36528 on November 10, 2003; however, due to a scrivener's error, the customer number was entered incorrectly. As a result, this Office incorrectly mailed the non-final Office action to an address unassociated with Applicant's customer number.

In view of the above, the petition is granted. The Notice of Abandonment is hereby withdrawn. No fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 3749 for re-mailing the Office action.

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

Derek L. Woods
Attorney
Office of Petitions

24 MAR 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

In re Application of :
LINI, Hedi et al. :
Application No.: 10/432,590 :
PCT No.: PCT/FR01/03724 : DECISION ON
Int. Filing Date: 26 November 2001 :
Priority Date: 27 November 2000 : REQUEST
Attorney's Docket No.: HIRSCH-8 :
For: ELECTROCHEMICAL DOUBLE-LAYER : UNDER 37 CFR 1.42
ENERGY STORAGE CELLS WITH HIGH :
ENERGY DENSITY AND HIGH POWER :
DENSITY :

This decision is in response to applicants' response to the Notification of Missing Requirements filed on 25 February 2004 with the United States Patent and Trademark Office. A review of the declaration reveals an indication that joint inventor Hedi Lini is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 26 November 2001, applicants filed international application PCT/FR01/03724, which claimed a priority date of 27 November 2000. A copy of international application was transmitted to the Office by the International Bureau on 30 May 2002. On 12 June 2002, a demand for international preliminary examination was filed within nineteen months from the priority date. The deadline for entry into the national stage in the United States was 27 May 2003.

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

On 25 September 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 25 February 2004, applicants submitted a response to the Notification of Missing Requirements, accompanied by a declaration and the fee for a three month extension of time.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

Chantal Lini signed the declaration as "executor." The declaration must list the citizenship, residence and postal address for the legal representative and the citizenship of the deceased inventor Lini. See 37 CFR 1.497 and 37 CFR 1.63. The declaration lists the necessary information for the legal representative, but does not list the citizenship of the deceased inventor.

Additionally, the declaration lists Sami Lini. Sami Lini is not identified as an executor and is not listed as an inventor on the published international application. The declaration does not comply with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicants are required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

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

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

24 MAR 2004

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

HIRSCH-0008

In re Application of
LINI, Hedi et al.
Application No.: 10/432,590
PCT No.: PCT/FR01/03724
Int. Filing Date: 26 November 2001
Priority Date: 27 November 2000
Attorney's Docket No.: HIRSCH-8
For: ELECTROCHEMICAL DOUBLE-LAYER ENERGY STORAGE CELLS WITH HIGH ENERGY DENSITY AND HIGH POWER DENSITY

DECISION ON

REQUEST

UNDER 37 CFR 1.42

This decision is in response to applicants' response to the Notification of Missing Requirements filed on 25 February 2004 with the United States Patent and Trademark Office. A review of the declaration reveals an indication that joint inventor Hedi Lini is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 26 November 2001, applicants filed international application PCT/FR01/03724, which claimed a priority date of 27 November 2000. A copy of international application was transmitted to the Office by the International Bureau on 30 May 2002. On 12 June 2002, a demand for international preliminary examination was filed within nineteen months from the priority date. The deadline for entry into the national stage in the United States was 27 May 2003.

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

On 25 September 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 25 February 2004, applicants submitted a response to the Notification of Missing Requirements, accompanied by a declaration and the fee for a three month extension of time.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

Dated 03/26/04 DS

Decl Due 05/24/04

Chantal Lini signed the declaration as "executor." The declaration must list the citizenship, residence and postal address for the legal representative and the citizenship of the deceased inventor Lini. See 37 CFR 1.497 and 37 CFR 1.63. The declaration lists the necessary information for the legal representative, but does not list the citizenship of the deceased inventor.

Additionally, the declaration lists Sami Lini. Sami Lini is not identified as an executor and is not listed as an inventor on the published international application. The declaration does not comply with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicants are required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

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

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

19 AUG 2004

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

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

In re Application of	:	
LINI, Hedi	:	
Application No.: 10/432,590	:	
PCT No.: PCT/FR01/03724	:	DECISION ON
Int. Filing Date: 26 November 2001	:	
Priority Date: 27 November 2000	:	REQUEST
Attorney's Docket No.: HIRSCH-8	:	
For: ELECTROCHEMICAL DOUBLE-LAYER ENERGY STORAGE CELLS WITH HIGH ENERGY DENSITY AND HIGH POWER DENSITY	:	UNDER 37 CFR 1.42

This decision is in response to applicant's "Renewed Submission Under 37 CFR 1.42," filed in the United States Patent and Trademark Office on 02 July 2004.

BACKGROUND

On 26 November 2001, applicant filed international application PCT/FR01/03724, which claimed a priority date of 27 November 2000. A copy of international application was transmitted to the Office by the International Bureau on 30 May 2002. On 12 June 2002, a demand for international preliminary examination was filed within nineteen months from the priority date. The deadline for entry into the national stage in the United States was 27 May 2003.

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

On 25 September 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 25 February 2004, applicant submitted a response to the Notification of Missing Requirements, accompanied by a declaration and the fee for a three month extension of time.

On 24 March 2004, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicant's request.

On 02 July 2004, applicant submitted the instant renewed submission accompanied by the fee for a two month extension of time.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

In this case, the declaration is executed by the legal representative for the deceased inventor. It provides the necessary information for the deceased inventor and the legal representative. The declaration complies with both 37 CFR 1.497(a)-(b) and 37 CFR 1.42

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application has an international filing date of 26 November 2001 under 35 U.S.C. §363 and a date of 02 July 2004 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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P.O. BOX 1450
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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APR 12 2005

OFFICE OF PETITIONS

In re Application of :
Shunji Kaneda, et al. :
Application No. 10/432,629 : ON PETITION
Filed: June 9, 2003 :
Attorney Docket No. 238374US0PCT :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1711 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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United States Patent and Trademark Office
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ALEXANDRIA VA 22314

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JUL 18 2008

OFFICE OF PETITIONS

In re Patent No. 6,921,881	:	
Issued: July 26, 2005	:	
Application No. 10/432,639	:	ON PETITION
Filed: November 6, 2003	:	
Attorney Docket No. 238955US90PCT	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed October 28, 2005, to change the name of an inventor.

The petition is **DISMISSED as moot.**

As stated in MPEP 605.04(b):

When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

The name will be changed from Kazuteru OHKURA to Kazuteru OHURA.

The $130.00 petition fee submitted is unnecessary and will be refunded to petitioner's credit card.

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

Telephone inquiries concerning this decision may be directed to the undersigned 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.

Liana Walsh
Petitions Examiner
Office of Petitions

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AUG 2 9 2008

OFFICE OF PETITIONS

In re Patent No. 6,921,881	:	
Issued: July 26, 2005	:	
Application No. 10/432,639	:	ON PETITION
Filed: November 6, 2003	:	
Attorney Docket No. 238955US90PCT	:	

CORRECTED DECISION

This is a decision on the petition under 37 C.F.R. § 1.182, filed October 28, 2005, to change the name of an inventor.

The petition is **DISMISSED as moot.**

As stated in MPEP 605.04(b):

When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

The name will be changed from Kazuteru OHKURA to Kazuteru OKURA.

The $130.00 petition fee submitted is unnecessary and will be refunded to petitioner's credit card.

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

Telephone inquiries concerning this decision may be directed to the undersigned 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.

Liana Walsh
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22314

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DEC 1 2 2005

OFFICE OF PETITIONS

In re Application of :
Toru Nakai :
Application No. 10/432,640 : ON PETITION
Filed: June 10, 2003 :
Attorney Docket No.: 236376US90PCT :
:

This is a decision on the petition, filed December 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 2, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries 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

[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).

24 SEP 2003

#5

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Mincheol Kim
KNOBBE, MARTENS, OLSON & BEAR, LLP.
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of	:	DECISION ON
Yoon et al	:	
Application No.: 10/432,641	:	
PCT No.: PCT/KR01/01004	:	PETITION UNDER
Int. Filing Date: 12 June 2001	:	
Priority Date: 12 June 2000	:	37 CFR 1.137(b)
Attorney's Docket No.: CHAES19.001	:	
For: METHOD OF SHAPING A WORKPIECE	:	
INTO A PRODUCT	:	

This decision is in response to applicants' "APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION," filed on 23 May 2003.

BACKGROUND

On 12 June 2001, this international application was filed, claiming an earliest priority date of 12 June 2000. A copy of the intentional application was transmitted on 20 December 2001 to the USPTO from the International Bureau.

A Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 12 December 2002. This international application became abandoned with respect to the United States at midnight on 12 December 2002 for failure to pay the required basic national fee.

On 23 May 2003, applicants filed the instant petition under 37 CFR 1.137(b) and a Transmittal letter for entry into the national stage in the United States, which was accompanied by the petition fee, and basic national fee. No executed declaration or oath was submitted at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a

continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m). In this application, no terminal disclaimer is required.

Applicant's statement that "The delay in complying with the requirements referred to above was unintentional" is being construed as 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. Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and (4) under 37 CFR 1.137(b).

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

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

30 SEP 2003

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Adam Warwick Bell
Durect Corporation
10240 Bubb Road
Cupertino, CA 95014

In re Application of	:	
STRUIJKER-BOUDIER et al	:	
Application Serial No.: 10/432,644	:	
PCT No.: PCT/US01/46714	:	DECISION ON
Int. Filing Date: 08 November 2001	:	PETITION
Priority Date: 16 November 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: DURE-032WO	:	
For: DEVICES AND METHODS FOR CHOLESTEROL MANAGEMENT	:	

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)", filed 23 May 2003.

On 08 November 2001, applicants filed international application PCT/US01/46714 which claimed priority to an earlier application filed on 16 November 2000.

On 23 May 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required under 35 USC 371(c)(1), and an unexecuted declaration.

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after applicant becomes aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional and (4) a terminal disclaimer (for applications filed before 08 June 1995).

As to item (1), the petition is accompanied by the required reply in the form of a check for the basic national filing fee.

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

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

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

CONCLUSION

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

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing of the present application, including preparation and mailing of the Notification of Missing Requirement Under 35 USC 371 requiring an executed oath or declaration as required by 35 USC 371(c)(4).

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Wanda G. Banks
Paralegal Specialist
PCT Legal Office

WGB/LES:wgb

Tel: (703) 308-6513

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : JANUARY 18, 2007

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction for Appl. No.: 10432660 Patent No.: 7010883B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

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

Comments: The applicant's corrections amend the claims as they should have been amended if the examiner's amendment were entered properly.

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER

SPE

3634
Art Unit

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

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of :

HORN, Guenther :
Application No. 10/432,717 : DECISION ON PETITION
Filed: May 27, 2003 : TO WITHDRAW
Attorney Docket No. **449122055100** : 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 01, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **GUENTHER HORN**
EDUARD-SCHMID-STR. 16
MUENCHEN, GERMANY 25227

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

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CONNOLLY BOVE LODGE & HUTZ
PO BOX 19088
WASHINGTON DC 20036-0088

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MAY 24 2010

OFFICE OF PETITIONS

In re Patent No. 7,159,054	:	
Issue Date: January 2, 2007	:	
Application No. 10/432,725	:	DECISION ON PETITION
Filed: December 15, 2003	:	
Attorney Docket No. 7096SO-16	:	

This is a decision on the "REQUEST TO CORRECT ASSIGNEE PURSUANT TO 37 CFR 3.81(b)", filed March 11, 2010.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee set forth in 37 CFR 1.17(i) and the $100 fee for the Certificate of Correction set forth in 37 CFR 1.20(a) is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

04 DEC 2003

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#3

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Paul L. Hickman
Perkins Cole LLP
P. O. Box 2168
Menlo Park, California 94026

In re Application of:	:	
FERRO ET AL.	:	DECISION ON
Application No.: 10/432,741	:	PETITION
PCT No.: PCT/EP01/04105	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 10 April 2001	:	
Priority Date: 18 April 2000	:	
Docket No.: 59130-8007.US01	:	
For: FORMULATION HAVING MOBILISING ACTIVITY	:	

This is in response to the petition filed 22 May 2003 under 37 CFR 1.137 (b) to revive the above-identified abandoned application for "unintentional" delay.

BACKGROUND

On 10 April 2001, applicants filed international application PCT/EP01/04015, which claimed priority to an earlier application, filed 18 April 2000. A Demand for international preliminary examination, in which the United States of America was elected, was timely filed. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 18 October 2002.

On 22 May 2003, the present petition was submitted. This petition further includes an authorization to charge Deposit Account No. 50-2207 the amount of basic national fee of $900.00. and a Declaration which is not executed by the inventor as required by 35 U.S.C.371 (c)(4).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (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 under 37 CFR 1.137(b) was unintentional, and (4) a terminal disclaimer with disclaimer fee (only for utility and plant applications filed before 08 June 1995).

Regarding items (1) and (2), applicants furnished the U.S. Basic National Fee of $900.00 and petition fee of $1300.00 payable via counsel's Deposit Account No. 50-2207.

Regarding item (3), the petition includes 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 under 37 CFR 1.137(b) was unintentional.

Regarding item (4), because applicants' filing date of 10 April 2001 is after 08 June 1995, the requirement of a terminal disclaimer with disclaimer fee is not applicable in this case.

Accordingly, applicants have satisfied each of the requirements of 37CFR1.137(b).

However, a Declaration executed by the inventor as required by 35 U.S.C.371 (c)(4) has not been submitted .

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further review and processing in accordance with this communication, including the preparation and mailing of a notice of missing requirements (Form PCT/DO/ED/905) indicating that a Declaration executed by the inventor as required by 35 U.S.C.371 (c)(4) and a late surcharge fee of $130.00 are required..

Shih-yung Hsieh
PCT Legal Detailee
PCT Legal Office
Telephone: (703) 308-6162
Facsimile: (703) 308-6459

Richard Cole
PCT Legal Examiner
PCT Legal Office

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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Kenneth L. Luskey et al :
Application No. 10/432,742 : ON PETITION
Filed: May 27, 2003 :
Attorney Docket No. 016325-003731 :

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

The petition is **GRANTED**.

The two-month period for filing the Appeal Brief under 37 CFR 41.37(a)(1), accompanied by the fee set forth in 37 CFR 41.20(b)(2), runs from the date of this decision.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510 extension of time submitted with the petition on April 11, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 1616.

Karen Creasy

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

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OFFICE OF PETITIONS

In re Application of :
Kenneth L. Luskey et al :
Application No. 10/432,742 : ON PETITION
Filed: May 27, 2003 :
Attorney Docket No. 016325-003731 :

This is a decision on the petition filed January 17, 2007, under 37 CFR 1.137(b) to revive the above-identified application. This is also a decision on the request for refund filed January 26, 2007.

The petition under 37 CFR 1.137(b) is **dismissed** as moot in view of the request filed January 26, 2007, stating that the petition of January 17, 2007 was filed through clerical error.

The petition fee of $1500 submitted on January 17, 2007, will be credited to deposit account no. 20-1430 as requested.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 1616.

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Kenneth L. Luskey et al. :
Application No. 10/432,742 : ON PETITION
Filed: May 27, 2003 :
Attorney Docket No. **016325-003731** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 27, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing Application No. 12/542,623.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

#3

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25 AUG 2003

HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON, OH 44313-7188

In re Application of	:
POGAČAR et al.	:
U.S. Application No.: 10/432,743	:
PCT Application No.: PCT/SI00/00027	: DECISION
Int. Filing Date: 06 December 2000	:
Priority Date: 22 February 2000	:
Attorney Docket No.: 117215.00002	:
For: SEPARATOR FOR VACUUM CLEANER	:

This is in response to applicant's "PETITION TO CORRECT TRANSMITTAL LETTER" treated as a petition under 37 CFR 1.182, filed in the United States Patent and Trademark Office (USPTO) on 07 August 2003. Applicant requests correction of the international application number on the first page of the transmittal letter filed on 27 May 2003. A petition fee of $130.00 will be charged to applicant's deposit account per their authorization. This is also in response to applicant's petition to revive filed on 27 May 2003.

Petition under 37 CFR 1.182

On 06 December 2000, applicant filed international application No. PCT/SI00/00027, which claimed a priority date of 22 February 2000 and which designated the United States.

On 21 May 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. As a result the deadline for payment of the basic national fee was extended to expire 30 months from the priority date, or on 22 August 2002.

On 27 May 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b). The first page of the transmittal letter incorrectly indicated international application no. PCT/SI**01**/00027; it should have read PCT/SI**00**/00027 as listed on the subsequent pages.

On 07 August 2003, applicants filed the instant petition requesting rectification of incorrect international application no. identifying the correct international application no. as PCT/SI**00**/00027, which is **GRANTED**.

Petition under 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 27 May 2003 in the above-captioned application is **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing as the national stage of PCT/SI00/00027, assigned U.S. serial number 10/432,743. The declaration submitted on 27 May 2003 meets the requirements of 37 CFR 1.497. The $65 surcharge for filing the declaration after the thirty month period is required and will be charged to applicant's deposit account per his authorization. The 35 U.S.C. 371 date is **27 May 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON OH 44313

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JUN 2 3 2004

OFFICE OF PETITIONS

Applicant: Pogacar et al.
Appl. No.: 10/432,743
International Filing Date: December 6, 2000
Title: SEPARATOR FOR VACUUM CLEANER
Attorney Docket No.: 117215.00002
Pub. No.: US 2004/020004 A1
Pub. Date: February 5, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on March 30, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished deleting claims 1-6, which were canceled by preliminary amendment and including the full text of claim 7 was printed incorrectly.

According to 37 CFR 1.215(a), which says the following, in part:

> (a) ... The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended during examination, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the actual filing date of the application or fourteen months of the earliest filing date for which is sought under title 35, United States Code, whichever is later.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material

[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).

mistake in the publication made by the Office:

The applicant did not supply a copy of the application in compliance with § 1.215(c). The patent application publication does not include a material mistake in the publication by the Office because patent application publication included claims 1-6, which were the claims as filed.[2] The Office is not required to include preliminary amendments in the patent application publication. The inclusion of part of claim 7 and claims 8-26 in the patent application publication is an Office mistake, but it is not a material error, as the information is extra information and does not affect ones understanding of the technical disclosure of the patent application publication.

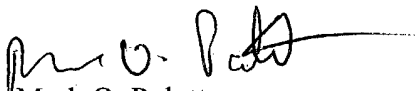
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the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

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

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

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



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

[2]See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004).

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#5

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McKellar, Stevens $ Hill PLLC
Poseyville Professional Complex
784 South Poseyville Road
Midland, MI 48640

In re Application of	:	
ULZHEIMER et al.	:	
Application No.: 10/432,749	:	DECISION ON PETITION
PCT No.: PCT/GB01/05176	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 23 November 2001	:	
Priority Date: 28 November 2000	:	
Attorney Docket No.: PC-27US	:	
For: MIXING		

The petition to revive under 37 CFR 1.137(b) filed 26 September 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

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

27 SEP 2004

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Robert L. McKellar
MCKELLAR STEVENS & HILL PLLC,
Poseyville Professional Complex
784 South Poseyville Road
Midland, Michigan 48640

In re Application of	:	
Rudi ULZHEIMER et al.	:	
US Application No.: 10/432,749	:	DECISION ON
PCT Application No.: PCT/GB01/05176	:	
Int. Filing Date: 23 November 2001	:	PETITION
Priority Date: 28 November 2000	:	
Attorney Docket No.: PN – 27US	:	UNDER 37 CFR 1.8
For: MIXING	:	

This is a decision on the papers applicant filed on 25 June 2004, requesting withdrawal of the Notification of Missing Requirements mailed on 29 April 2004. These papers are being treated as a petition under 37 CFR 1.8.

BACKGROUND

On 23 November 2001, applicant filed international application PCT/GB01/05176, which designated the United States and claimed a priority date of 28 November 2000. Accordingly, the 30-month deadline for entry into the U.S. national stage expired at midnight on 28 May 2003.

On 27 May 2003, applicants filed national stage papers for this international application. The requisite basic national fee of $ 920.00 was not included with the 27 May 2003 filing and the international application became abandoned with respect to the United States.

On 26 September 2003, a petition to revive the international application with respect to the United States was filed. This petition was granted by decision dated 04 November 2003.

On 29 April 2004, a Form PCT/DO/EO/905 (NOTIFICAITON OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) was mailed to applicant. This form required the submission of an Oath or Declaration of the inventors. In the 25 June 2004 petition, applicants state that a declaration was mailed to the Office on 2 July 2003, using the provisions of 37 CFR 1.8. A copy of this declaration is included with the petition.

DISCUSSION

37 CFR 1.8 provides the following.

"(b) In the even 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 the transmission may be used to support this statement."

The applicants have satisfied the requirements of elements (1) and (2) above. The statement by applicants' attorney, Robert L. McKellar, that the missing Oath or declaration of the inventors was mailed to the Office on July 2, 2003, is seen as satisfying element (3) above. The requirement for an Oath or declaration of the inventors in the 29 April 2004, Notice of Missing Requirements was clearly made in error.

DECISION

The petition is **GRANTED**.

The Form PCT/DO/EO/905 (NOTIFICAITON OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)) is hereby **VACATED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing including the preparation and mailing of a Notice of

Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495. It is noted that the 35 U.S.C. 371(c)(1), (2) and (4) date for this application is **25 June 2004.**

Richard Cole
PCT Legal Examiner
PCT Legal Office

Paul A. Bell
PCT Special Programs Examiner
Telephone (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/432,749	06/25/2004	Rudi Ulzheimer	PN - 27US	4552

27305 7590 02/25/2009

HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

EXAMINER	
BODAWALA, DIMPLE N	

ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
02/25/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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caf

2/25/09

In re application of: Ulzheimer et al.
Serial No.: 10/432,749
Filed: June 25, 2004
For: PROCESS FOR PREPARING SILOXANE-FILLER COMPOSITIONS USING AN EXTRUDER MIXER

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR §1.181 FOR WITHDRAWL OF A PREMATURE FINAL REJECTION IN ACCORDANCE WITH MPEP §§760.07 (c) and 1002.02(c)(3)(a). The petition was filed December 8, 2008.

On January 28, 2008, a non-final office action was mailed to applicant. A reply to the office action was filed by applicants on July 28, 2008. A final office action was mailed by the office on October 7, 2008.

On December 8, 2008 the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the October 7, 2008 office action.

Petitioner's position for the withdrawal of the finality is that the new grounds of rejection in the final office action were not necessitated by applicant's amendments to the claims.

DECISION

Section 706.07 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).

Petitioner argues that the rejection of claim 1 (and other dependent claims) under 35 USC 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Aoyama (EP

0776751) was not necessitated by Applicant's amendment prior to the rejection. A review of the pending claims both prior to the non-final rejection and subsequent to the non-final rejection confirms that the amendment to claim 1 simply incorporated the limitations of dependent claim 12 into independent claim 1. Claim 1 and 12 were rejected under 35 U.S.C. 103 in the non-final office action. Claim 1 was rejected over Aoyama et al. (EP 0776751) in view of Blach (US 5836682). Claim 12 was rejected over the same two references, further in view of Eswaran et al. (US 5711904). The incorporation of a dependent claim into an independent claim does not necessitate the elimination of two references (Blach and Eswaran) from the rejection of claim 12.

Thus, the rejection of amended claim 1 under 35 USC 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Aoyama (EP 0776751) was not necessitated by amendment and constitutes new grounds of rejection.

Accordingly, the petition for withdrawal of finality is **GRANTED.**

____/JACQUELINE STONE/_____

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS MI 48304-5151

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EUGINIA GARRETT-WACKOWSKI
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER FLOOR EIGHTH
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Bernard Malfroy-Camine et al	:	
Application No. 10/432,752	:	DECISION ON PETITION
Filed: May 27, 2003	:	TO WITHDRAW
Attorney Docket No. 015390-000910US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 4, 2005.

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

A review of the file record indicates that the power of attorney to Euginia Garrett-Wackowski has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

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25 SEP 2003

David M. Carter
Carter Deluca Farrell & Schmidt LLP
445 Broad Hollow Road, Suite 225
Melville NY 11747

In re Application of ARULF et al. Serial No.: 10/432,763 PCT No.: PCT/SE01/02517 Int. Filing Date: 14 November 2001 Priority Date: 24 November 2000 Attorney's Docket No.: 1321-6 For: A CONSTRUCTION AND A METHOD TO BE USED IN A CARRIER ROCKET OR A SATELLIT	DECISION ON PETITIONS UNDER 37 CFR 1.137(b) & 37 CFR 1.182

This is a decision on applicant's petition under 37 CFR 1.182 filed via facsimile on 23 September 2003 in the United States Patent & Trademark Office (USPTO) requesting correction of the International application number on the transmittal letter filed 28 May 2003 in the above identified patent application. The petition fee of $130 will be charged to applicant's Deposit Account per his authorization. This is also a decision on applicant's petition to revive the international application under 37 CFR 1.137(b) filed on 28 May 2003.

BACKGROUND

On 14 November 2003, applicant filed international application No. PCT/SE01/02517 with the Swedish Receiving Office, which claimed a priority date of 24 November 2000. A Demand was filed, extending the deadline for entry into the national stage to 30 months or to 24 May 2003.

On 28 May 2003, after the expiration of the thirty month period, applicant filed a Transmittal Letter requesting entry into the national stage accompanied by, *inter alia*, the basic national fee and an executed combined declaration and power of attorney. The transmittal letter incorrectly indicated PCT application number PCT/SE**00**/02517, it should have read PCT/SE**01**/02517. However, the declaration submitted with the transmittal letter identified and was directed to PCT/SE01/0251. A copy of the international application PCT/SE01/02517 also accompanied the transmittal letter. The national stage request was assigned application no. 10/432,763.

On 23 September 2003, in response to the undersigned's telephone contact, applicants filed the instant petition requesting rectification of incorrect international application no. identifying the correct international application no. as PCT/SE01/02517.

Applicant's request to correct the international application number on the transmittal letter is granted.

Petition to Revive under 37 CFR 1.137(b)

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

09/29/2003 ELORIMA1 00000003 [illegible]
01 FC:1453 [illegible]

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

A review of the application file reveals that the basic national fee of $1060 has been paid. The required petition fee of $1300 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

CONCLUSION

Applicant's petition under 37 CFR 1.137(b) to revive the international application and applicant's petition under 37 CFR 1.182 to correct the international application number on the transmittal letter are **GRANTED**.

The application is being forwarded to the US Designated/Elected Office for further processing as the national stage of PCT/SE01/02517, assigned U.S. serial number 10/432,763. The 35 U.S.C. 371 date is **28 May 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

30 MAR 2005

#7

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David W. Kim
875 Third Avenue, 18th floor
New York, New York 10022

In re Application of	:	
Duffield, et al.	:	
Serial No.: 10/432,765	:	DECISION ON
PCT No.: PCT/GB01/04949	:	PETITION
Int. Filing Date: 08 November 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 29 November 2000	:	
Attorney's Docket No.: 102792-135	:	
For: SELF-CLOSING PACKAGING FOR MOSITURE-SENSITIVE MATERIAL	:	

This decision is responsive to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed 15 November 2004. No petition fees are due.

BACKGROUND

On 08 November 2001, applicants filed international application PCT/GB01/04949, which claimed priority of an earlier British application filed 29 November 2000. A copy of the international application was transmitted by the Internatioanl Bureau of WIPO (IB) to the United States Patent and Trademark Office on 06 June 2002. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 29 May 2003.

On 28 May 2003, applicants filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the published international application, a preliminary amendment, and the basic national fee of $900 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/432,765.

On 22 October 2003, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and the surcharge for filing the oath/declaration later than 30 months from the earliest claimed priority date. The notification set a two-month time period in which to respond.

On 18 October 2004, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) within the time period set therein.

On 15 November 2004, applicants filed the current petition along with copies of a declaration and transmittal letter that contained a facsimile transmission certificate having a date of 19 December 2003.

DISCUSSION

37 CFR 1.8, states in part:

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

Applicants have satisfied all three requirements. Therefore, the response is considered to have been timely filed.

With respect to applicant's response to the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905), it should be noted that the declaration of Paul Duffield is missing the second page. Also, the name of Geoffrey Hammond appears to be misspelled. Therefore, the response is not considered to have been complete.

CONCLUSION

The petition to revive the application is **GRANTED**.

The application is being returned to the United States Designated/Elected Office for preparation of the "NOTIFICATION OF DEFECTIVE RESPONSE" (form PCT/DO/EO/916).

Debra Brittingham
Office of PCT Legal Administration
DSB/RC:dsb

Tel: (571) 272-3280
Fax: (571) 273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

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OFFICE OF PETITIONS

Applicant: Wiedemann et al.
Appl. No.: 10/432,765
International Filing Date: November 8, 2001
Title: METHODS OF REDUCING AGGREGATION OF IL-1RA
Attorney Docket No.: 102792-135
Pub. No.: US 20065/0000831A1
Pub. Date: January 5, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on February 10, 2006, 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 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

30 SEP 2003

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#3

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Baker Botts LLP
30 Rockefeller Plaza
New York, NY 10112-0228

In re Application of	:	
Antoniotti et al.	:	
Application No. 10/432,766	:	DECISION ON
PCT No.: PCT/US01/30426	:	
Int. Filing Date: 28 September 2001	:	PETITION UNDER
Priority Date: 28 September 2000	:	
Atty. Docket No.: A33569-PCT-USA 067691.0179	:	37 CFR 1.137(b)
For: System And Process For Validating Aligning And Reordering Genetic Sequence Maps Using Ordered...	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 28 May 2003.

BACKGROUND

This international application was filed on 28 September 2001, claimed an earliest priority date of 28 September 2000, and designated the U.S. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 28 September 2003. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the basic national fee.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes a statement that "it is asserted that the entire delay in entry into national phase for the above identified PCT application from the March 28, 2003 due date of the filing of the national stage Patent Application until the filing of this petition was unintentional." This statement is being construed as 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 must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED** as to the national stage in the United States.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

20 DEC 2004

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#7

Baker Botts LLP
30 Rockefeller Plaza
New York, NY 10112-0228

In re Application of	:	
Antoniotti et al.	:	
Application No. 10/432,766	:	
PCT No.: PCT/US01/30426	:	
Int. Filing Date: 28 September 2001	:	DECISION
Priority Date: 28 September 2000	:	
Atty. Docket No.: A33569-PCT-USA 067691.0179	:	
For: System And Process For Validating Aligning And Reordering Genetic Sequence Maps Using Ordered...	:	

This is in response to the "Resubmission Of Documents" filed on 03 November 2004, which us being treated as a petition to withdraw the holding of abandonment.

BACKGROUND

This international application was filed on 28 September 2001, claimed an earliest priority date of 28 September 2000, and designated the U.S. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 28 September 2003. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

On 30 September 2003, a decision on petition was mailed to counsel, granting a petition to revive under 37 CFR 1.137(b) filed on 28 May 2003.

On 02 October 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the submission of an executed oath or declaration of the inventors.

On 08 October 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to counsel, indicating that this international application had become abandoned with respect to the national stage in the U.S. for failure to timely reply to the Notification of Missing Requirements mailed on 02 October 2003.

DISCUSSION

Counsel requests withdrawal of the holding of abandonment on the basis that a timely reply to the 02 October 2003 Notification of Missing Requirements allegedly was filed. In

support of this proposition, counsel has furnished a copy of a return postcard receipt stamped as "Rec'd PCT/PTO 15 MAR 2004." The postcard receipt itemizes, *inter alia*, a transmittal letter, a declaration, a petition and fee for extension of time, a letter, a statement of inventor David C. Schwartz and a copy of the Form PCT/DO/EO/905. The instant submission is accompanied by documents resembling those itemized on the postcard receipt, but counsel states that at least some of these documents are not true copies of the originally filed papers (by stating that "In the attached documents, the application serial number has been corrected."). MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." However, in the instant case, counsel has admittedly not provided proper copies of the correspondence itemized on the return postcard receipt. Accordingly, the return postcard receipt does not serve as *prima facie* evidence of receipt in the PTO of correspondence corresponding to the items accompanying the instant petition. In the absence of appropriate true copies of the papers itemized on the postcard receipt, it would not be appropriate to grant the petition at this time. Moreover, insofar as this application remains abandoned, it would not be appropriate to treat the submission under 37 CFR 1.497(d) at this time.

DECISION

The petition is **DISMISSED**, without prejudice.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

17 MAY 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

DeWitt Ross & Stevens, S.C.
Excelsior Financial Centre
800 Excelsior Drive, Suite 401
Madison, WI 53717-1914

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Atty. Docket No.: A33569-PCT-USA 067691.0179	:	
For: System And Process For Validating Aligning And Reordering Genetic Sequence Maps Using Ordered...	:	

This is in response to the "Request For Reconsideration" filed on 12 January 2005.

DISCUSSION

On 03 November 2004, counsel filed a request to withdraw the holding of abandonment (see Notification of Abandonment mailed on 07 October 2004) on the basis of postcard receipt evidence. This request was dismissed without prejudice in a decision mailed on 20 December 2004 because

> counsel states that at least some of these documents are not true copies of the originally filed papers (by stating that "In the attached documents, the application serial number has been corrected.")... in the instant case, counsel has admittedly not provided proper copies of the correspondence itemized on the return postcard receipt. Accordingly, the return postcard receipt does not serve as *prima facie* evidence of receipt in the PTO of correspondence corresponding to the items accompanying the instant petition.

Counsel has now provided what are characterized as true copies of the papers itemized on the postcard receipt and filed on 15 March 2004. Review of the official records of the USPTO reveals that the transmittal letter, the letter regarding the power of attorney and change of address, and the statement of inventor David C. Schwartz filed on 15 March 2004 were directed to application number 10/432,776, and that those papers are present in that application number. Therefore, the postcard evidence is moot.

Counsel indicates that "the transmittal letter, the letter regarding the power of attorney and change of address, and the statement of inventor David C. Schwartz bear an incorrect application serial number. (These three documents as submitted bear the serial no.

10/432,776; the correct serial no. Is 10/432,766.)" Counsel characterizes this as a "typographical error." In order for these papers to be treated as having been filed in the present application, a petition and fee under 37 CFR 1.182 are required. The instant petition is being construed as such a petition under 37 CFR 1.182, and the petition fee is being charged to counsel's Deposit Account per the authorization in the petition.

The declaration of record names an inventor (David C. Schwartz) whose name does not appear in the published international application. The declaration is accompanied by a "Statement Of Inventor David C. Schwartz Under 37 CFR 1.497(d)(1)" A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) 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, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.).

Regarding requirement (1), the "Statement Of Inventor David C. Schwartz Under 37 CFR 1.497(d)(1)" attests that "Any error in the inventorship of the international application from which the present application matured occurred without deceptive intent on my part."

Regarding requirement (2), the required processing fee is being charged to counsel's Deposit Account, per the authorization in the petition.

Regarding requirement (3), inspection of the published international application reveals that New York University is named as an applicant, while review of the records of the USPTO reveals that an assignment in favor of the Wisconsin Alumni Research Foundation was recorded on 04 May 2004. This evidence suggests that New York University and/or the Wisconsin Alumni Research Foundation may currently enjoy an ownership interest in this application, yet the submission under 37 CFR 1.497(d) is not accompanied by any documentation purporting to establish the consent of the assignee to the change in inventorship. Counsel is required to identify which assignee(s), if any, currently enjoy an ownership interest in this application, to establish a chain of title from the inventors to any such assignee(s), and to provide the written consent of such assignee(s) to the change in inventorship. In the absence of such requirements, item (3) and 37 CFR 3.73(b) have not been satisfied.

In addition, the declaration is defective in that it appears to have been assembled from individual sheets signed by each inventor. As such, it is not clear whether all of the inventors signed complete copies of the declaration document.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**, as described above.

The declaration filed on 27 May 2004 is **NOT ACCEPTED** under 37 CFR 1.497 (d).

The transmittal letter, the letter regarding the power of attorney and change of address, and the statement of inventor David C. Schwartz filed on 15 March 2004 are being regarded as filed in this application. A $400.00 petition fee for the petition under 37 CFR 1.182, a $130.00 processing fee under 37 CFR 1.497(d) and a $740.00 extension of time fee for response in the fourth month are required. The $1005.00 paid for a five-month extension of time in application no. 10/432776 is being credited to this application, and the remainder of the funds due is being charged to counsel's Deposit Account No. 18-2055.

Applicants have **TWO (2) MONTHS** from the mailing date of this decision to file a response. Extensions of time under 37 CFR 1.136(a) are available. Failure to timely reply will result in **ABANDONMENT**.

Bofis Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

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

DeWitt Ross & Stevens, S.C.
Excelsior Financial Centre
800 Excelsior Drive, Suite 401
Madison, WI 53717-1914

In re Application of :
Antoniotti et al. :
Application No. 10/432,766 :
PCT No.: PCT/US01/30426 :
Int. Filing Date: 28 September 2001 : DECISION
Priority Date: 28 September 2000 :
Atty. Docket No.: A33569-PCT-USA :
067691.0179 :
For: System And Process For Validating :
Aligning And Reordering Genetic :
Sequence Maps Using Ordered... :

This is in response to the "Response To May 17, 2005 Decision" filed on 17 June 2005.

DISCUSSION

In a decision mailed on 17 May 2005, applicants' request to withdraw the holding of abandonment was granted. In the same decision, the declaration was not accepted under 37 CFR 1.497(d) because

> Regarding requirement (3), inspection of the published international application reveals that New York University is named as an applicant, while review of the records of the USPTO reveals that an assignment in favor of the Wisconsin Alumni Research Foundation was recorded on 04 May 2004. This evidence suggests that New York University and/or the Wisconsin Alumni Research Foundation may currently enjoy an ownership interest in this application, yet the submission under 37 CFR 1.497(d) is not accompanied by any documentation purporting to establish the consent of the assignee to the change in inventorship. Counsel is required to identify which assignee(s), if any, currently enjoy an ownership interest in this application, to establish a chain of title from the inventors to any such assignee(s), and to provide the written consent of such assignee(s) to the change in inventorship. In the absence of such requirements, item (3) and 37 CFR 3.73(b) have not been satisfied.
>
> In addition, the declaration is defective in that it appears to have been assembled from individual sheets signed by each inventor. As such, it is not clear whether all of the inventors signed complete copies of the declaration document.

The instant "Response..." is accompanied by a "Statement Under 37 CFR §3.73(b)" which identifies the reel and frame numbers where documents establishing a chain of title from David C. Schwartz to assignee Wisconsin Alumni Research Foundation, and New York University to Wisconsin Alumni Research Foundation, are recorded in the USPTO. However, counsel has not established a chain of title from the other four inventors to either New York University or Wisconsin Alumni Research Foundation. Meanwhile, the "Response..." also includes a statement that "The undersigned is authorized to act on behalf of the assignee." Applicants have also

furnished a "Consent Of Assignee To Add Inventor, 37 CFR §1.497(d)(3)," which "consents to the addition of David C. Schwartz as an inventor in the subject patent application." Said "Consent..." is signed by Michael Falk, and states that he "is authorized to act on behalf of the assignee." However, in the absence of an adequate showing of a chain of title from inventors Antoniotti, Mishra, Anantharaman and Paxia to either New York University or Wisconsin Alumni Research Foundation, the requirements of 37 CFR 3.73(b) and 1.497(d)(3) have not been satisfied.

The instant "Response..." is accompanied by a new declaration of the inventors, but this declaration is defective in that it is not signed by David C. Schwartz. Counsel is required to provide an oath or declaration naming the entire inventive entity and executed by Mr. Schwartz.

CONCLUSION

The declaration filed on 17 June 2005 is **NOT ACCEPTED** under 37 CFR 1.497 (d).

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

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

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

17 MAR 2006

United States Patent and Trademark Office

#13

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800 Excelsior Drive, Suite 401
Madison, WI 53717-1914

In re Application of :
Antoniotti et al. :
Application No. 10/432,766 :
PCT No.: PCT/US01/30426 :
Int. Filing Date: 28 September 2001 : DECISION
Priority Date: 28 September 2000 :
Atty. Docket No.: A33569-PCT-USA :
067691.0179 :
For: System And Process For Validating :
Aligning And Reordering Genetic :
Sequence Maps Using Ordered... :

This is in response to the "Response To September 25, 2005 Decision" filed on 05 October 2005.

DISCUSSION

In a decision mailed on 29 September 2005, the declaration was not accepted under 37 CFR 1.497(d) because

> The instant "Response..." is accompanied by a "Statement Under 37 CFR §3.73(b)" which identifies the reel and frame numbers where documents establishing a chain of title from David C. Schwartz to assignee Wisconsin Alumni Research Foundation, and New York University to Wisconsin Alumni Research Foundation, are recorded in the USPTO. However, counsel has not established a chain of title from the other four inventors to either New York University or Wisconsin Alumni Research Foundation... in the absence of an adequate showing of a chain of title from inventors Antoniotti, Mishra, Anantharaman and Paxia to either New York University or Wisconsin Alumni Research Foundation, the requirements of 37 CFR 3.73(b) and 1.497(d)(3) have not been satisfied.

The instant "Response..." is accompanied by a "Statement Under 37 CFR § 3.73(b)" and by a copy of an Assignment document assigning application no. 60/236,296 "and any application claiming priority therefrom" to New York University. This Assignment is signed by joint inventors Antoniotti, Mishra, Anantharaman and Paxia. The Response is also accompanied by copies of declaration documents, signed by all of the inventors, and which name the entire inventive entity. Based on the totality of the evidence of record, it would now be appropriate to conclude that all of the requirements of 37 CFR 1.497(d) have been satisfied.

CONCLUSION

The declaration filed on 05 October 2005 is **ACCEPTED** under 37 CFR 1.497 (d).

The $65.00 surcharge under 37 CFR 1.492(h) is being charged to counsel's Deposit Account No. 18-2055, as authorized by the instant Response.

This application is being forwarded to the National Stage Processing Branch for continued processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **05 October 2005**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

November 13, 2005

George A. Loud
BACON & THOMAS, PLLC
625 Slaters Lane, 4th Floor
Alexandria, VA 22314

Patent No.: **7048127 B2**
Application No.: 10/432771
Inventor(s): **Yukihiro Hyobu, et al.**
Issued: May 23, 2006
Title: **LID UNIT FOR THIN-PLATE HOLDING CONTAINER, THIN-PLATE HOLDING CONTAINER, AND SIMPLIFIED ATTACHING/DETACHING MECHANISM**

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

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

Virginia Tolbert
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

vt

OIPE IAP99
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PATENT & TRADEMARK OFFICE

IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U. S. Patent No. 7,048,127)
) Examiner: Luan Kim Bui
Yukihiro HYOBU et al)
)
Issued: May 23, 2006)
) Art Unit: 3728
Serial No.: 10/432,771)
)
Filed: May 27, 2003)
)
For: LID UNIT FOR THIN-PLATE HOLDING)
CONTAINER, THIN-PLATE HOLDING)
HOLDING CONTAINER, AND)
SIMPLIFIED ATTACHMENT/)
DETACHING MECHANISM)

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JUL 09 2007
OFFICE OF PETITIONS

REQUEST FOR CERTIFICATE OF CORRECTION

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

Sir:

It is requested that a Certificate of Correction per the attached be issued for the captioned patent.

A check in the amount of $230.00 is submitted herewith to cover the fees required by 37 CFR 1.17(h) and 37 CFR 1.20(a).

The failure to provide the correct name of the current assignee on form PTOL-85 filed February 7, 2006 was inadvertent. The name of "KAKIZAKI MANUFACTURING CO., LTD." was taken from the Assignment recorded on May 27, 2003. However, the application was then assigned from "KAKIZAKI MANUFACTURING CO., LTD." to "MIRAIAL CO., LTD." in an Assignment which was recorded on December 16, 2003 and the name "MIRAIAL CO., LTD." should have been given on the form PTOL-85 filed February 7, 2006.

07/03/2007 JADD01 00000086 7048127
01 FC:1811 100.00 OP
02 FC:1464 130.00 OP

A copy of the "Notice of Recordation of Assignment Document" dated December 16, 2003 is attached hereto.

Respectfully submitted,
BACON & THOMAS, PLLC

By: George A. Loud
Registration No. 25,814

Date: July 2, 2007

Atty. Docket No. HYOB3001/GAL

BACON & THOMAS, PLLC
625 Slaters Lane, 4th Floor
Alexandria, Virginia 22314
Telephone: (703) 683-0500

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,048,127

DATED : May 23, 2006

INVENTOR(S) : HYOBU 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:

On the face of the patent, change the name of the "Assignee" as follows:

"Kakizaki Manufacturing Co., Ltd." should read – Miraial Co., Ltd. – .

Mailing address of sender:

Bacon & Thomas, PLLC
625 Slaters Lane 4th Floor
Alexandria, Va. 22314
TEL (703) 683-0500
FAX (703) 683-1080

Patent No. 7,048,127

No. of add'l copies
@ .30 per page

9/11/03

Atty Docket No.: 231990US-3X

09-17-2003

102554091

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FORM PTO-1595
1-31-92

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

To the Director of the United States Patent and Trademark Office. Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Kakizaki Manufacturing Corporation Limited

OIPE IAP98 JUL 02 2007 PATENT & TRADEMARK OFFICE

Additional name(s) of conveying party(ies) attached? ☐ Yes ■ No

2. Name and address of receiving party(ies):

Name: Miraial Co., Ltd.

Address: 1-18-2, Nishi-Ikebukuro,
Toshima-ku,
Tokyo, Japan

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3. Nature of Conveyance:

☐ Assignment ☐ Merger
☐ Security Agreement ■ Change of Name
☐ Other

Execution Date: August 8, 2003

Additional name(s) and address(es) attached? ☐ Yes ■ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)	B. Patent No.(s)
10/320,685	

Additional numbers attached? ☐ Yes ■ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Customer Number
22850
Tel. (703) 413-3000
Fax. (703) 413-2220

6. Total applications and patents involved: 1

7. Total fee (37 CFR 3.41): $40.00

■ Enclosed
☐ Authorized to be charged to deposit account

8. Deposit account number: 15-0030
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Marvin J. Spivak		9/11/03
Name of Person Signing	Signature	Date

Registration Number: 24,913

Total number of pages including this cover sheet: 10

Do not detach this portion

Mail documents to be recorded with required cover sheet information to:

Director of the United States Patent and Trademark Office
Mail Stop Assignment Recordation Services
Alexandria, Virginia. 22313

09/16/2003 BTUN11 00000036 10320685
01 FC:8021 40.00 OP

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DECLARATION

I, Natsuki Kawaharazuka of SUZUYE & SUZUYE, located at Kasumigaseki UBE Bldg., 3-7-2 Kasumigaseki, Chiyoda-ku, Tokyo, Japan do hereby solemnly and sincerely declare:

1. That I am well acquainted with the Japanese and English languages, and

2. That the attached documents are a Certificate of a company's history of Miraial Co., Ltd. extracted from the Commercial Register and a true English translation of the relevant portion thereof.

And I make this solemn declaration conscientiously believing the same to be true and correct.

Dated this 3rd day of September, 2003

Natsuki Kawaharazuka

Certificate of company's history
(Partial translation)

1-18-2, Nishi-Ikebukuro,
Toshima-ku, Tokyo
Miraial Co., Ltd.
Corporation No. 0133-01-002222

(1) Corporate name: Kakizaki Manufacturing Corporation Limited

Miraial Co., Ltd.

Changed: Aug. 8, 2003
Registered: Aug. 8, 2003

(2) Head office: 1-18-2, Nishi-Ikebukuro, Toshima-ku, Tokyo

(3) Medium of publication: Official gazette

(4) Date of incorporation: July 8, 1968

(Translation of items from (5) to (10) is omitted)

* Cancelled items are underlined.

(Translation from page 2 to page 4 is omitted)

1-18-2, Nishi-Ikebukuro,
Toshima-ku, Tokyo
Miraial Co., Ltd.
Corporation No. 0133-01-002222

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(Translation of items from (1) to (3) is omitted)

This is to certify that the above is all the registered items which are not closed.

August 21, 2003
Tokyo legal affairs bureau Toshima office
Registrar: Ryou Maruyama (Seal)

履歴事項全部証明書

東京都豊島区西池袋一丁目１８番２号
ミライアル株式会社
会社法人等番号　０１３３－０１－００２２２２

商　号	株式会社柿崎製作所	
(1)	ミライアル株式会社	平成１５年　８月　８日変更 平成１５年　８月　８日登記
本　店 (2)	東京都豊島区西池袋一丁目１８番２号	
公告をする方法 (3)	官報に掲載する	
会社成立の年月日 (4)	昭和４３年７月８日	
目　的 (5)	1．合成樹脂製品の製造販売 2．損害保険代理業 3．前各号に附帯する一切の業務 平成　７年　３月２５日変更　　平成　７年　３月２９日登記	
	1．合成樹脂製品の製造販売 2．合成樹脂製品用金型の製造販売 3．半導体、液晶、エレクトロルミネッセンス等の製造販売 4．半導体試験装置、半導体検査装置および半導体搬送装置を含む半導体製造装置の製造販売 5．環境にかかる水、ガス等の浄水処理装置等の製造販売 6．損害保険代理業 7．前各号に付帯関連する一切の事業 平成１５年　３月２８日変更　　平成１５年　４月１１日登記	
額面株式１株の金額 (6)	金５００円	
発行する株式の総数 (7)	３２万株	
発行済株式の総数並びに種類及び数 (8)	発行済株式の総数 １８万株	平成１０年　５月１６日変更 平成１０年　５月２０日登記
資本の額 (9)	金９０００万円	平成１０年　５月１６日変更 平成１０年　５月２０日登記
株式の譲渡制限に関する規定 (10)	株式を譲渡するには取締役会の承認を要する.	

整理番号　イ７７９５１０　　＊　下線のあるものは抹消事項であることを示す。　　1／5

PATENT
REEL: 014490 FRAME: 0802

東京都豊島区西池袋一丁目１８番２号
ミライアル株式会社
会社法人等番号　０１３３－０１－００２２２２

役員に関する事項	取締役	柿崎武美	平成１１年　３月２５日重任
			平成１１年　５月１８日登記
			平成１２年　３月２７日辞任
			平成１２年　４月　７日登記
	取締役	兵部行遠	平成１１年　３月２５日重任
			平成１１年　５月１８日登記
	取締役	兵部行遠	平成１３年　３月２７日重任
			平成１３年　５月２５日登記
	取締役	兵部行遠	平成１５年　３月２８日重任
			平成１５年　４月１１日登記
	取締役	小南佐年	平成１１年　３月２５日重任
			平成１１年　５月１８日登記
	取締役	小南佐年	平成１３年　３月２７日重任
			平成１３年　５月２５日登記
	取締役	小南佐年	平成１５年　３月２８日重任
			平成１５年　４月１１日登記
	取締役	小原光明	平成１２年　３月２７日就任
			平成１２年　４月　７日登記
	取締役	小原光明	平成１３年　３月２７日重任
			平成１３年　５月２５日登記
			平成１４年　３月２６日辞任
			平成１４年　４月　８日登記
	取締役	江島光明	平成１３年　３月３１日就任
			平成１３年　５月２５日登記
	取締役	江島光明	平成１５年　３月２８日重任
			平成１５年　４月１１日登記

整理番号　イ７７９５１０　　＊　下線のあるものは抹消事項であることを示す。　　

PATENT
REEL: 014490 FRAME: 0803

東京都豊島区西池袋一丁目１８番２号
ミライアル株式会社
会社法人等番号　０１３３－０１－００２２２２

	取締役　河島義雄	平成１４年　３月２６日就任
		平成１４年　４月　８日登記
	取締役　河島義雄	平成１５年　３月２８日重任
		平成１５年　４月１１日登記
	取締役　脇新市	平成１４年　３月２６日就任
		平成１４年　４月　８日登記
	取締役　脇新市	平成１５年　３月２８日重任
		平成１５年　４月１１日登記
	取締役　岡本好久	平成１５年　３月２８日就任
		平成１５年　４月１１日登記
	東京都保谷市東町五丁目１０番１０号 代表取締役　柿崎武美	平成１１年　３月２５日重任
		平成１１年　５月１８日登記
		平成１２年　３月２７日退任
		平成１２年　４月　７日登記
	東京都練馬区下石神井六丁目３３番８号 代表取締役　兵部行遠	平成１２年　３月２７日就任
		平成１２年　４月　７日登記
	東京都練馬区下石神井六丁目３３番８号 代表取締役　兵部行遠	平成１３年　３月２７日重任
		平成１３年　５月２５日登記
	東京都練馬区下石神井六丁目３３番８号 代表取締役　兵部行遠	平成１５年　３月２８日重任
		平成１５年　４月１１日登記
	監査役　福原淳夫	平成　９年　３月２５日就任
		平成　９年　６月１３日登記
		平成１２年　３月２７日退任
		平成１２年　４月　７日登記

整理番号　イ７７９５１０　　＊　下線のあるものは抹消事項であることを示す。　　3／5

PATENT
REEL：014490 FRAME：0804

東京都豊島区西池袋一丁目１８番２号
ミライアル株式会社
会社法人等番号　０１３３－０１－００２２２２

	監査役　柿崎武美	平成１２年　３月２７日就任
		平成１２年　４月　７日登記
		平成１３年　４月２７日辞任
		平成１３年　５月２５日登記
	監査役　池田謙自	平成１３年　４月２７日就任
		平成１３年　５月２５日登記
		平成１４年　３月２６日辞任
		平成１４年　４月　８日登記
	監査役　兵部吉計	平成１４年　３月２６日就任
		平成１４年　４月　８日登記
		平成１５年　３月２８日辞任
		平成１５年　４月１１日登記
	監査役　小原光明	平成１５年　３月２８日就任
		平成１５年　４月１１日登記
	監査役　岩佐勝彦	平成１５年　３月２８日就任
		平成１５年　４月１１日登記
取締役等の会社に対する責任の免除に関する規定	取締役又は監査役が職務を行うにつき善意でかつ重大な過失がない場合において、責任の原因となった事実の内容、当該取締役又は監査役の職務遂行の状況その他の事情を勘案して特に必要があると認めるときは、賠償の責めに任ずべき額から以下の金額を控除した額を限度として、取締役会の決議をもって商法第２６６条第１項第５号の行為に関する取締役の責任又は同法第２７７条の監査役の責任を免除することができる。 （１）取締役会の決議の日の属する営業年度又はその前の各営業年度において、当該取締役又は監査役が報酬その他の職務遂行の対価（当該取締役が使用人を兼ねる場合の使用人としての報酬その他の職務遂行の対価を含む。）として当会社から受け、又は受けるべき財産上の利益（（２）及び（３）に掲げるものを除く。）の額の営業年度ごとの合計額のうち、最も高い額の４年分（ただし、代表取締役にあっては６年分、社外取締役又は監査役にあっては２年分）に相当する額 （２）当該取締役又は監査役が当会社から受けた退職慰労金の額及び使用人を兼ねる場合の使用人としての退職手当中取締役を兼ねる期間の職務執行の対価である部分の額並びにこれらの性質を有する財産上の利益の額の合計額と当該合計額をその職に就いていた年数で除した額に４（ただし、代表取締役にあっては６、社外取締役又は監査役にあっては２）を乗じた額とのいずれか低い額 （３）当該取締役又は監査役が商法第２８０条ノ２１第１項の決議に基づき発	

整理番号　イ７７９５１０　　＊　下線のあるものは抹消事項であることを示す。　　

PATENT
REEL: 014490 FRAME: 0805

東京都豊島区西池袋一丁目１８番２号
ミライアル株式会社
会社法人等番号　０１３３－０１－００２２２２

(1)	行を受けた新株予約権を就任後に行使したときは、行使の時における当会社の株式の時価から当該新株予約権の行使による新株１株の発行価額を控除した額に発行を受け、又はこれに代えて移転を受けた株式の数を乗じた額、新株予約権を就任後に譲渡したときは、その価額から新株予約権の発行価額を控除した額に譲渡した権利の数を乗じた額 平成１５年　７月３１日設定　　平成１５年　８月　８日登記
社外取締役の会社に対する責任の制限に関する規定 (2)	当会社は、社外取締役との間において、当該社外取締役が取締役として商法第２６６条第１項第５号の行為により当会社に損害を加えた場合において、その職務を行うにつき善意でかつ重大な過失がないときは、定款に定める額の範囲内においてあらかじめ定める額と以下の金額の合計額とのいずれか高い額を限度として、その賠償の責めに任ずべき旨を約することができる。 （１）責任の原因となった事実が生じた日の属する営業年度又はその前の各営業年度において、当該社外取締役が報酬その他の職務遂行の対価として当会社から受け、又は受けるべき財産上の利益（（２）及び（３）に定めるものを除く。）の額の営業年度ごとの合計額のうち、最も高い額の２年分に相当する額 （２）当該社外取締役が当会社から受けた退職慰労金の額及びその性質を有する財産上の利益の額の合計額と当該合計額をその職に就いていた年数をもって除した額に２を乗じた額とのいずれか低い額 （３）当該社外取締役が商法第２８０条ノ２１第１項の決議に基づき発行を受けた新株予約権を就任後に行使したときは、行使の時における当会社の株式の時価から当該新株予約権の行使による新株１株の発行価額を控除した額に発行を受け、又はこれに代えて移転を受けた株式の数を乗じた額、新株予約権を就任後に譲渡したときは、その価額から新株予約権の発行価額を控除した額に譲渡した権利の数を乗じた額 平成１５年　７月３１日設定　　平成１５年　８月　８日登記
登記記録に関する事項 (3)	平成元年法務省令第１５号附則第３項の規定により 平成　６年１２月　１日移記

これは登記簿に記録されている閉鎖されていない事項の全部であることを証明した書面である。

平成１５年　８月２１日
東京法務局豊島出張所
登記官　　円　　山

整理番号　イ７７９５１０　　＊　下線のあるものは抹消事項であることを示す。　　5／5

PATENT
RECORDED: 09/11/2003
REEL: 014490 FRAME: 0806

01 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Jose Antonio Urizar Anasagasti
C/Victor De La Serna 3-5 (Parking)
Madrid 28016
Spain

In re Application of	
CEBALLOS COUNAGO, ANTONIO MANUEL	
Application No.: 10/432,779	DECISION ON REQUEST
PCT No.: PCT/ES01/00461	
Int. Filing Date: 27 November 2001	FOR WITHDRAWAL
Priority Date: 27 November 2000	
Attorney's Docket No.: None	AS ATTORNEY
For: INFORMATION POINT WITH VERTICAL SCREEN DISPLACEMENT	

This is in response to "ATTORNEY'S MOTION TO WITHDRAW" filed 16 December 2003. Jonathan E. Grant has requested that he be withdrawn as attorney of record. No fee is required.

The criteria for effecting a proper withdrawal of attorney are spelled out in Section 402.06 of the Manual of Patent Examining Procedure (M.P.E.P.) which reads, in part, as follows:

> The Commissioner of Patents and Trademarks usually requires that there be at least 30 days between approval of 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). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

Since all of the criteria delineated in Section 402.06 of the M.P.E.P. have been complied with and since there are no outstanding responses due, the request to withdraw as attorney of record is GRANTED.

All future communications will be forwarded to Jose Antonio Urizar Anasagasti at the address indicated in the declaration of the inventor filed 14 January 2004.

In view of the above discussion, counsel's Request for Withdrawal is GRANTED.

A copy of this decision and the withdrawal request will be forwarded to Jonathan E. Grant.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

CC: JONATHAN E. GRANT
2107 HOUNDS RUN PLACE
SILVER SPRING, MARYLAND 20906

REQUEST FOR LEGAL STAFF CONSIDERATION

Date sent to Legal Department: 2-20-04

Serial Number: 10/432,779

RECEIVED
20 FEB 2004
Legal Staff
International Division

Request

___ Petition to Revive Unintentionally Abandonment Application

___ Petition under Rule 1.47 (A)

✓ Other
Withdrawal of Attorney

Requestor: Barbara Campbell, Paralegal PCT National Stage Division
Supervisor: Donna Greene

Action taken:

Request to withdraw as attorney Granted.
Use correspondence address in declaration Filed 14 Jan. 04
(stapled to inside left flap)

Date returned: 01 March 04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

Karen B Tripp
Attorney at Law
PO Box 1301
Houston, TX 77251-1301

Mail Date: 04/21/2010

Applicant	: Heinz Mueller	: DECISION ON REQUEST FOR
Patent Number	: 7638466	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/432,786	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Karen B. Tripp
P.O. Box 1301
Houston, TX 77251-1301

In re Application of	:	
MULLER, et al.	:	
U.S. Application No.: 10/432,787	:	
PCT No.: PCT/US00/35609	:	DECISION ON PETITION
Int. Filing Date: 29 December 2000	:	
Priority Date: None	:	UNDER 37 CFR 1.181
Attorney Docket No.: HALB;016A	:	
For: THINNERS FOR INVERT EMULSIONS	:	

This decision is in response to the applicant's "Petition to Withdraw of Abandonment For Failure of Patent Office to Receive U.S. Basic National Fee" filed 21 October 2003 by facsimile in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 29 December 2000, applicant filed international application PCT/US00/35609. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 29 June 2003.

On 27 May 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia:* an executed combined declaration and power of attorney and a check in the amount of $118.00.

On 01 October 2003, applicant was mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) informing applicant that the present application was abandoned as to the National stage in the United States for failure to timely provide payment of the full, U.S. basic national fee.

On 21 October 2003, applicant responded with the present petition to withdraw the holding of abandonment pursuant to 37 CFR 1.181.

DISCUSSION

Applicant is advised that as an International Preliminary Examination Report has yet to be prepared showing that all claims satisfy provisions of PCT Article 33(1)-(4), the Basic National Fee for the present application was $720.00. In addition, applicant was required to provide payment of $18.00 for an extra claim for a total payment of $738.00. Applicant provided payment of $118.00. However, a review of the transmittal letter filed 27 May 2003 shows that

applicant authorized the charging of any additional fees to Deposit Account No.: 50-0807. A review of the deposit account shows that sufficient funds were available for payment of the remaining $620.00. As such, it is proper to grant applicant's petition to withdraw the holding of abandonment for the present application. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

For the reasons stated above, applicant's petitions under 37 CFR 1.181 are **GRANTED**.

As authorized $620.00 will be charged to Deposit Account No.: 50-0807.

The "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed 01 October 2003 is hereby **VACATED**.

This application is being forwarded to United States Designated/Elected Office (US/DO/EO) for further national stage processing, including according the application a 35 U.S.C. 371(c) date of **27 May 2003**.

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

13 JAN 2004

#16

UNITED STATES PATENT AND TRADEMARK OFFICE

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Karen B. Tripp
P.O. Box 1301
Houston, TX 77251-1301

In re Application of	:	
MULLER, et al.	:	SUPPLEMENTAL
U.S. Application No.: 10/432,787	:	
PCT No.: PCT/US00/35609	:	DECISION ON PETITION
Int. Filing Date: 29 December 2000	:	
Priority Date: None	:	UNDER 37 CFR 1.181
Attorney Docket No.: HALB;016A	:	
For: THINNERS FOR INVERT EMULSIONS	:	

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

On 19 November 2003, applicant was mailed a decision granting applicant's petition under 37 CFR 1.181 and assigning a 35 U.S.C. 371(c) date of 27 May 2003.

A closer review of the filed declaration and power of attorney finds that no citizenship appears on the declaration for the first named inventor, Heinz Muller. As such, the document does not comply with 37 CFR 1.497(a)-(b).

The decision mailed 19 November 2003 is hereby **VACATED** vis-a-vis the assigning of a 35 U.S.C. 371(c) date. Applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment remains **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a compliant oath or declaration of the inventors is required.

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

25 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Karen B. Tripp
P.O. Box 1301
Houston, TX 77251-1301

In re Application of
MULLER, et al.
U.S. Application No.: 10/432,787
PCT No.: PCT/US00/35609
Int. Filing Date: 29 December 2000
Priority Date: None
Attorney Docket No.: HALB;016A
For: THINNERS FOR INVERT EMULSIONS

DECISION ON PETITION

This decision is in response to applicant's "Correction of Spelling of Inventor Name" file 17 February 2004. The paper is being treated as a petition under 37 CFR 1.497(d) and for the reasons discussed below, dismissed as moot. No petition fee is due.

BACKGROUND

On 13 January 2004, applicant was mailed a supplemental decision granting applicant's petition to withdraw holding of abandonment.

On 23 January 2004, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees

On 17 February 2004, applicant filed the present response including a statement as to the first listed inventor, Heinz Mueller.

DISCUSSION

Applicant states that "the new declaration corrects the spelling of inventor Heinz Mueller's last name. The earlier filed declaration omitted the "e" in inventor Mueller's name." Applicant requests relief pursuant to 37 CFR 1.48 and MPEP 201.03. Applicant is advised that 37 CFR 1.48 and 37 CFR 1.497(d) detail situations where an inventor is being added or deleted from the application. In the present case, inventor Mueller was listed as an inventor in the published international application. As such, the petition is being dismissed as moot and no petition fee is required.

A review of the published international application finds that, like the originally filed declaration, the first listed inventor is identified as "Muller" whereas the presently filed declaration lists the inventor as "Mueller." Based on applicant's present filing it appears that a typographical error occurred in the filing of the international application regarding the inventor's last name. MPEP 605.04(b) explains that

> When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. The U.S. Patent and Trademark Office should simply be notified of the error and reference to the notification paper will be made on the previously filed oath or declaration by the Office.

Applicant has stated that the omission of the "e" in the filed declaration was a mistake. However, applicant has not confirmed that in fact the correct spelling of the inventor's last name is "Mueller." As explained above, applicant is not required to file a new declaration. If in fact the inventor's last name is "Mueller" the declaration filed 17 February 2004 complies with 37 CFR 1.497. However, in order for national stage processing to continue, it is requested that applicant provide a statement confirming that the name listed in the published international application "Muller" is incorrect and that the name listed and executed in the filed declaration "Mueller" is the correct spelling of the inventor's last name.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.497(d) is DISMISSED as moot.

Applicant is afforded **TWO (2) MONTHS** to file a proper response as detailed above.

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

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

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

Karen B. Tripp
P.O. Box 1301
Houston, TX 77251-1301

In re Application of	:	
MUELLER, et al.	:	DECISION ON PETITION
Serial No.: 10/432,787	:	
PCT No.: PCT/US00/35609	:	UNDER 37 CFR 1.181
Int. Filing Date: 29 December 2000	:	
Priority Date: None	:	
Atty Docket No.: HALB;016A	:	
For: THINNERS FOR INVERT EMULSIONS	:	

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment For Failure of Patent Office to Receive Statement Confirming Correction of Spelling of Inventor Name" filed 15 October 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 25 March 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.497(d) as moot and requiring confirmation form counsel as to the true name of the first named inventor pursuant to MPEP 605.04(b). Applicant was afforded two months to file a proper reply.

On 26 August 2005, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Decision mailed 25 March 2005 within the time period set therein and that above-identified application was abandoned as to the United States.

On 15 October 2005, applicant filed the present petition under 37 CFR 1.181 accompanied by copies of papers purportedly filed on 31 March 2004.

DISCUSSION

I. Petition Under 37 CFR 1.181

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 filed if the party who forwarded the 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.

MPEP 711.03(c) details that as stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. Applicant has satisfied items all three items above. Thus, it is proper to grant applicant's petition under 37 CFR 1.181. In addition, it is noted that applicant has satisfied the provisions of 37 CFR 1.10(e) regarding the non-receipt by the USPTO of an Express Mail mailing.

II. Response to Decision of 25 March 2004

A review of the enclosed "Statement Confirming Correction of Spelling of Inventor Name" shows that counsel has presently confirmed that the true and correct last named of the first named inventor is "Mueller" which is what appears on the executed declaration filed 17 February 2004. As such, applicant has provided a proper response to the decision mailed 25 March 2004. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 26 August 2005 is hereby **VACATED**.

This application will be given an international application filing date of 29 December 2000 and a date of **17 February 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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Alexandria, VA 22313-1450
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MAR 2 8 2005

BELL, BOYD & LLOYD, LLC
P.O. Box 1135
Chicago, IL 60690-1135

In re Application of:
SHENG-GEN PAN
Serial No.: 10/432,789
Filed: November 24, 2003
Attorney Docket No.: 112740-835

DECISION ON PETITION TO WITHDRAW FROM ISSUE

This is a decision on the petition to withdraw from issue pursuant to 37 C.F.R. § 1.313. Petitioner requests that the above-referenced application be withdrawn from issue for consideration of prior art references listed in an information disclosure statement filed concurrently with the petition. The issue and publication fees were due on March 7, 2005. The petition was filed on March 10, 2005 with a transmittal sheet listing the petition. The transmittal sheet included a Certificate of Mailing dated March 7, 2005.

The petition is **DENIED**.

37 C.F.R. § 1.313(a) states in part:

> "Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application is necessary."

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 C.F.R. § 1.17(h). The petition included a check in the amount of $310.00 to cover both the $130.00 petition fee under 37 C.F.R. § 1.17(h) and the fee for the submission of an information disclosure statement under 37 C.F.R. § 1.17(p).

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application is necessary. The mere submission of an information disclosure statement (IDS) with the petition does not make withdrawal of the application from issue necessary. There were other avenues open to applicant to have the IDS considered other than by way of petition.

Following the part of 37 C.F.R. § 1.313(a) cited above, 37 C.F.R. § 1.313(a) goes on to state:

"A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee."

The filing of a request for continuation examination (RCE) under 37 C.F.R. § 1.114 with a submission and the fee set forth in 37 C.F.R. § 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an information disclosure statement satisfies the submission requirement under 37 C.F.R. § 1.114. For example, see MPEP § 706.07(h)(II).

Since the issue fee and publication fee were not timely paid, this application is now abandoned by the effect of law under 35 U.S.C. 151.

As stated in MPEP § 1308 (I)(A):

"Petitions under 37 CFR 1.313(a) to have an application withdrawn from issue should be directed to the Technology Center (TC) Director to which the application is assigned (see MPEP § 1002.02(c)). Unless applicant receives a written communication from the Office that the application has been withdrawn from issue, the issue fee must be timely submitted to avoid abandonment."

Applicant may wish to revive the application under 37 C.F.R. § 1.137(b). The reply required to accompany the petition under 37 § 1.137(b)(1) can be an RCE.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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BELL, BOYD & LLOYD
P.O. Box 1135
Chicago, IL 60690-1135

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of:
SHENG-GEN PAN
Application No.: 10/432,789
Filed: November 24, 2003
Atty's Docket No.: 112740-835

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2005 to revive the above-entitled 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 December 06, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on March 06, 2005.

Applicant has included with the present petition a request for continued examination (RCE) and submission as required by 37 CFR 1.114. However, in an application or patent, abandoned or lapsed for failure to pay the issue and publication fees or any portion thereof, the required reply must be the payment of the issue and publication fees or any outstanding balance thereof. See MPEP 711.03(c)(III)(A)(1). Therefore, the RCE included with the present petition is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the petition to charge any additional fees due, the $1,400 issue fee and the $300 publication fee will be charged to Deposit Account No. 02-1818.

Petitioner is advised that the issue and publication fees cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Fee(s) Transmittal Form PTOL-85, 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 Fee(s) 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 present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the reply in the form of payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply to the Notice of Allowance, in the form of payment of the issue and publication fees, is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 2821.

Telephone inquiries concerning this decision should be directed to Richard M. Ross at (571) 272-3296 or, in his absence, the undersigned at (571) 272-3217.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office Of Petitions

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BELL, BOYD & LLOYD, LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

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DEC 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Sheng-Gen Pan :
Application No. 10/432,789 : **ON PETITION**
Filed: November 24, 2003 :
Attorney Docket No. 112740-835 :

This is a decision on the petition, filed December 2, 2005, requesting withdrawal of the above-identified application from issue under the provisions of 37 CFR 1.313(c).

The petition is dismissed as moot.

In reviewing the application, it is noted that the issue fee as required by the Notice of Allowance and Issue Fee Due mailed August 29, 2005 was not paid on or before November 29, 2005. The present petition, including the Request for Continued Examination (RCE) and Information Disclosure Statement (IDS) was filed on December 2, 2005, using a Certificate of Mailing or Transmission dated November 30, 2005. Since this application was abandoned by operation of law on November 30, 2005, the RCE and IDS filed December 2, 2005 will not be processed. The fees submitted with the RCE are refundable.

Applicant is advised that the abandonment of this application may only be overcome by filing a petition to revive under 37 CFR 1.137. A petition to revive may be appropriate if applicant's failure to reply was either unavoidable or unintentional.

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 "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. ' 704.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (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

[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.

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).

Public Law 97-247, which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unintentional." See 37 CFR 1.137(b) in effect as of December 1, 1997. *Note Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 (October 10, 1997), 1203 Off. Gaz. Patent Office 63 (October 21, 1997).*

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).

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

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

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

The centralized facsimile number is **(571) 273-8300**.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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CHICAGO, IL 60690-1135

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OFFICE OF PETITIONS

In re Application of :
Sheng-Gen Pan :
Application No. 10/432,789 : ON PETITION
Filed: November 24, 2003 :
Attorney Docket No. 112740-835 :

This is a decision on the renewed petition, filed January 17, 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 filed in response to a decision dismissing petition mailed December 8, 2005. Petitioner argues that the application was not abandoned since the issue fee was timely filed in response to the Notice of Allowance and Issue Fee Due mailed August 29, 2005. Petitioner submits, inter alia, a copy of the issue fee transmittal postcard receipt and renews the request to withdraw the above-identified application from issue.

A review of the petitioner's post card receipt clearly shows that issue fee was not actually received in the U.S. Patent and Trademark Office until December 5, 2005, which is after the December 2, 2005 date of the original petition under 37 CFR 1.313(c)(2). However, since the issue fee transmittal letter was filed using a certificate of mailing or transmission dated November 29, 2005, the issue fee is considered timely and no abandonment resulted. Any inconvenience caused petitioner is regretted.

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

Petitioner is advised that the issue fee paid on December 5, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated November 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 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 2821 for further processing of the request for continued examination under 37 CFR 1.114 filed December 2, 2005.

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

07/11/[illegible]

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : AUGUST 14, 2007

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/432,802 Patent No.: 7196584 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

_____

_____

_____

_____

Renford Barnie — **SPE**

2819 — **Art Unit**

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COMMISSIONER FOR PATENTS
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Klarquist Sparkman, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204-2988

In re Application of ORSILLO	:	
U.S. Application No.: 10/432,808	:	
PCT Application No.: PCT/US01/28669	:	DECISION
Int. Filing Date: 14 September 2001	:	
Priority Date Claimed: 15 September 2000	:	
Attorney Docket No.: 6427-65883	:	
For: METHOD FOR RETROFITTING A PROBE STATION	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 23 May 2003.

BACKGROUND

On 14 September 2001, applicant filed international application PCT/US01/28669, which claimed priority of an earlier United States application filed 15 September 2000. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 15 March 2003.

International application PCT/US01/28669 became abandoned as to the United States for failure to timely pay the basic national fee.

On 23 May 2003, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b)(3), the USPTO may require additional information where there is a question whether a delay was unintentional. A delay resulting from a deliberate course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b). See MPEP 711.03(c), subsection III.C.1.

In the present case, the petition states that applicant "delayed filing of the U.S. national stage on belief that claims in the PCT application were being pursued in other U.S. applications believed to have met all filing requirements. Therefore, it was wrongly understood by Applicants that entering the U.S. national stage with the PCT application would be redundant." Thus, it is apparent that applicant deliberately allowed the application be become abandoned based upon a purportedly mistaken belief. However, the abandonment of an application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b), where the applicant deliberately permits the application to become abandoned. MPEP 711.03(c), subsection III.D. Furthermore, an intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application or by the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival. MPEP 711.03(c), subsection III.D. Because abandonment of the present application appears to have been a deliberate course of action, it would be inappropriate to conclude that the delay in entering the national stage in the United States under 35 U.S.C. 371 was unintentional within the meaning of 37 CFR 1.137(b).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is DISMISSED without prejudice..

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)".

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Klarquist Sparkman, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204-2988

In re Application of ORSILLO	:	
U.S. Application No.: 10/432,808	:	
PCT Application No.: PCT/US01/28669	:	DECISION
Int. Filing Date: 14 September 2001	:	
Priority Date Claimed: 15 September 2000	:	
Attorney Docket No.: 6427-65883	:	
For: METHOD FOR RETROFITTING A PROBE STATION	:	

This is in response to applicant's "Renewed Under 37 CFR 1.137(b)" filed 15 December 2003.

BACKGROUND

On 14 September 2001, applicant filed international application PCT/US01/28669, which claimed priority of an earlier United States application filed 15 September 2000. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 15 March 2003.

International application PCT/US01/28669 became abandoned as to the United States for failure to timely pay the basic national fee.

On 23 May 2003, applicant filed a petition under 37 CFR 1.137(b).

On 10 October 2003, this Office mailed a decision dismissing the 23 May 2003 petition.

On 15 December 2003, applicant filed the present renewed petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

Under 37 CFR 1.137(b)(3), the USPTO may require additional information where there is a question whether a delay was unintentional. In the present case, the petition states that applicant "mistakenly believed that claims in the PCT application were being pursued in other U.S. applications believed to have met all filing requirements. Therefore, it was wrongly understood by Applicants that entering the U.S. national stage with the PCT application would be redundant." This indicates that although applicant deliberately decided against entering the national stage in the United States, applicant never intended to abandon the claimed invention. Therefore, abandonment of the present application is deemed unintentional within the meaning of 37 CFR 1.137(b).

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 14 September 2001, and a date under 35 U.S.C. 371(c) of 23 May 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

Draft Petition Decision

Serial No. 10/432,808

Date of Draft 22 Dec 03

Legal Examiner TUNG

Conferee Approval _____

Petitions Book Nos. _____

Petition Log Book No. _____

PALM Petition Code 270

___Charge Account No. _____

Fee _____	Code _____
Fee _____	Code _____
Fee _____	Code _____
Fee _____	Code _____

Granted ✓

Dismissed _____

Dismissed with Recomendation _____

22 MAR 2004

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Johnson & Johnson
Patent Law Department
One Johnson & Johnson Plaza
New Brunswick, New Jersey 08933

In re Application of :
BUNICK et al. :
Application No.: 10/432,812 :
PCT No.: PCT/US02/31129 : DECISION ON REQUEST
Int. Filing Date: 28 September 2002 : UNDER 37 CFR 1.497(d)
Priority Date: 28 September 2001 :
Attorney Docket No.: MCP-311 :
For: DOSAGE FORMS HAVING INNER CORE AND OUTER SHELL WITH DIFFERENT SHAPES

This decision is in response to the facsimile communication filed 02 March 2004 which being treated as a Petition under 37 CFR 1.181 and a request under 37 CFR 1.497(d).

BACKGROUND

On 28 September 2002, applicants filed the above-captioned international application which claimed a priority date of 28 September 2001. The international application named Frank Bunick; Der-Yang Lee; Gerard P. McNally; Martin Thomas; and Harry Sowden as applicants/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 28 May 2003.

On 21 May 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a basic national fee of $900 and a copy of the international application.

On 02 February 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b) and the surcharge 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 02 March 2004, applicants filed a petition under 37 CFR 1.181 and a request under 37 CFR 1.497(d).

DISCUSSION

A. Petition under 37 CFR 1.181

Applicant states in their present petition that the request under 37 CFR 1.497(d) was received by the USPTO on 04 December 2003. A review of the application file reveals that the request under 37 CFR 1.497(d) filed 04 December 2003 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the title of invention; application number; and the docket number. The evidence submitted by applicants, consisting of a postcard receipt with a PCT/PTO mailroom date stamp of 04 December 2003 which itemizes all the papers filed on said date including: Statement under 37 CFR 1.48(a). The postcard receipt bearing the serial number, title of invention, and attorney docket number is sufficient to indicate that the above papers were received on 04 December 2003.

B. Request under 37 CFR 1.497(d)

In the instant case, the international application named Frank Bunick; Der-Yang Lee; Gerard P. McNally; Martin Thomas; and Harry Sowden as applicants/inventors. Applicants request to add Fred Walker as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

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

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a);

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

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Items (1), (2), (3) and (4) have been satisfied.

CONCLUSION

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

The request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 28 September 2002 and a date of **04 December 2003** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

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

15 JUN 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

Joseph J. Ruch, Jr.
Sughrue Mion, PLLC.
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

In re Application of	:	
Ishihara et al.	:	
US Application No.: 10/432,822	:	
PCT Application No.: PCT/JP01/10241	:	DECISION ON
Int. Filing Date: 22 November 2001	:	PETITION UNDER
Priority Date: 27 November 2000	:	37 CFR 1.181
Attorney's File Reference: Q75728	:	
For: DIMETHYL TEREPHTHALATE	:	
COMPOSITION AND METHOD FOR	:	
PRODUCING THE SAME	:	

This is a decision in response to applicants' Request For Corrected Filing Receipt filed 23 December 2003 which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

The present application is a U.S. national phase application of international application PCT/JP01/10241. PCT/JP01/10241 was awarded an international filing date of 22 November 2001 and claimed a priority date of 27 November 2000. On 20 March 2002, a Demand for international preliminary examination was filed in PCT/JP01/10241. Accordingly, the deadline for paying the basic national fee to avoid abandonment of the international application as to the U.S. expired at midnight of 27 May 2003.

On 27 May 2003, applicant filed, inter alia, a transmittal letter to enter the U.S. national stage, the basic national fee, and a declaration and power of attorney.

On 23 December 2003, applicants filed the instant petition requesting the following corrections to the filing receipt: (1) that the Total claims be corrected to 8, (2) that the Independent claims be corrected to 6, (3) that priority information be added (Japan 2000-362783, Japan 2000-362784, Japan 2000-362785, Japan 2000-364633, Japan 2000-366861, Japan 2000-307289), and (4) that the title be corrected to read "Dimethyl terephthalate composition and method for producing the same".

DISCUSSION

A review of the application file reveals that the above identified changes (3) and (4) should be made as requested. Specifically, as to items (3) and (4) above, the corrections are supported by the declaration filed 27 May 2003. As to items (1) and (2), no translation of the Article 34 amendment are included in the application file, thus the Total claims will remain as 11 and Independent claims will remain as 8.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED in-part and DISMISSED in-part**.

The application will be returned to National Stage Processing to issue a corrected Filing Receipt adding the priority claims and changing the title.

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

Aileen Felton
Petitions Detailee
Office of PCT Legal Administration
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313
VOX (571) 272-6095

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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

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AUG 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Yuu Ishii et al	:	
Application No. 10/432,824	:	ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No. Q75789	:	

This is a decision on the petition, filed August 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 8, 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 2874 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

IFW
3743

NEIFELD IP LAW, P.C.
2001 Jefferson Davis Highway
Suite 1001
Arlington, VA 22202

Tel: 703-415-0012
Fax: 703-415-0013
Email: rneifeld@Neifeld.com
Web: www.Neifeld.com

OIPE JC139 AUG 17 2004 PATENT & TRADEMARK OFFICE

TRANSMITTAL LETTER AND AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Attorney Docket No.: X2YA0016UPCT-US
Application Serial No.: 10/432,840
Filed: 05/28/03
Title: Energy Pathway Arrangements
Inventor: ANTHONY et al.

SIR:

Attached hereto for filing are the following papers:

1. Decision on Petition Under 37 CFR 1.183 Seeking Waiver of Requirements Under 37 CFR 1.98 and 1.52 (Filed in Application Serial No: 10/237,079, Neifeld Docket No: X2YA0010U-US; 5 Pages)

Our check in the amount of $0.00 is attached covering the required fees.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-2106. A duplicate copy of this sheet is enclosed.

31518
PATENT TRADEMARK OFFICE

8/17/04
Date

Richard A. Neifeld, Ph.D.
Registration No. 35,299
Attorney of Record

Printed: August 16, 2004 (3:36pm)
Y:\Clients\X2YA\X2YA0016\X2YA0016UPCT-US\Drafts\TransmittalLetter_040816.wpd

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NEIFELD IP LAW, PC
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

Attorney Review of Decision 8-2004

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In re Application of
Anthony, A. et al.
Application No. 10/237,079
Filed: September 9, 2002
For: UNIVERSIAL ENERGY CONDITIONING INTERPOSER WITH CIRCUIT ARCHITECTURE
Attorney Docket No. X2YA0010U/US

: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98 and 1.52

This is a response to a petition under 37 CFR 1.183 filed on April 22, 2004, concurrently with an Information Disclosure Statement (IDS). The § 1.183 petition requests waiver of the rules for Information Disclosure Statements under 37 CFR 1.98. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing a paper copy of each reference in each of 26 related applications where the references are being cited by Petitioner. The request for waiver is made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.183 petition also contains a request seeking permission to submit the same prior art submissions on compact disc which would require a waiver of 37 CFR 1.52(a) and (e).

The petition under 37 CFR 1.183 requesting relief to file a reduced number of paper copies of IDS references and to file them on compact disc is **GRANTED IN PART** to the extent set forth below.

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 26 U.S. applications relating to different aspects of an invention.

DecPet_X2YA0010U_040813 RS

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information material to patentability, which includes information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.183 - Special Treatment of Compact Disc

The petition states that the compact disc filed with the IDS is an additional copy of the paper references included with the IDS. It is not apparent from the petition why the Office needs to make available to every examiner in all 26 applications a second copy of each reference on compact disc. Accepting a second copy on compact disc of each reference places an additional burden on the Office. First, there is the burden to determine if the paper copy and the compact disc copy of the references are the same. If the two copies are not the same it raises questions about what the examiner considered in each application. Second, accepting the compact disc copy places a burden on the Office to maintain a copy as part of the Official record of the application. Finally, there is insufficient information in the petition evaluate the data formats and software requirements to determine how compatible the filing is with the Office's automated systems and procedures for maintaining records. Hence it is not clear why relief is required under § 1.183 if relief from filing a paper copy in each application is granted. Nor is it apparent on balance why the Office should accept the additional burden of having to process a second copy of the references on compact disc. In view of the relief granted below, no further discussion of the compact discs is required in this decision.

Petition under § 1.183 for a waiver of the rules for compact discs is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-121 and 600-122.

Paper copies: Petitioner notes that the instant application is one of about 24 bulk filing applications that have been filed in regard to a particular technology. Accordingly, Petitioner requests that one individual paper copy of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application.

Rather than be required to submit, via a paper copy, two cartons of foreign patent and non-patent literature references in each of 24 applications, Petitioner seeks to have:

(1) The concurrently filed single paper copy of each IDS citation fulfill the requirement for a paper copy in all 24 applications;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of the references to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from requiring a separately filed paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, and a copy of the Form 1449 (or equivalent).

Once past the initial IDS submission, the petition does not propose the waiver to apply to updates and no waiver is granted for updates of the IDS.

A review of Office records indicates that 23 applications are either Image File Wrapper (IFW) applications or will soon be IFW applications. The one application that is not an IFW application will become an IFW application upon filing an RCE which appears to be required for consideration of the IDS. The Office has provided an image copy of all of the IDS references from the holding application to the other 23 bulk IFW applications.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of foreign patent and non-patent literature references in 24 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available in different applications from one paper copy, on balance, there is seen to be sufficient benefit to justify waiver in this instance for all the applications filed.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each foreign patent and non-patent literature IDS citation in a bulk filing application will be waived in the bulk filing applications provided that the following 7 conditions are complied with:

1) One paper copy of each foreign patent and non-patent literature IDS citation has been submitted to the Office in the concurrently filed IDS in this, the holding application;

2) The information cited in each of the bulk filing applications is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), if submitted in the holding application, must also be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) There will be no waiver of any aspects of 37 CFR 1.97 in any application after allowance or final rejection of that application.

Part IV. Further Correspondence

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

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

By FAX: (703) 872-9306
Attn: Office Patent Legal Administration/Michael L. Lewis

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Petitioner's list of Applications

NEIFELD DOCKET NO: X2YA0010U/US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATIONS OF: Anthony

Examiner: JACKSON, S.

APPLICATION NO: 10/237,079

GAU: 2836

RECEIVED
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OPLA

Filed: 9/9/2002

Title: Universal Energy Conditioning Interposer with Circuit Architecture

and relating to the following 24 applications:

National AppNo	Neif Dock Ref	Status	Title
09/647,648	X2YA0105UPCT-US	Allowed	Component Carrier
10/479,506	X2YA0025UPCT-US	pending	Arrangement for Energy
10/766,000	X2YA0013U-US	pending	Shielded Energy Conditioner
09/996,355	X2YA0125U-US	Pending	Energy pathway arrangement
10/023,467	X2YA0126U-US	Pending	Energy pathway arrangements
10/115,159	X2YA0021U-US	Pending	Offset pathway arrangements
10/189,338	X2YA0022U-US	Pending	Pathway arrangement
10/189,339	X2YA0023U-US	Pending	Arrangement for energy
10/237,079	X2YA0010U/US	Pending	Universal energy conditioning
10/328,942	X2YA0108U-US-C1	Pending	Paired Multi-Layered Dielectric
10/344,749	X2YA0119UPCT-US	Pending	An Electrode Arrangement for
10/399,590	X2YA0015UPCT-US	Pending	Amalgam of shielding and
10/399,630	X2YA0014UPCT-US	Pending	Energy Pathway Arrangements
10/432,840	X2YA0016UPCT-US	Pending	Energy Pathway Arrangements
10/433,482	X2YA0017UPCT-US	Pending	Energy Pathway Arrangements
10/435,199	X2YA0020U-US	Pending	Energy Conditioning Structure
10/443,764	X2YA0026U-US-C1	Pending	Paired Multi-Layered Dielectric
10/443,778	X2YA0029U-US-C2	Pending	Energy Conditioning Circuit
10/443,788	X2YA0028U-US-C2	Pending	Component Carrier
10/443,792	X2YA0027U-US-C1	Pending	Multi-Functional Energy
10/460,361	X2YA0032UUSC1	Pending	Predetermined symmetrically
10/705,962	X2YA0041U-US	Pending	COMPONENT CARRIER
09/632,048	X2YA0117U-US	Allowed	Universal Energy Conditioning
10/369,335	X2YA0100U-US-C4	Allowed	Polymer Fuse & Filter

TO: ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22313

37 CFR 1.183 PETITION TO WAIVE PORTION OF THE IDS RULES

FILE A REDUCED SET OF REFERENCES

BEST AVAILABLE COPY

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OFFICE OF PETITIONS

NEIFELD IP LAW, PC
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

In re Application of
William M. Anthony et al
Application No. 10/432,840
Filed: May 28, 2003
Attorney Docket No. X2YA0016PCT-US

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 13, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed applications, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications set forth in the amendment submitted 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;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
>
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant application was filed on May 28, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(3).

As to the benefit claim under 37 CFR 1.78(a)(6):

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

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on May 28, 2003. Intermediate Application No. 09/982,553 was filed within twelve months of the provisional applications, for which priority is claimed. A reference to the prior- filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. See 35 U.S.C. §§ 120 and 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 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 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 aplications 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 Karen Creasy at (571) 272-3208.

This application is being forwarded to Technology Center Art Unit 3743 for processing the amendment submitted September 13, 2004, and for processing and consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Karen Creasy

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

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PRICE HENEVELD COOPER DEWITT & LITTON
695 KENMOOR, S.E.
POST OFFICE BOX 2567
GRAND RAPIDS, MI 49501-2567

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OFFICE OF PETITIONS

In re Patent No. 6,916,523	:	
Issue Date: July 12, 2005	:	
Application No. 10/432,870	:	LETTER
Filed: December 4, 2003	:	
Attorney Docket No. GFP01 P-307	:	

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

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

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

This matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions

04 MAY 2004

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FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

In re Application of	:	
KOIDE et al.	:	
Application No.: 10/432,879	:	DECISION
PCT No.: PCT/JP01/10377	:	
Int. Filing Date: 28 November 2001	:	
Priority Date: 28 November 2000	:	
Attorney Docket No.: 13711-003US1	:	
For: LATEX PRODUCTS	:	

This is a decision on applicants' "PETITION UNDER RULE 1.47(a) and (b)" filed in the United States Patent and Trademark Office (USPTO) on 31 March 2004, which has been treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 28 November 2001, applicants filed international application PCT/JP01/10377, which designated the United States and claimed priority of an earlier application filed on 28 November 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 06 June 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 May 2003.

On 28 May 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 02 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 31 March 2004, applicants filed the instant "PETITION UNDER RULE 1.47(a) and (b)", which has been treated as a petition under 37 CFR 1.47(a). The petition was accompanied by a declaration of inventors, the surcharge under 37 CFR 1.492(e), a petition/fee for a four month extension of time; a declaration of facts by Mrs. Noriko Suzuki; and a declaration of facts by Mr. Makoto Suzuki and Mr. Hiroyuki Tanaka.

DISCUSSION

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

As to item (1), the fee has been charged to Deposit Account 06-1050.

Items (3) and (4) have been satisfied.

Item (2) has not been satisfied. It appears that the non-signing inventor Mr. Takahisa Suzuki was only presented with a copy of the declaration and an assignment document rather than with a copy of the application papers (specification, including claims, drawings, and oath or declaration). To establish a refusal to sign, it is required that the inventor be presented with the application papers. See MPEP 409.03(d).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

16 AUG 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

In re Application of	:	
KOIDE et al.	:	
Application No.: 10/432,879	:	DECISION
PCT No.: PCT/JP01/10377	:	
Int. Filing Date: 28 November 2001	:	
Priority Date: 28 November 2000	:	
Attorney Docket No.: 13711-003US1	:	
For: LATEX PRODUCTS	:	

This is a decision on applicants' "RENEWED PETITION UNDER RULE §1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 21 June 2004.

BACKGROUND

On 28 November 2001, applicants filed international application PCT/JP01/10377, which designated the United States and claimed priority of an earlier application filed on 28 November 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 06 June 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 May 2003.

On 28 May 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 02 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 31 March 2004, applicants filed the instant "PETITION UNDER RULE 1.47(a) and (b)", which has been treated as a petition under 37 CFR 1.47(a). The petition was accompanied by a declaration of inventors, the surcharge under 37 CFR 1.492(e), a petition/fee for a four month extension of time; a declaration of facts by Mrs. Noriko Suzuki; and a declaration of facts by Mr. Makoto Suzuki and Mr. Hiroyuki Tanaka.

On 04 May 2004, a decision was mailed dismissing applicants' petition under 37 CFR

1.47(a) without prejudice. Specifically, it was noted that it appeared that the non-signing inventor Mr. Takahisa Suzuki was only presented with a copy of the declaration and an assignment document rather than with a copy of the application papers (specification, including claims, drawings, and oath or declaration).

On 21 June 2004, applicants filed the instant "RENEWED PETITION UNDER 37 CFR §1.47(a)" which was accompanied by, *inter alia*, a second declaration of facts by Mrs. Noriko Suzuki.

DISCUSSION

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

As noted in the decision mailed 04 May 2004, items (1), (2) and (4) have been satisfied.

Item (2) has now been satisfied with the second declaration of facts by Mrs. Noriko Suzuki.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **31 March 2004**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

16 AUG 2004

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Mr. Takahisa Suzuki
5-1-12 Kaijin
Funabashi-shi, Chiba 237-0021
JAPAN

In re Application of
KOIDE et al.
Application No.: 10/432,879
PCT No.: PCT/JP01/10377
Int. Filing Date: 28 November 2001
Priority Date: 28 November 2000
Attorney Docket No.: 13711-003US1
For: LATEX PRODUCTS

Dear Mr. Suzuki:

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

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

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081
UNITED STATES OF AMERICA

12 MAY 2004

#5

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Matthew R. Jenkins
Jacox, Meckstroth & Jenkins
2310 Far Hills Building
Dayton, OH 45419-1575

In re Application of STREIT et al.
Application No.: 10/432,893
PCT No.: PCT/CH01/00678
Int. Filing: 19 November 2001
Priority Date: 08 December 2000
Attorney Docket No.: KEL 003 P2
For: ELECTRONICS ARRANGEMENT

: DECISION ON PETITION
: UNDER 37 CFR 1.47(a)

This is a decision on applicant's petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 05 March 2004, requesting the acceptance of the application without the signature of joint inventor, Robert Streit. Applicant also requests a four month extension of time, which is granted.

BACKGROUND

On 19 November 2001, applicant filed international application No. PCT/CH01/00678 which made a claim for priority of 08 December 2000.

On 25 May 2002, a Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 June 2003.

On 29 May 2003, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee and a declaration executed by co-inventor Hendrik Koopmans.

On 09 September 2003, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497, and the surcharge for filing the oath or declaration after the thirty month period, was required. The declaration was not signed by Robert Streit.

On 05 March 2004, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor, Robert Streit. Applicant alleges that the inventor refuses to sign the application. The petition included the requisite petition fee, a declaration signed by the 37 CFR 1.47(a) applicant on behalf of Robert Streit, and a statement of facts

under 37 CFR 1.47(a).

DISCUSSION

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

Item (1) is satisfied with the payment of the $130 petition fee. Item (3) is satisfied with the last known address of non-signing inventor. With regard to item (4), the declaration submitted on 29 May 2003 was executed by the available joint inventor on his behalf and on behalf of the non-signing inventor and satisfies the requirement of 37 CFR 1.47(a).

With respect to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in part:

> 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.... It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon

> which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Here, Petitioner's Declaration of facts under 37 CFR 1.47(a) was executed by Thomas Kaegi, employee of assignee Ascom Management AG. Mr. Kaegi states that he is responsible for securing signatures required on patent documents. Mr Kaegi requested Mr. Streit to sign the application documents via e-mails on 12 May 2003, 13 May 2003 and 19 May 2003. Mr. Kaegi further states that on or before 13 May 2003, Mr. Streit refused to sign the Declaration and Assignment documents for the above identified application. On 18 May and 19 May 2003 Mr. Streit also reiterated his refusal to sign in response to the above mentioned e-mails, demanding payment of a special bonus. Mr. Kaegi met with Mr. Streit on 12 June 2003 and Mr. Streit informed him that "he would not sign the Declaration and Assignment documents for the above identified patent application" and again demanded payment of a special bonus award.

Mr. Kaegi does not state how a copy of the complete application (including the specification, claims, drawings, and oath or declaration) was presented to the nonsigning inventor for his signature. Petitioner did not provide a copy of the letter sent to the inventor to ensure that the inventor was apprised of the application to which the oath or declaration, which he is asked to sign, is directed.

Furthermore, copies of the e-mails in the German language, which were referenced above, were attached to Mr. Kaegi's declaration. English translations of the e-mails referenced must be provided.

Under these circumstances, it cannot be concluded that Mr. Streit refused to sign the application. In sum, petitioner has not demonstrated that: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/432,893 (specification, including claims, drawings, and declaration) to the nonsigning inventor for their signature, sent to his last known address and (2) Mr. Streit's refusal to sign, either in writing or by telephone, these documents.

The evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application for the reasons set forth above. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450,

Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467
Fax: (703)-308-6459

24 NOV 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Matthew R. Jenkins
Jacox, Meckstroth & Jenkins
2310 Far Hills Building
Dayton, OH 45419-1575

In re Application of STREIT et al.	DECISION ON
Application No.: 10/432,893	
PCT No.: PCT/CH01/00678	RENEWED PETITION
Int. Filing: 19 November 2001	
Priority Date: 08 December 2000	UNDER 37 CFR 1.47(a)
Attorney Docket No.: KEL 003 P2	
For: ELECTRONICS ARRANGEMENT	

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 18 August 2004, requesting the acceptance of the application without the signature of joint inventor, Robert Streit.

BACKGROUND

On 19 November 2001, applicant filed international application No. PCT/CH01/00678 which made a claim for priority of 08 December 2000.

On 25 May 2002, a Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 June 2003.

On 29 May 2003, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee and a declaration executed by co-inventor Hendrik Koopmans.

On 09 September 2003, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497, and the surcharge for filing the oath or declaration after the thirty month period, was required. The declaration was not signed by Robert Streit.

On 05 March 2004, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor, Robert Streit. Applicant alleges that the inventor refuses to sign the application. The petition included the requisite petition fee, a declaration signed by the 37 CFR 1.47(a) applicant on behalf of Robert Streit, and a statement of facts under 37 CFR 1.47(a).

On 12 May 2004, a decision dismissing the petition was mailed indicating that petitioner failed to demonstrate that: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/432,893 (specification, including claims, drawings, and declaration) to the nonsigning inventor for their signature, sent to his last known address and (2) Mr. Streit's refusal to sign, either in writing or by telephone, these documents.

On 18 August 2004, applicants filed the instant renewed petition under 37 CFR 1.47(a) along with a supplemental declaration of Thomas Kaegi.

DISCUSSION

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

Petitioner previously satisfied Items (1), (3) and (4).

With respect to item (2), Petitioner submitted a Supplemental Declaration of Facts under 37 CFR 1.47(a) executed by Thomas Kaegi, employee of assignee Ascom Management AG. Mr. Kaegi states that he "met personally with Mr. Streit on June 12, 2003 and presented the entire application (including specification, claims and drawings) together with the Declaration in Support of Patent Application and Assignment documents to Mr. Streit. Mr. Streit informed me that he would not sign the Declaration and Assignment documents for the above-identified patent application and he again reiterated his dissatisfaction with the company, and again demanded payment of the special bonus awarded to the co-inventor, Mr. Koopmans. He would not sign the documents." (Kaegi Supp. Decl.,¶8, emphasis in original). Further, English translations of the German language e-mails, referenced in the Kaegi declaration, were provided and attached to Mr. Kaegi's declaration.

The evidence submitted supports a finding that the nonsigning inventor refuses to sign the application for the reasons set forth above. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) with respect to Robert Streit is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 29 May 2003. The application has an international filing date of 19 November 2001 under 35 U.S.C. 363, and a date of 29 May 2003 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

The application is being returned to the United States Designed/Elected Office (DO/EO/US) for processing as the U.S. National Stage of the above-identified international application.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286

24 NOV 2004

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ROBERT STREIT
FELDMOOS
CH-3173 OBERWANGEN
SWITZERLAND

In re Application of STREIT et al.	DECISION ON
Application No.: 10/432,893	
PCT No.: PCT/CH01/00678	RENEWED PETITION
Int. Filing: 19 November 2001	
Priority Date: 08 December 2000	UNDER 37 CFR 1.47(a)
Attorney Docket No.: KEL 003 P2	
For: ELECTRONICS ARRANGEMENT	

Dear Mr. Streit:

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

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272 -3286

Matthew R. Jenkins
Jacox, Meckstroth & Jenkins
2310 Far Hills Building
Dayton, OH 45419-1575

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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MAR 16 2006
OFFICE OF PETITIONS

In re Application of :
Shouichirou Tsukita et al. :
Application No. 10/432,897 : ON PETITION
Filed: July 15, 2003 :
Attorney Docket No. 2003-0749A :

This is a decision on the petition to withdraw the holding of abandonment, filed December 2, 2005, and treated under 37 CFR 1.181.

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

The application was held abandoned on May 30, 2005, for failure to timely a response to the non-Final Office Action mailed February 28, 2005. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on November 1, 2005.

Petitioner asserts that a proper response in the form of an amendment with a one month extension of time was filed on June 28, 2005. Submitted as proof is a a copy of the response, including the extension of time request, and a copy of a postcard receipt date stamped June 28, 2005 by the USPTO.

A search of the application file reveals that in fact, an amendment and one month extension of time were timely filed and are of record.

Accordingly, the Notice of Abandonment mailed November 1, 2005 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 3753 for treatment of the response filed June 28, 2005 and resubmitted December 2, 2005 with the instant petition.

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

04 JUN 2004

#5

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Oliff & Berridge, PLC
P.O. Box 19928
Alexandra, Virginia 22320

In re Application of	:	
VAN LEEUWEN et al	:	DECISION ON
Application No.: 10/432,901	:	
PCT No.: PCT/NL01/00871	:	
Int. Filing Date: 30 November 2001	:	
Priority Date: 30 November 2000	:	PETITION UNDER
Attorney Docket No.: 116042	:	
For: MEASUREMENT DEVICE FOR MEASURING	:	
RADIAL AND/OR AXIAL FORCES	:	37 CFR 1.181

This decision is in response to the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) DELCARATION ALREADY FILED" filed 15 October 2003, requesting acceptance of a copy of the Declaration purportedly filed in the USPTO on 23 June 2003. Applicants have submitted, inter alia, a copy of the 23 June 2003. PTO stamped itemized postcard receipt. The itemized postcard lists, inter alia, the following item, declaration. However, the declaration is incomplete since it only lists three (3) out of the five (5) inventors.

BACKGROUND

On 29 May 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and a copy of the international application. Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter at such time.

On 23 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicants, inter alia, that an "Oath or declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date" must be submitted within two months from its 23 September 2003 date of mailing in order to avoid abandonment of the national stage application. In addition, the surcharge for providing the oath or declaration later that the appropriate 30 months from the priority date (37 CFR 1.492(e)).

On 15 October 2003 applicants submitted this petition indicating that the response to the Notification of Missing Requirements was filed on June 23, 2003 and that filed petition includes a copy of the submission which was made on 23 June 2003.

DISCUSSION

Applicants' present petition accompanied by a copy of the following documents, filed purportedly with the PTO as indicated in the stamped postcard:

(1) Declaration
(2) PCT Transmittal
(3) Check for the amount of $130
(4) IDS

The postcard lists the above items and bears a USPTO date of stamp as 23 June 2003.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicants' postcard is accepted as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 23 June 2003.

Since the Declaration was filed on 23 June 2003 prior to the mailing of the "Notification of Missing Requirements" on 23 September 2003, the Notification was mailed in error.

DECISION

The Notification of Missing Requirements mailed 23 September 2003 has been **VACATED.**

The petition under 37 CFR 1.181 is **GRANTED.** However, for the reason below, the application may not enter into national stage processing at this time.

The submitted Declaration is defective because the UPSTO needs one of the following: (1) a Declaration signed by all five inventors named in the International Application with an explanation from the three signed inventors as to why they a signed a Declaration not naming inventors ZAAIJER, Erik and BALLEGOOIJ, Simon; (2) a petition under 1.497(d) requesting that inventors ZAAIJER and BALLEGOOIJ be removed or; (3) a showing that inventors ZAAIJER and BALLEGOOIJ were removed under PCT Rule 92*bis* during international stage processing.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the ABANDONMENT of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

Richard Cole
PCT Legal Examiner
PCT Legal Office

23 SEP 2003

#5

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William E. McShane
CONNOLY BOVE LODGE & HUTZ LLP
P.O. Box 2207
Wilmington, Delaware 19899-2207

In re Application of :
KESSLER, Barbara *et al* :
U.S. Application No.: 10/432,915 :
PCT No.: PCT/EP01/13163 :
Int. Filing Date: 14 November 2001 :
Priority Date: 17 November 2000 :
Attorney Docket No.: 09600-00008-US :
For: SUPPLEMENT TO BE ENTERALLY ADMINISTERED FOR PARENTERAL NUTRITION OR . . . :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition to Revive Under 37 CFR 1.137(b)" filed with the national stage papers in the above-captioned application on 28 May 2003 is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee have been paid. Applicants state that "[t]he entire delay in filing the required reply (i.e., the U.S. National Stage filing papers), from the due date for the reply until the filing of the present petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

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

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : May 17, 2006

TO SPE OF : ART UNIT 2883 (S.P.E. Frank Font)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/432920 Patent No.: 6,996,324

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

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

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

Please clearly list what is approved and what is not.

STACY POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

F. L. Font — **SPE**

2883 — **Art Unit**

1 0 DEC 2007

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THE JANSSON FIRM
9501 N. CAPITAL OF TX HWY #202
AUSTIN TX 78759

In re Application of	:	
Billebaud et al.	:	
Application No.: 10/432,926	:	DECISION
PCT No.: PCT/IB01/02203	:	
Int. Filing Date: 19 November 2001	:	ON
Priority Date: 28 November 2000	:	
Attorney Docket No.: 76.0647US	:	PETITION
For: Electronic Data Storage Medium	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 10 August 2007.

BACKGROUND

This international application was filed on 19 November 2001, claimed an earliest priority date of 28 November 2000, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 06 June 2002. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 28 May 2003. Applicants paid the required basic national fee on 28 May 2003.

On 30 September 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(e) then in effect. This international application became abandoned with respect to the national stage in the U.S. for failure to timely reply.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of an oath or declaration compliant with 37 CFR 1.497(a) and (b)(and the surcharge) has not been filed. Specifically, the document signed by Pascal Billebaud contains an un-initialed alteration. Therefore, requirement (1) has not been satisfied.

Regarding requirement (2), the petition fee has been paid.

Regarding requirement (3), the petition includes an appropriate statement of unintentional delay.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

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

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

0 2 MAY 2008

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THE JANSSON FIRM
9501 N. CAPITAL OF TX HWY #202
AUSTIN TX 78759

In re Application of	:	
Billebaud et al.	:	
Application No.: 10/432,926	:	DECISION
PCT No.: PCT/IB01/02203	:	
Int. Filing Date: 19 November 2001	:	ON
Priority Date: 28 November 2000	:	
Attorney Docket No.: 76.0647US	:	PETITION
For: Electronic Data Storage Medium	:	

This is in response to the renewed petition under 37 CFR 1.137(b) and the petition under 37 CFR 1.47(a) filed on 29 February 2008.

DISCUSSION

Petition Under 37 CFR 1.137(b)

In a Decision mailed on 10 December 2007, the petition under 37 CFR 1.137(b) filed on 10 August 2007 was dismissed, without prejudice, because

the required reply in the form of an oath or declaration compliant with 37 CFR 1.497(a) and (b)(and the surcharge) has not been filed. Specifically, the document signed by Pascal Billebaud contains an un-initialed alteration. Therefore, requirement (1) has not been satisfied.

In response, petitioner has submitted the instant petition under 37 CFR 1.47(a) which has been dismissed, without prejudice, as discussed below. Therefore, petitioner still is not deemed to have satisfied the "required reply" requirement at this time.

Petition Under 37 CFR 1.47(a)

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

Regarding **requirement (1)**, the $200.00 petition fee has been paid.

Regarding **requirement (2)**, petitioner seeks relief under 37 CFR 1.47(a) on the basis that joint inventor Pascal Billebaud "has failed to respond" to petitioner's attempts to obtain his signature on the declaration. Petitioner does not explicitly state whether relief is sought on the basis of unavailability or on the basis of refusal. Counsel's attention is respectfully drawn to MPEP 409.03(d) for a discussion of the nature of the required showing.

Regarding the issue of whether Mr. Billebaud "could not be found or reached after diligent effort," petitioner indicates that Mr. Billebaud has not responded to letters mailed to him, including one letter returned to petitioner as "not claimed." To the extent that petitioner is suggesting that this is evidence that Mr. Billebaud could not be found or reached, petitioner has

not adequately shown what additional diligent efforts were undertaken to find or reach him. For instance, were steps taken to verify his address, or to ascertain any new address to which he may have moved? Were directory searches, internet searches or telephone calls (for example) undertaken? Without resolving what diligent efforts were made, it would not be appropriate to conclude at this time that Mr. Billebaud "could not be found or reached after diligent effort" within the meaning of 37 CFR 1.47(a).

Regarding the issue of whether Mr. Billebaud has refused to execute the application, whether explicitly or constructively, petitioner has provided copies of three French language letters sent to Mr. Billebaud, along with English translations of the 24 November 2003 and 29 January 2008 letters (no translation of the 09 January 2008 letter appears to be present). The 24 November 2003 letter states that a copy of the application and a declaration are enclosed. However, this letter is not introduced by a statement by the person who signed it and transmitted it to Mr. Billebaud, Karine Angel. MPEP 409.03(d) states in part that

> 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.

Similarly, the 29 January 2008 letter refers generally to "the documents," and is not accompanied by a statement by Marie-Line Molinari. As such, it would not be appropriate to construe Mr. Billebaud's failure to return an executed declaration as a refusal within the meaning of 37 CFR 1.47(a) on the basis of the present record.

Regarding **requirement (3)**, the petition does not provide an explicit statement of Mr. Billebaud's last know address. Therefore, requirement (3) has not been satisfied at this time.

Regarding **requirement (4)**, inspection of the declaration of inventorship accompanying the instant petition reveals that it appears to be a copy of a declaration under Rule 4.17(iv) originally submitted in this national stage on 10 August 2007, which was explained to be defective in the Decision mailed on 10 December 2007. However, the declaration document filed on 10 August 2007 and signed by Yves Reignoux is acceptable for purposes of satisfying requirement (4).

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

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

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

23 JUN 2008

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THE JANSSON FIRM
9501 N. CAPITAL OF TX HWY #202
AUSTIN TX 78759

In re Application of	:	
Billebaud et al.	:	
Application No.: 10/432,926	:	DECISION
PCT No.: PCT/IB01/02203	:	
Int. Filing Date: 19 November 2001	:	ON
Priority Date: 28 November 2000	:	
Attorney Docket No.: 76.0647US	:	PETITION
For: Electronic Data Storage Medium	:	

This is in response to the renewed petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a) filed on 29 May 2008.

DISCUSSION

Petition Under 37 CFR 1.137(b)

In a Decision mailed on 02 May 2008, the petition under 37 CFR 1.137(b) filed on 29 February 2008 was dismissed, without prejudice, because

> ...petitioner has submitted the instant petition under 37 CFR 1.47(a) which has been dismissed, without prejudice, as discussed below. Therefore, petitioner still is not deemed to have satisfied the "required reply" requirement at this time.

In response, petitioner has now satisfied all of the requirements for relief under 37 CFR 1.47(a). As such, the declaration signed by Yves Reignoux and filed on 10 August 2007 satisfies the "required reply requirement." Accordingly, it would now be appropriate to grant the petition under 37 CFR 1.137(b).

Petition Under 37 CFR 1.47(a)

In a Decision mailed on 02 May 2008, the petition under 37 CFR 1.47(a) filed on 29 February 2008 was dismissed, without prejudice, because (requirement 2) petitioner had not adequately shown that Mr. Billebaud refused to execute the application or could not be found or reached within the meaning of 37 CFR 1.47(a), and because (requirement 3) the petition did not provide an explicit statement of Mr. Billebaud's last know address.

Regarding **requirement (2)**, the evidence currently of record establishes that Mr. Billebaud was presented with copies of the declaration document and the application papers (identified by docket no. 76.0647US), and that he has failed to return an executed declaration document. Thus, his conduct implies a refusal to execute the application. In addition, the statement signed by Sophie Diouf indicates (in general terms) that she reached Mr. Billebaud by telephone sometime in January 2008 and that he "responded that he did not want to sign the documents." Though Ms. Diouf does not state the precise date and time of the telephone call, this evidence does tend to show that he explicitly refused, as well as to corroborate Mr. Billebaud's constructive refusal to sign as shown by his failure to return the executed declaration. Therefore, on the basis of the totality of the evidence currently of record, it would be appropriate to consider requirement (2) to have been satisfied.

Regarding **requirement (3)**, the renewed petition includes a statement of Mr. Billebaud's last known address.

DECISION

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

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

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **10 August 2007**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

23 JUN 2008

United States Patent and Trademark Office

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Pascal Billebaud
159 rue Faubourg de Bourgogne
45800 Saint Jean de Braye
FRANCE

In re Application of
Billebaud et al.
Application No.: 10/432,926
PCT No.: PCT/IB01/02203
Int. Filing Date: 19 November 2001
Priority Date: 28 November 2000
Attorney Docket No.: 76.0647US
For: Electronic Data Storage Medium:

Dear Mr. Billebaud:

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 (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for 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).

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

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

THE JANSSON FIRM
9501 N. CAPITAL OF TX HWY #202
AUSTIN TX 78759

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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of a joint inventor. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Pascal BILLEBAUD) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/IB01/02203 and was filed on November 19, 2001 in the names of Pascal BILLEBAUD and Yves REIGNOUX for the invention entitled ELECTRONIC DATA STORAGE MEDIUM. The national stage application number is 10/432,926 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of August 10, 2007.

22 OCT 2003

#5

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P.O. BOX 1450
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www.uspto.gov

Douglas W. Sprinkle
GIFFORD, KRASS, GROH, SPRINKLE, ANDERSON & CITKOWSKI, P.C.
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009-5394

In re Application of :
KIM, Yong-Nam :
Application No.: 10/432,935 : **DECISION ON**
PCT No.: PCT/KR01/02058 :
Int. Filing Date: 28 November 2001 : **PETITION UNDER**
Priority Date: 28 November 2000 :
Attorney's Docket No.: YOU-12102/00 : **37 CFR 1.181**
For: MULTI-WINDOWS ON SCREEN :
DISPLAY CONTROL SYSTEM AND :
METHOD THEREOF :

This decision is in response to applicant's "Response to Notification of Missing Requirements . . . " filed on 18 September 2003 which is treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 28 May 2003, applicant filed several documents including a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which indicated that an oath or declaration of the inventors was included with the documents. However, a review of the application file revealed that there was no oath or declaration located in the file.

On 09 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497(a) & (b) and a surcharge fee of $65.00 must be provided. A two-month time period for response was set.

On 18 September 2003, applicant filed the instant petition which was accompanied by, *inter alia*, a copy of a stamped postcard receipt for the 28 May 2003 documents, a copy of the transmittal letter for the 28 May 2003 documents, and a copy of a declaration purportedly filed with the 28 May 2003 documents.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicant must enclose a self-addressed postcard identifying all of the papers filed.

The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicant has provided a copy of the date-stamped filing receipt for documents submitted 28 May 2003. The name of the applicant, attorney docket number, date and Express Mail Label No. are all listed on the postcard receipt. The postcard receipt records that among the documents received in the USPTO included a "Declaration & Power of Atty." The postcard receipt is stamped "Rec'd PCT/PTO 28 MAY 2003" across its face.

Accordingly, applicant has provided *prima facie* evidence that the declaration was received by the USPTO on 28 May 2003. Applicant included a copy of the executed declaration signed by the inventors in the instant petition which shows that it is in compliance with 37 CFR 1.497(a) & (b).

DECISION

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

The Form PCT/DO/EO/905 mailed 09 September 2003 is hereby **VACATED**.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 28 November 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **28 May 2003.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

14 APR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of :
CARUSO et al. :
Application No.: 10/432,942 :
PCT No.: PCT/DE01/04401 : DECISION
Int. Filing Date: 23 November 2001 :
Priority Date: 24 November 2000 :
Attorney Docket No.: P/3754-6 :
For: PHASE TRANSFER OF NANOPARTICLES :

This notification is in response to applicants' petition filed in the United States Patent and Trademark Office (USPTO) on 06 July 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 23 November 2001, applicants filed international application PCT/DE01/04401 which claimed a priority date of 24 November 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 May 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 May 2003 (24 May 2003 being a Saturday and 26 May 2003 being a Federal holiday).

On 27 May 2003, applicants filed a submission for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of inventors.

On 01 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of 27 May 2003 and a 35 U.S.C. 371 date of 27 May 2003.

On 12 March 2004, applicants filed a "SUBMISSION OF DECLARATION" which was accompanied by an executed declaration of inventors.

On 28 April 2006, applicants filed a submission requesting that the copy of Figure 1 accompanying the submission be accepted as having been originally filed on 27 May 2003. The submission was accompanied by, *inter alia*, a postcard receipt date-stamped by the USPTO 27 May 2003.

On 02 May 2006, a communication from the USPTO was mailed indicating that the application file was not complete, in particular, the drawings and a NOTIFICATION OF ACCEPTANCE were missing, and that *ex parte* prosecution was suspended for a period of six months.

On 02 October 2006, a NOTIFICATION in response to applicants' 28 April 2006 submission was mailed indicating that the submission of the declaration on 12 March 2004 indicates that the 35 U.S.C. 371 requirements were not met as of 27 May 2003 and thus the NOTICE OF ACCEPTANCE OF APPLICATION mailed 01 October 2003 was vacated.

On 18 April 2007, applicants filed a response to the NOTIFICATION mailed 02 October 2006.

On 06 July 2007, applicants filed the instant petition, which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The contents of the application file are now complete, including the papers filed 23 May 2007. Accordingly, the copies of the papers filed 23 May 2007 which were filed 18 April 2007 are not required and have been marked as duplicate papers. The second copy of the papers filed 23 May 2007 which were filed 06 July 2007 are also not required and have been placed in the file as part of the petition. (The papers appear to have been found and scanned into the application file sometime between 02 October 2006 and the date of mailing of this paper.)

The petition filed 06 July 2007 requests that the NOTIFICATION mailed 02 October 2006 vacating the NOTICE OF ACCEPTANCE OF APPLICATION mailed 01 October 2003 be withdrawn. However, the NOTICE OF ACCEPTANCE OF APPLICATION mailed 01 October 2003 was incorrect in according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of 27 May 2003 and a 35 U.S.C. 371 date of 27 May 2003. A sufficient declaration of inventors (required by 35 U.S.C. 371(c)(4)) was not provided until 12 March 2004. Accordingly, the application should have been accorded 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) and 35 U.S.C. 371 dates of 12 March 2004 rather than 27 May 2003. Thus, it was proper that this NOTIFICATION was vacated.

CONCLUSION

For the reasons set forth above, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **12 March 2004**.

/Daniel Stemmer/

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

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

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OFFICE OF PETITIONS

Applicant: Mikulla et al.
Appl. No.: 10/432,946
International Filing Date: November 19, 2001
Title: USE OF BRANCHED POLYACIDS IN DENTAL MATERIALS
Attorney Docket No.: 400.00020101
Pub. No.: US 2004/0254260 A1
Pub. Date: December 16, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 16, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors, on the front page of the publication as the title is "USE OF BRANCHED POLYACIDS IN DENTAL MATERIALS" is misprinted as "USE OF BRANCHED POLYACIDS IN DENTAL COMPOUNDS", an inventors name "Gabriele Rackelmann" is misprinted as "Gabrielle Rackelmann", page 5 of the specification, paragraph [0091] "Röhm" is misprinted as "Rohm", page 6 of the specification paragraph [0105] "PREPARATION EXAMPLE 1" is misprinted as "PREPARATIVE EXAMPLE 1", and page 7 of the specification paragraph [0115] "PREPARATION EXAMPLE 2" is misprinted as "PREPARATIVE EXAMPLE 2."

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 errors noted by requestor on the front page of the publication and in the specification are not material Office errors under 37 CFR 1.221. The errors noted by requestor are minor typographical errors, which do not affect the public's ability to appreciate the technical

[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).

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.

On August 11, 2004, a Filing Receipt was mailed by the Office, which listed the title and inventors names as published. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application 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

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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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KENYON & KENYON
ONE BROADWAY
NEW YORK, NEW YORK 10004

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NOV 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Gunter Dantes et al :
Application No. 10/432,947 : DECISION GRANTING PETITION
Filed: February 26, 2004 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 10191/3156 :

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

The petition is **GRANTED**.

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.

As to petitioner's request for a refund of the issue fee, petitioner is advised that a refund of the issue fee may be requested **if the examiner has withdrawn the application from issue for the purpose of reopening prosecution**. The request for withdrawal from issue in this case was at the request of the applicant, not the Office. Petitioner's attention is further directed to 37 CFR 1.26 which states:

> The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

Further, the issue fee was owed at the time of payment, as well as the publication fee, as this application was published. Therefore, payment of these fees was not made by mistake or in excess of that required nor was there a mistake in payment as contemplated by 37 CFR 1.26. Accordingly, the issue and publication fees are not refundable.

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

This abandoned matter is being referred to Files Repository.

Frances Hicks
Petitions Examiner
Office of Petitions

23 SEP 2003

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Nader Mikhail
5/65 The Esplanade
Balmoral, NSW
Australia 2088

In re Application of MIKHAIL :
U.S. Application No.: 10/432,848 :
PCT Application No.: PCT/AU01/00484 : DECISION
Int. Filing Date: 27 April 2001 :
Priority Date Claimed: 06 November 2000 :
For: MEANS FOR CARRYING BOTTLES :

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unavoidably Under 37 CFR 1.137(a)" filed 28 May 2003.

BACKGROUND

On 27 April 2001, applicant filed international application PCT/AU01/00484, which claimed priority of an earlier Australia application filed 06 November 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 10 May 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 06 May 2003.

International Application PCT/AU01/00484 became abandoned as to the United States for failure to timely submit the basic national fee required by 35 U.S.C. 371.

On 28 May 2003, applicant filed the present petition under 37 CFR 1.137(a).

DISCUSSION

Under 37 CFR 1.137(a), a petition requesting that an application be revived on the grounds of unavoidable abandonment 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 was unavoidable, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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

With regard to item (2) above, applicant has provided the required petition fee.

With regard to item (3) above, applicant has failed to make an adequate showing that abandonment of the present application was unavoidable. While the submitted evidence sufficiently demonstrates that applicant was incapacitated during the period from 24 April 2003 to 16 May 2003, applicant was clearly able to submit the required national stage papers prior to 24 April 2003 as illustrated by applicant's attempted submission of the required papers by facsimile on 13 April 2003. As applicant is now aware, the filing of the basic national fee necessary to enter the national stage cannot be performed using facsimile. See 37 CFR 1.6(d)(3) and 37 CFR 1.8(a)(2)(i)(F). The petition states that applicant spoke to a USPTO employee, who purportedly informed applicant that facsimile transmission was acceptable. However, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to applicant's reliance upon oral advice from USPTO employees. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985). Therefore, applicant's delay in filing the required national stage papers cannot be deemed unavoidable within the meaning of 37 CFR 1.137(a).

With regard to item (4) above, because the application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(a) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)". Applicant may also wish to consider filing a petition to revive an application abandoned unintentionally under 37 CFR 1.137(b).

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

17 DEC 2003

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Nader Mikhail
5/65 The Esplanade
Balmoral, NSW
Australia 2088

In re Application of MIKHAIL :
U.S. Application No.: 10/432,848 :
PCT Application No.: PCT/AU01/00484 : DECISION
Int. Filing Date: 27 April 2001 :
Priority Date Claimed: 06 November 2000 :
For: MEANS FOR CARRYING BOTTLES :

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 19 November 2003.

BACKGROUND

On 27 April 2001, applicant filed international application PCT/AU01/00484, which claimed priority of an earlier Australia application filed 06 November 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 10 May 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 06 May 2003.

International Application PCT/AU01/00484 became abandoned as to the United States for failure to timely submit the basic national fee required by 35 U.S.C. 371.

On 28 May 2003, applicant filed a petition under 37 CFR 1.137(a).

On 23 September 2003, this Office mailed a decision dismissing the 28 May 2003 petition.

On 19 November 2003, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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

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

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 27 April 2001, and a date under 35 U.S.C. 371(c) of 28 May 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

14 OCT 2003

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P.O. BOX 1450
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Collier Shannon Scott, PLLC
3050 K Street, N.W., Suite 400
Washington, D.C. 20007

In re Application of :
Foote et al. :
US Application No.: 10/432,967 :
PCT Application No.: PCT/US01/23604 : DECISION ON
International Filing Date: 27 July 2001 : PETITION FOR REVIVAL
Priority Date: 28 July 2000 : UNDER 37 CFR 1.137(b)
Attorney's Docket No.: 49510-00610 :
For: IMPROVED FUEL ADDITIVE :
FORMULATION AND METHOD :
OF USING SAME :

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

BACKGROUND

On 27 July 2001, Applicants filed international application PCT/US01/23604, which claimed priority of an earlier application filed on 28 July 2000. A demand for international preliminary examination, in which the United States was elected, was filed on 02 February 2002, prior to 28 February 2002, the end of the 19-month period from the 28 July 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 28 January 2003.

The basic national fee was not paid on or before 28 January 2003. The international application became abandoned as to the United States on 29 January 2003.

DISCUSSION

The instant petition is accompanied by, *inter alia*:

(1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, along with the $50 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(4);

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

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

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

CONCLUSION

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

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

29 JUN 2004
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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Joseph T. Guy
Nexsen Pruet Jacobs & Pollard LLP
201 W. McBee Avenue
Greenville, SC 29603

In re Application of FUCHS et al :
U.S. Application No.: 10/432,968 :
PCT Application No.: PCT/DE01/03708 :
Int. Filing Date: 27 September 2001 : DECISION
Priority Date Claimed: 27 September 2000 :
Attorney Docket No.: 27500-144 :
For: DEVICE FOR DETECTING IONISING :
RADIATION USING A LAYER OF :
FLUORESCENT MATERIAL :

This is in response to applicant's "Petition to Afford a Filing Date Under 37 CFR 1.10 and a Request for Filing Receipt" filed 27 October 2003.

BACKGROUND

On 27 September 2001, applicant filed international application PCT/DE01/03708, which claimed priority of an earlier Germany application filed 27 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 04 April 2002. The thirty-month period for paying the basic national fee in the United States expired on 27 March 2003.

On 03 March 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 27 October 2003, applicant filed the present petition, requesting a filing date and a filing receipt.

On 05 May 2004, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

CONCLUSION

In view of the Notice of Acceptance of Application mailed 05 May 2004, the present petition is DISMISSED AS MOOT.

This application is being returned to the Examining Group for continued processing.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

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#5

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25 SEP 2003

Harness, Dickey & Pierce, PLC
PO Box 8910
Reston, VA 20195

In re Application of	:	
Marx et al.	:	
US Application No.: 10/432,984	:	**DECISION ON**
PCT Application No.: PCT/DE01/04344	:	**PETITION FOR REVIVAL**
International Filing Date: 19 November 2001	:	**UNDER 37 CFR 1.137(b)**
Priority Date: 23 November 2000	:	
Attorney's Docket No.: 23860-000541/US	:	
For: ACTIVE NOISE COMPENSATION	:	

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

BACKGROUND

On 19 November 2001, Applicants filed international application PCT/DE01/04344, which claimed priority of an earlier application filed on 23 November 2000. A copy of the international application, in German, was communicated from the International Bureau to the USPTO on 30 May 2002. The period for paying the basic national fee is 30 months and ended at midnight on 23 May 2003.

The basic national fee was not paid on or before 23 May 2003. The international application became abandoned as to the United States on 24 May 2003.

DISCUSSION

The instant petition encloses, *inter alia*,

(1) A transmittal letter for entry into the national stage in the United States (Form PTO-1390), along with the $900 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.495(a)(5);

(2) The $1,300 petition fee;

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

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

CONCLUSION

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

Also enclosed with the instant petition are: a declaration that complies with 37 CFR 1.497(a) and (b), and an English translation of the international application. However, the translation is incomplete, in that, Figure 2 contains a German word "Profibusse."

To avoid abandonment of the international application as to the United States, a proper English translation of Figure 2 must be filed within **TWO MONTHS** of the mailing date of this decision. The 2-month period is extendable under 37 CFR 1.136(a).

Finally, the 2 surcharges, $130 each, for not having filed a proper oath/declaration and an English translation of the international application before expiration of the 30-month period from the priority date, have been charged to Deposit Account No. 08-0750 as authorized in the petition.

Any further correspondence with respect to this matter should be addressed to:

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
PO Box 1450
Alexandria, VA 22313-1450

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

03 MAY 2004

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Anthony J. Zelano
Millen, White , Zelano & Branigan, P.C.
Arlington Courthouse Plaza I
2200 Clarendon Boulevard, Suite 1400
Arlington, VA 22201

In re Application of :
HECKMEIER et al. :
Application No.: 10/433,002 : DECISION ON PETITION
PCT No.: PCT/EP01/10901 :
Int. Filing Date: 20 September 2001 :
Priority Date: 07 December 2000 :
Attorney Docket No.: MERCK-2684 :
For: LIQUID CRYSTALLINE MEDIUM

This decision is a reply to "Response To Improper Notice of Defective Response" filed 15 April 2004 notifying the Office that the correct spelling of the fourth-inventor's name is Peer Kirsch as indicated on the Request of international application no. PCT/EP01/10901 rather than Peter Kirsch as is indicated on the published international application.

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the fourth-inventor's name is accepted and noted for the record.

For the reasons above, the request is **GRANTED**.

This application is being forwarded to United States/Elected Office for further processing with the name of the fourth inventor spelled as PEER Kirsch and for review of the national stage papers submitted 29 May 2003 and, if appropriate, preparation and mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of **29 May 2003** under 35 U.S.C. 371(c).

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/22/06

TO SPE OF : ART UNIT 1624

10/433,011

SUBJECT : Request for Certificate of Correction on Patent No.: 7053211

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

SPE

1624
Art Unit

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12 SEP 2003

Mark E. Freeman
CONNOLLY BOVE LODGE & HUTZ
P.O. Box 2207
Wilmington, Delaware 19899-2207

In re Application of	
KOTTWITZ, Beatrix, et al.	
Application No.: 10/433,014	DECISION ON PETITION
PCT No.: PCT/EP01/13278	UNDER 37 CFR 1.182
Int. Filing Date: 17 November 2001	
Priority Date: 28 November 2000	
Attorney Docket No.: H4430USPCT	
For: NOVEL CYCLODEXTRIN GLUCANO-TRANSFERASE ...	

This decision is in response to applicants' "Statement Of Name Change" filed on 27 May 2003, which is being treated as a petition under 37 CFR 1.182 to change the name of the inventor Laura Polanyi to Laura Polanyi-Bald. Deposit Account No. 03-2775 will be charged the required petition fee.

BACKGROUND

On 27 May 2003, applicants filed materials initiating this national stage application, including an executed declaration. However, the name of the seventh inventor in the declaration differed from the international application. Specifically, this inventor was identified as Laura Polanyi in the international application and as Laura Polanyi-Bald in the declaration.

The 27 May 2003 submission also included the "Statement Of Name Change " considered herein, which explains that the name change was due to the inventor's marriage. The submission included a copy of a document identified as a copy of the inventor's wedding certificate; this document is not in English, and no translation has been provided.

DISCUSSION

In instances where an inventor has changed his or her name after the application has been filed, the Manual of Patent Examining Procedure at § 605.04(c) requires a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed by the inventor with both names setting forth the procedure whereby the change of name was effected, or certified copy of the court order.

Here, applicants' 27 May 2003 submission included the authorization to charge Deposit Account No. 03-2775 for required fees. Based on this authorization, Deposit Account No. 03-2775 will be charged the required $130 petition fee. However, applicants have not submitted the required affidavit signed by the inventor identified in the international application as Laura

Polanyi (and in the declaration as Laura Polanyi-Bald) using both her former and present names and stating that the name change resulted from marriage, and the supporting document provided is not a certified copy of the court order changing the inventor's name (and it has not been translated). Applicants have therefore not provided the requirements for a grantable petition to change the inventor's name

.

Based on the above, the name-of-record for the third inventor here remains Laura Polanyi, as set forth in the international application. The declaration filed on 27 May 2003 is therefore defective (on the present record) for failure to properly identify all the inventors herein.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Laura Polanyi to Laura Polanyi-Bald is **DISMISSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date of this decision to file a renewed petition under 37 CFR 1.182. Such renewed petition must include the required affidavit from the inventor whose name has changed or a certified copy of the applicable court order (with English translation) as discussed above.

Failure to file a timely and proper response will result in abandonment of the application.

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

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

25 NOV 2003

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Mark E. Freeman
CONNOLLY BOVE LODGE & HUTZ
P.O. Box 2207
Wilmington, Delaware 19899-2207

In re Application of: KOTTWITZ, Beatrix, et al.
Application No.: 10/433,014
PCT No.: PCT/EP01/13278
Int. Filing Date: 17 November 2001
Priority Date: 28 November 2000
Attorney Docket No.: H4430USPCT
For: NOVEL CYCLODEXTRIN GLUCANO-TRANSFERASE ...

DECISION ON RENEWED PETITION UNDER 37 CFR 1.182

In a decision mailed by this Office on 12 September 2003, applicant's petition under 37 CFR 1.182 seeking to change the name of the inventor Laura Polanyi to Laura Polanyi-Bald was dismissed without prejudice for failure to satisfy all the requirements for a grantable petition. Specifically, applicants did not provide the required affidavit signed by the inventor, using both her former and present names, and stating that the name change resulted from marriage, or a certified copy of a court order changing the name.

On 10 November 2003, applicants filed the renewed petition considered herein, with accompanying materials. The renewed petition includes a declaration executed by the inventor in both her present and former names and explaining that the name change resulted from marriage.

Based on the above, applicants have now submitted all the requirements for a grantable petition to change the inventor's name. The renewed petition to change the name of the inventor Laura Polanyi to Laura Polanyi-Bald is therefore appropriately **GRANTED**.

Based on this change of name, the declaration filed on 27 May 2003 is now acceptable in compliance with 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Office for further processing in accord with this decision. The 35 U.S.C. 371 date is 27 May 2003.

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

22 JAN 2004

#6

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Todd Deveau
Thomas, Kayden, Horstemeyer & Risley, LLP
100 Galleria Parkway, Suite 1750
Atlanta, Georgia 30339-5948

In re Application of	:	
TOONEN, et al.	:	
U.S. Application No.: 10/433,017	:	DECISION ON PETITION
PCT No.: PCT/NL01/00853	:	
Int. Filing Date: 23 November 2001	:	UNDER 37 CFR 1.47(a)
Priority Date: 27 November 2000	:	
Attorney Docket No.: 821914-1010	:	
For: HEAT EXCHANGER	:	

This decision is in response to the applicant's "PETITION UNDER 37 C.F.R. § 1.47" filed 29 December 2003 in the United States Patent and Trademark Office (USPTO) to accept the filed declaration without the signature of joint inventor Bob Meuzelaar.

BACKGROUND

On 23 November 2001, applicant filed international application PCT/NL01/00853 which claimed priority to an earlier application filed 27 November 2000. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 May 2003.

On 27 May 2003, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; a First preliminary amendment and an unsigned combined declaration and power of attorney.

On 25 July 2003, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response.

On 29 December 2003, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventors Bob Meuzelaar and a petition for a three-month extension of time. With the filing of the petition for a three-month extension of time, payment of the appropriate extension fee and certification that the mailing was deposited on 24 December 2003, the response is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite $130 petition fee required by 37 CFR 1.17(I); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; and (4) an oath or declaration executed by each of the signing joint inventors on their behalf and on behalf of the non-signing joint inventor(s). Applicant has satisfied items (1), (3) and (4) above.

As to item (2), the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal states that, "Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature...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."

Applicant has provided a signed statement of facts from Mr. Ronald Ekkel accompanied by various exhibits as evidence of the joint inventor's refusal to execute the declaration. However, it does not appear that Mr. Ekkel has firsthand knowledge of the presentation/mailing of the application papers to Mr. Meuzelaar. He states that a fax or copy thereof of the English translation of the PCT application was faxed to Mr. Meuzelaar by Ms. Ria van Buuren. However, Mr. Ekkel doesn't state that he has firsthand knowledge that the facsimile contained a complete set of application papers. Similarly, Mr. Ekkel states that a copy of the filed PCT application was sent to Mr. Meuzelaar by Mr. Stefan Blankenborg. It is not clear from the statement of facts that Mr. Ekkel has firsthand knowledge of this mailing. Declarations from either Ms. van Buuren or Mr. Blankenborg would provide clarification as to the contents of the mailings. For example Mr. Ekkel states that as of 19 August 2003 Mr. Meuzelaar claimed that he had not received the declaration document.

As to the filed exhibits, as applicant points out, the English translations have not been certified by an individual fluent in both the Dutch and English languages. Such a certification, as accompanies applicant's exhibit "M", is necessary before the field exhibits can be considered. It appears that applicant's exhibit "B" constitutes a valid refusal, however absent a verified translation and confirmation that applicant had received a complete copy of the application papers, it would not be proper to grant applicant's petition. As such, applicant has not fully satisfied this item.

In light of the above it is not possible to grant applicant's petition under 37 CFR 1.47(a) at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) 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 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

22 APR 2004

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Todd Deveau
Thomas, Kayden, Horstemeyer & Risley, LLP
100 Galleria Parkway, Suite 1750
Atlanta, Georgia 30339-5948

In re Application of
TOONEN, et al.
U.S. Application No.: 10/433,017
PCT No.: PCT/NL01/00853
Int. Filing Date: 23 November 2001
Priority Date: 27 November 2000
Attorney Docket No.: 821914-1010
For: HEAT EXCHANGER

DECISION ON RENEWED

PETITION UNDER

37 CFR 1.47(a)

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47(a)" filed 24 March 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 22 January 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of inventor Bob Meuzelaar. Applicant was afforded two months to file any request for reconsideration.

On 24 March 2004, applicant filed the present renewed petition. As the mailing was certified as being deposited with the United States Postal Service on 22 March 2004, the renewed petition is considered timely filed.

DISCUSSION

As detailed in the decision mailed 22 January 2004, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items (1), (3) and (4).

As to item (2), applicant has provided signed declarations from Mr. Stefan Blankenborg and Ms. Ria van Buuren detailing firsthand their providing a complete set of the application papers to Mr. Meuzelaar. In addition, applicant has presently provided English translations of the previously filed Dutch documents. These exhibits, as well as, the statement of Maja Van Der Wee, combined with the continued silence of the non-signing inventor, constitute a refusal to

execute the declaration as to the National stage in the United States. Accordingly, applicant has now satisfied all four items detailed above and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 27 November 2000 under 35 U.S.C. 363, and will be given a date of **29 December 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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

22 APR 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mr. Bob Meuzelaar
228, Groesbeekseweg
6523 PG NIJMEGEN
THE NETHERLANDS

In re Application of
TOONEN, et al.
U.S. Application No.: 10/433,017
PCT No.: PCT/NL01/00853
Int. Filing Date: 23 November 2001
Priority Date: 27 November 2000
Attorney Docket No.: 821914-1010
For: HEAT EXCHANGER

Dear Mr. Meuzelaar:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to

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

Todd Deveau
Thomas, Kayden, Horstemeyer & Risley, LLP
100 Galleria Parkway, Suite 1750
Atlanta, Georgia
United States of America 30339-5948

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OFFICE OF PETITIONS

CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX 75202

In re Application of :
Balentine, et. al : DECISION ON PETITION
Application No. 10/433,021 :
Filed: October 14, 2003 :
Docket No.: EIG 2070002 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 23, 2006.

The petition is hereby **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed July 11, 2006. This decision precedes Notice of Abandonment.

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 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication 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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/433,050	07/26/2004	Thomas Tuschl	2923-0537	8116

6449 7590 02/22/2010

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

EXAMINER	
BOWMAN, AMY HUDSON	
ART UNIT	**PAPER NUMBER**
1635	

NOTIFICATION DATE	DELIVERY MODE
02/22/2010	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

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FEB 22 2010

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

In re Application of:
Tuschl et al.
Serial No.: 10/433,050
Filed: July 26, 2004
Attorney Docket No.: **2923-0537**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed February 1, 2010 to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that information subjected to a protective order submitted on February 1, 2010, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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OFFICE OF PETITIONS

In re Application of :
Anthony William Linnane :
Application No. 10/433,074 : ON PETITION
Filed: October 8, 2003 :
Attorney Docket No. 16626 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed August 13, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on November 14, 2009.

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

This matter is being forwarded to Technology Center AU 1623 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

11 SEP 2003

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VENABLE
PO Box 34385
Washington, DC 20043-9998

In re Application of :
John et al. :
US Application No.: 10/433,087 :
PCT Application No.: PCT/IN01/00167 :
International Filing Date: 03 October 2001 : DECISION ON PETITION
Priority Date: 29 November 2000 : UNDER 37 CFR 1.137(b)
Attorney's Docket No.: 31446-189814 :
For: A MAGNETORHEOLOGICLE FLUID :
COMPOSITION AND A PROCESS FOR :
PREPARATION THEREOF :

This decision is in response to the petition under 37 CFR 1.137(b), filed on 02 June 2003, to revive the above-referenced international application as to the United States. The petition is **GRANTED** as follows.

On 03 October 2001, Applicants filed international application PCT/IN01/00167, which claimed priority of an earlier application filed on 29 November 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 06 June 2002. The period for entering the national stage is 30 months and ended at midnight on 29 May 2003.

The basic national fee was not paid on or before 29 May 2003. The international application became abandoned as to the United States on 30 May 2003.

On 30 May 2003, while the international application was in abandoned status as to the United States, Applicants submitted a transmittal letter for entry into the national stage in the United States (Form PTO-1390), along with, *inter alia*, the $1,060 basic national fee as required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(3), and a declaration in compliance with 37 CFR 1.497(a) and (b).

The instant petition then followed, accompanied by the $1,300 petition fee, and a statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant §1.137(b) petition was unintentional.

In view of the above, and since a terminal disclaimer is not applicable in the instant case, the petition is granted as to the national stage in the United States of America.

Moreover, as of 30 May 2003, Applicants have met the requirements of 37 CFR 1.495 for acceptance into the national stage under 35 U.S.C. 371(c). Consequently, the application has an international filing date of 03 October 2001, and a 35 U.S.C. 371 date of 30 May 2003.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Richard Cole
PCT Legal Examiner
PCT Legal Office

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

28 OCT 2004

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

In re Application of	:	
KUROYANAGI et al.	:	
Application No.: 10/433,092	:	
PCT No.: PCT/JP02/07750	:	DECISION
Int. Filing Date: 30 July 2002	:	
Priority Date: 31 July 2001	:	
Attorney Docket No.: 115539	:	
For: MOTOR MANUFACTURING METHOD	:	

This is a decision on applicants' "Petition under 37 CFR 1.181" filed 20 October 2004. No petition fee is required.

BACKGROUND

On 30 May 2003, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee, an English translation of the international application, and a preliminary amendment.

On 12 June 2003, applicants filed an executed declaration and power of attorney.

On 30 September 2003, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration was required.

On 15 October 2003, applicants filed a "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office Declaration Already Filed" which was accompanied by: a copy of the declaration and a post card receipt dated 12 June 2003.

On 29 October 2003, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 15 October 2003. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 15 October 2003.

On 20 October 2004, applicants filed a "Petition under 37 CFR 1.181."

DISCUSSION

The actual filing date of the present application is considered to be the international filing date, 30 July 2002. The date in the filing date portion on the filing receipt of a

national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1895.01) A review of the application file reveals that the declaration was filed with the USPTO on 12 June 2003, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. Therefore, the correction of the "FILING DATE" on the Filing Receipt and the Notification of Acceptance to indicate a date of 12 June 2003 is proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) on 12 June 2003.

CONCLUSION

Applicants' request for issuance of a corrected Notification of Acceptance and Official Filing Receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 29 October 2003 is hereby **VACATED**.

The application has an international filing date of 30 July 2002 under 35 U.S.C. 363 and a date of **12 June 2003** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **12 June 2003** under 35 U.S.C. 371(c) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of **12 June 2003**.

Thereafter, this application will then be returned to Art Unit 2834.

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

24 AUG 2004

#4

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Thomas C. Basso
BELL, BOYD & LLOYD LLC
P.O. Box 1135
Chicago, IL 60690-1135

In re Application of :
HUANG, Houjin *et al* :
U.S. Application No.: 10/433,125 :
PCT No.: PCT/JP01/10713 :
Int. Filing Date: 07 December 2001 : **DECISION**
Priority Date: 08 December 2000 :
Attorney's Docket No.: 112857-410 :
For: ULTRASONIC REFLUX SYSTEM FOR :
ONE-STEP PURIFICATION OF CARBON :
NANOSTRUCTURES :

This is a decision on the papers filed via facsimile on 17 September 2003 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 19 June 2003, applicants purportedly filed an executed declaration and $130.00 surcharge fee.

On 05 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 23 September 2003, applicants submitted the instant petition which was accompanied by, *inter alia*, a copy of the documents purportedly filed 19 June 2003 and a copy of the date-stamped postcard receipt for the 19 June 2003 filing.

DISCUSSION

A review of the above-captioned application reveals that the declaration purportedly filed 19 June 2003 was not located in the file. However, USPTO financial records indicate that the surcharge fee of $130.00 was received on 19 June 2003.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants provided a copy of the date-stamped filing receipt for the documents submitted 19 June 2003. The filing receipt records that an "Executed Declaration and Power of Attorney (5 pgs.) and Check in the amount of $130.00" were received in the USPTO. The filing receipt is stamped "DT14 Rec'd PCT/PTO 19 JUN 2003" across its face. The U.S. application number, and attorney docket number were listed on the postcard receipt.

Accordingly, applicants have provided *prima facie* evidence that a declaration was originally received by the USPTO on 19 June 2003.

DECISION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

Since a declaration was provided, the Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 05 September 2003 is **VACATED**.

However, a review of the declaration submitted on 19 June 2003 shows that it is not in compliance with 37 CFR 1.497(a) and (b). The declaration consists of 5 pages, *i.e.*, pages 1, 2, and 3 and two page 4's.

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. By providing only a partial declaration for some co-inventors, it is not clear what inventive entity was listed on the declaration signed by each co-inventor.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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BASF CORPORATION
PATENT DEPARTMENT
1609 BIDDLE AVENUE
MAIN BUILDING
WYANDOTTE MI 48192

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APR 24 2008

In re Application of
Maxime Allard et al.
Application No. 10/433,127
Filed: October 22, 2003
Attorney Docket No. **IN-5685**

ON PETITION

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

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

This application became abandoned on December 30, 2005, for failure to file a timely response to a Restriction Requirement mailed November 28, 2005, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed July 17, 2006.

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

The response to the Restriction Requirement filed January 17, 2008 will be referred to Technology Center 1771 for further processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

16 SEP 2003

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Adam Warwick
Durect Corporation
10240 Bubb Road
Cupertino, CA 95014

In re Application of :
CHAN et al. :
Application No.:10/433,131 : DECISION ON PETITION
PCT No.: PCT/US01/31652 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 09 October 2001 :
Priority Date:06 October 2000 :
Attorney Docket No.: DURE-030W0 :
For: DEVICES AND METHODS FOR
MANAGEMENT OF INFLAMMATION

The petition to revive under 37 CFR 1.137(b) filed 29 May 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicants have submitted the basic national fee of $720 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required.

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

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

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JUL 31 2008

OFFICE OF PETITIONS

In re Patent No. 7,223,600	:	
Issue Date: May 29, 2007	:	
Application No. 10/433,136	:	ON PETITION
Filed: November 10, 2003	:	
Attorney Docket No. DEH-0012	:	

This is a decision on the petition filed October 9, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an 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 Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

The application is being referred to Technology Center Art Unit 1635 for consideration of the request for certificate of correction in regard to corrections of the specification other than the change of the assignee's name.

Carl Friedman
Petitions Examiner
Office of Petitions

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

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Baker Hughes Incorporated
3900 Essex Lane
Suite 1200
Houston, TX 77027

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of

Hanna, et al. :

Application No. 10/433,164

: DECISION ON PETITION

Filed: May 30, 2003

:

Attorney Docket No. 194-25207-WO-US5

This is a decision on the petition under 37 CFR 1.137(b), filed April 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 27, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on July 28, 2005. A Notice of Abandonment was mailed on February 15, 2006.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application,

the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The amendment filed April 27, 2006, is noted.

The application is being forwarded to Technology Center 1700 GAU 1713 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:

Gene L. Taylor
Madan, Mossman, Sriram PC
2603 Augusta, Suite 700
Houston, TX 77057

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P.O. Box 1450
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JOSEPH S. TRIPOIL
THOMSON MULTIMEDIA LICENSING, INC.
PO BOX 5312
PRINCETON, NJ 08543-5312

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Eugene M. O'DONNELL :
Application No. 10/433,165 : DECISION ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. PU010217 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 07, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 08, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of March 07, 2006 is accepted as having been unintentionally delayed.

The change in the correspondence address of record has been corrected to reflect the address indicated on the filing receipt.

The application file is being referred to Technology Center AU 2629 for appropriate action on the concurrently filed response.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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FEB 28 2006

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Hiroshi Shimada, et al. :
Application No. 10/433,167 :
Filed: May 30, 2003 :
Attorney Docket No.: 56087US010 :

This is a decision on the petition, filed February 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1744 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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THOMSON MULTIMEDIA LICENSING INC
PATENT OPERATIONS CN 5312
PRINCETON NJ 08543-0028

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JUL 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Correa et al.	:	
Application No. 10/433,169	:	DECISION ON PETITION
Filed: May 30, 2003	:	
Attorney Docket No. PD000067	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 1, 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 March 23, 2010, as required by the Notice of Allowance and Fee(s) Due mailed December 23, 2009. Accordingly, the date of abandonment of this application is March 24, 2010. A Notice of Abandonment was mailed April 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Sammy S. Henig
2 Independence Way, Suite 200
Princeton, New Jersey 08543

20 AUG 2004

#9

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Blakely Sokoloff Taylor & Zafman
12400 Wilshire Blvd
Seventh Floor
Los Angeles, CA 90025-1026

In re Application of TAYLOR et al.	
Application No.: 10/433,173	
PCT No.: PCT/US01/46426	DECISION ON PETITION
Int. Filing: 30 November 2001	
Priority Date: 30 November 2000	UNDER 37 CFR 1.47(a)
Attorney Docket No.:3801P078	
For: METHOD AND SYSTEM TO AUTOMATICALLY QUALIFYING A PARTY TO PARTICIPATE WITHIN A NETWORK-BASED COMMERCE TRANSACTION	

This is a decision on applicant's petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 21 June 2004, requesting the acceptance of the application without the signature of joint inventor, Kevin W. Cooney. Applicant also requests a four month extension of time, which is granted.

BACKGROUND

On 28 May 2003, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 16 December 2003, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497, and the $130 surcharge for filing the oath or declaration after the thirty month period, was required.

On 21 June 2004, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor, Kevin W. Cooney. Applicant alleges that the inventor refuses to sign the application. The petition included the requisite petition fee, a declaration signed by the 37 CFR 1.47(a) applicants on behalf of Kevin W. Cooney and a statement of facts under 37 CFR 1.47(a).

DISCUSSION

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

on his or her own behalf and on behalf of the non-signing joint inventor(s).

Item (1) is satisfied with the payment of the $130 petition fee. Item (3) is satisfied with the last known address of non-signing inventor.

With regard to item (4), a declaration of duplicate pages, signed by the 37 CFR 1.47(a) applicants was submitted on 21 June 2004 and is unacceptable. The declaration was executed by the available joint inventors on their behalf and that of the non-signing inventor, Kevin W. Cooney. A review of the declaration/power of attorney indicates that the declaration is not in an acceptable form for two reasons. First, the declaration submitted contains three identical sheets of page 4, identifying the same inventors but executed by different inventors. Specifically, there is an issue as to whether the declaration has been properly executed. It is unclear if the inventors were presented with only page 4, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document filed 21 June 2004, which is improper. (See MPEP 201.03.) While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. By providing only a partial declaration, it is not clear what inventive entities were listed on the declaration as signed by each co-inventor. Applicant must submit the complete declaration signed by each co-inventor. Item (4) above is not satisfied at this time.

With respect to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in part:

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

Here, Petitioner's Declaration of facts under 37 CFR 1.47(a) was executed by Susan Kawaguchi, paralegal specialist for intellectual property for eBay, Inc. (assignee). Ms. Kawaguchi states that since January 2004, "I personally made at least 14 telephone calls to the last known telephone number of Kevin W. Cooney" without success. On 08 June 2004, Ms. Kawaguchi left a message with a woman who answered the phone, but never received a return call from Mr. Cooney. On 11 June 2004, Ms. Kawaguchi sent a letter with a copy of the

complete application (including the claims, drawings, assignment and declaration) via Federal Express to the last known address of Kevin Cooney. According to Ms. Kawaguchi, as of the date of her statement (16 June 2004), no response has been received from Mr. Cooney.

Ms. Kawaguchi's statement did not provide Federal Express' proof of the delivery of the papers. Such proof should be submitted with a renewed petition.

Finally, the interval of time between the mailing of the application papers to inventor Cooney (June 11, 2004) and the date of the statement of facts (June 16, 2004) is only 5 days (and it is only 10 days between the mailing of the application papers and date of the instant petition). This is not sufficient time to allow inventor to review, sign and return the application and conclude that his inaction constitutes a refusal to sign the application.

Under these circumstances, it cannot be concluded that Mr. Cooney refused to sign the application. In sum, petitioner has not demonstrated that: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/433,173 (specification, including claims, drawings, and declaration) to the nonsigning inventor for their signature, sent to his last known address and (2) Mr. Cooney's refusal to sign, either in writing or by telephone, these documents.

Petitioner should submit a renewed petition with a declaration from a person with first hand knowledge detailing inventor's response or lack thereof. Petitioner should also submit proof of delivery of the papers sent on 11 June 2004. As indicated above, a complete declaration(s) for the 37 CFR 1.47(a) applicants is also required.

The evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application for the reasons set forth above. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467
Fax: (703)-308-6459

09 NOV 2005

#11

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of TAYLOR et al.
Application No.: 10/433,173
PCT No.: PCT/US01/46426
Int. Filing: 30 November 2001
Priority Date: 30 November 2000
Attorney Docket No.:3801P078
For: METHOD AND SYSTEM TO AUTOMATICALLY QUALIFYING A PARTY TO PARTICIPATE WITHIN A NETWORK-BASED COMMERCE TRANSACTION

: DECISION ON
: RENEWED PETITION
: UNDER 37 CFR 1.47(a)
: and 37 CFR 1.137(b)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 17 October 2005, requesting the acceptance of the application without the signature of joint inventor, Kevin W. Cooney. Applicant also filed a petition to revive under 37 CFR 1.137(b).

BACKGROUND

On 16 December 2003, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497, and the $130 surcharge for filing the oath or declaration after the thirty month period, was required.

On 21 June 2004, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor, Kevin W. Cooney. Applicant alleges that the inventor refuses to sign the application. The petition included the requisite petition fee, a declaration signed by the 37 CFR 1.47(a) applicants on behalf of Kevin W. Cooney and a statement of facts under 37 CFR 1.47(a).

On 20 August 2004, a decision dismissing the petition was mailed to applicant indicating that (1) the declaration was not in an acceptable form and (2) proof of the delivery of the application papers to the non-signing inventor was not provided. Applicant was given two months from the mail date of the decision to respond with extensions of time available. On 17 October 2005, applicant filed a petition to revive under 37 CFR 1.137(b) along with the renewed petition under 37 CFR 1.47(a).

DISCUSSION

Petition under 37 CFR §1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 17 October 2005 in the above-captioned application is granted as follows.

Applicant's statement that the "entire delay in filing the present reply from the due date for the reply until the filing of this Petition was unintentional" has been interpreted as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the reply to the 20 August 2004 decision has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Renewed Petition under 37 CFR §1.47(a)

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

Item (1) and (3) were previously satisfied.

With regard to item (4), three complete declarations, signed by the 37 CFR 1.47(a) applicants on behalf of the non-signing inventor, were submitted on 17 October 2005 and are acceptable. Item (4) above is now satisfied.

With respect to item (2), Petitioner submitted a Declaration of facts under 37 CFR 1.47(a) executed by Susan Kawaguchi, paralegal specialist for Intellectual Property at eBay, Inc. (assignee).[1] Ms. Kawaguchi specifically states that on 19 October 2004, she sent a package via Federal Express to the last known address of Kevin Cooney. The package included a copy of the above identified application (including the claims, drawings, assignment and declaration) requesting Mr.

---

[1] Ms. Kawaguchi had previously stated and restated in the 11 October 2005 declaration, that in January 2004, she personally made at least 14 telephone calls to the last known telephone number of Kevin W. Cooney without success. On 08 June 2004, Ms. Kawaguchi left a message with a woman who answered the phone, but never received a return call from Mr. Cooney. On 11 June 2004, Ms. Kawaguchi sent a letter with a copy of the complete application (including the claims, drawings, assignment and declaration) via Federal Express to the last known address of Kevin Cooney. However, no proof of delivery of the package was provided with the petition.

Cooney's review and signature. The Federal Express package was delivered on 20 October 2004 at 10:12 am. According to Ms. Kawaguchi, as of the date of her statement (11 October 2005), no response has been received from Mr. Cooney.

Under these circumstances, it can now be concluded that Mr. Cooney refuses to sign the application. In sum, petitioner has demonstrated that: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/433,173 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature, sent to his last known address and (2) Mr. Cooney's refusal to sign these documents.

The evidence submitted supports a finding that the nonsigning inventor refuses to sign the application for the reasons set forth above. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a).

CONCLUSION

The petition under 37 CFR §1.137(b) is **GRANTED**. The petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 17 October 2005. The application has an international filing date of 30 November 2001 under 35 U.S.C. 363, and a date of 17 October 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286
Fax: (571)-273-0459

09 NOV 20

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KEVIN W. COONEY
19 HORSESHOE COURT
SCOTTS VALLEY, CA 95066

In re Application of TAYLOR et al.	
Application No.: 10/433,173	
PCT No.: PCT/US01/46426	DECISION ON
Int. Filing: 30 November 2001	
Priority Date: 30 November 2000	RENEWED PETITION
Attorney Docket No.:3801P078	
For: METHOD AND SYSTEM TO AUTOMATICALLY QUALIFYING A PARTY TO PARTICIPATE WITHIN A NETWORK-BASED COMMERCE TRANSACTION:	UNDER 37 CFR 1.47(a)

Dear Mr. Cooney:

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

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272 -3286

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

28 NOV 2003

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ALEXANDRIA, VA 22313-1450
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Michael A. Glenn
Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025

In re Application of	:	
GEIGER, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/433,177	:	
PCT No.: PCT/EP01/14022	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 30 November 2001	:	
Priority Date: 01 December 2000	:	
Attorney Docket No.: SCHO0146	:	
For: METHOD AND DEVICE FOR PROCESSING ANALOGUE OUTPUT SIGNALS FROM CAPACITIVE SENSORS	:	

This decision is in response to applicant's "Petition Based Upon Unavailability of Inventor (37 CFR § 1.47/MPEP 409.03)" filed 10 November 2002 in the United States Patent and Trademark Office (USPTO).

[illegible] 00000165 071445 10433177
130.00 DA

BACKGROUND

On 30 November 2001, applicants filed international application PCT/EP01/14022, which claimed priority of an earlier application filed 01 December 2000. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 06 June 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 01 June 2003.

On 28 May 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; a First Preliminary Amendment and an Information Disclosure Statement.

On 10 September 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. Applicant was further advised of the need to provide payment of the surcharge for providing an executed oath or declaration of the inventors later than thirty months from the priority date. Applicant was afforded two months to respond and advised that this time

period could be extended with a proper petition and payment of fees.

On 10 November 2003, applicant filed the present petition accompanied by joint inventors Wolfram Geiger and Alexander Gaisser.

DISCUSSION

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

As to Item (1), applicant has authorized the charging of the $130.00 petition fee to Deposit Account No.: 07-1445.

Regarding Item (3), applicants have provided the last known address of the non-signing inventor, Norbert Niklasch.

As to Item (4), accompanying the petition is a declaration signed by the remaining inventors on their behalf, and on behalf of the non-signing inventor. Accordingly, Items (1), (3) and (4) have been satisfied.

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration 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 CFR 1.47. Such a petition will be dismissed as inappropriate.
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or

declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

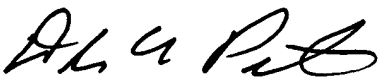
Applicant alleges that the non-signing inventor, Mr. Norbert Niklasch cannot be found or located after diligent effort. However, it does not appear that the foreign associate, Mr. Franz Zinkler has firsthand knowledge of the attempt to present the non-signing inventor with the application papers. In addition, applicant has not included a copy and English translation of the purported notification from the German federal post that Mr. Niklasch has moved and not left a forwarding address. Lastly, applicant has not provided any information as to whether a search of telephone directories or Internet search engines were performed in an attempt to find a current address for Mr. Niklasch.

CONCLUSION

Applicant's petition under 37 CFR 1.47(a) is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file either 1) an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) signed by all inventors or 2) a renewed petition satisfying all requirements under 37 CFR 1.47(a). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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



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

22 APR 2004

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

Michael A. Glenn
Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025

In re Application of
GEIGER, et al.
U.S. Application No.: 10/433,177
PCT No.: PCT/EP01/14022
Int. Filing Date: 30 November 2001
Priority Date: 01 December 2000
Attorney Docket No.: SCHO0146
For: METHOD AND DEVICE FOR PROCESSING ANALOGUE OUTPUT SIGNALS FROM CAPACITIVE SENSORS

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47(a)" filed 25 February 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 November 2003, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of inventor Norbert Niklasch. Applicant was afforded two months to file any request for reconsideration.

On 25 February 2004, applicant filed the present renewed petition accompanied by a petition for a one-month extension of time and payment of the one-month extension fee. With the filing of the petition for a one-month extension of time and payment of the one-month extension fee, the renewed petition is considered timely filed.

DISCUSSION

As detailed in the decision mailed 28 November 2003, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items (1), (3) and (4).

As to item (2), applicant has provided a signed declaration by Mr. Clemens Pecha detailing firsthand efforts to locate the non-signing inventor Mr. Niklasch; including internet and telephone

directory searches. In addition, applicant has presently provided English translations of German postal documents showing that an attempted delivery of the application papers by Mr. Pecha to Mr. Niklasch was returned undeliverable with no forwarding address. Accordingly, applicant has now satisfied all four items detailed above and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an international filing date of 30 November 2001 under 35 U.S.C. 363, and will be given a date of **10 November 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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

22 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Norbert Niklasch
Senftenauerstr. 95
80689 Muenchen
GERMANY

In re Application of
GEIGER, et al.
U.S. Application No.: 10/433,177
PCT No.: PCT/EP01/14022
Int. Filing Date: 30 November 2001
Priority Date: 01 December 2000
Attorney Docket No.: SCHO0146
For: METHOD AND DEVICE FOR PROCESSING ANALOGUE OUTPUT SIGNALS FROM CAPACITIVE SENSORS

Dear Mr. Niklasch:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to

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

Michael A. Glenn
Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA
United States of America 94025

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OFFICE OF PETITIONS

Bruce E Peacock
Wegman Hessler & Vanderburg
Suite 200
6055 Rockside Woods Boulevard
Cleveland OH 44131

In re Application of
IVANOV
Application No.: 10/433,181
Attorney Docket No.: 020324 209P2

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2006 to revive the above-identified application.

The petition is **GRANTED**.

The Notice of Allowance and Fee(s) Due was mailed on December 29, 2005 in the above-identified application, which set a statutory period for reply of three (3) months. The application became abandoned for failure to submit the issue fee in a timely manner or return Part B-Fee(s) Transmittal Form, which requests that the previously paid issue fee be applied towards the new Notice on or before March 29, 2006 as required by the Notice of Allowance and Fee(s) Due. A Notice of Abandonment was mailed on May 4, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee or return Part B-Fee(s) Transmittal Form requesting application of the previously paid issue fee towards the Notice of Allowance, (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.

The application is being referred to Publishing Division.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3286.

Cynthia M. Kratz
Attorney Advisor

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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THOMPSON E. FEHR
GOLDENWEST CORPORATE CENTER, SUITE 300
5025 ADAMS AVENUE
OGDEN, UT 84430

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of	:
William F. Pratt	: DECISION ON PETITION
Application No. 10/433,198	: UNDER 37 CFR 1.78(a)(3) AND
Filed: May 29, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. PPRAIWP	:

This is a decision on the petition, filed April 1, 2005, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6),[1] filed April 1, 2005, 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 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.

[1] It is noted that the incorrect provisional application number was provided in the amendment as filed with the application. Therefore, this is also a proper petition under 37 CFR 1.78(a)(6) and has been so treated.

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

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

Petitioner is advised that, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d).

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

This application is being forwarded to Technology Center Art Unit 1772 for consideration by the examiner of the claim for priority to the nonprovisional and provisional applications set forth in the amendment filed April 1, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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SUITE 300
OGDEN, UT 84403

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OFFICE OF PETITIONS

In re Application of
William F. Pratt
Application No. 10/433,198
Filed: May 29, 2003
Attorney Docket No. PPRAIWP

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2007 above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 4, 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 December 5, 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 with required fee, (2) the petition fee of $750, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1772 for appropriate action by the Examiner in the normal course of business on the reply received August 10, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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Fish & Neave IP Group of
Ropes & Gray LLP
One International Place
Boston MA 02110

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OFFICE OF PETITIONS

In re Patent No. 7,427,665 :
Bowdish et al. : DECISION UPON REMAND AND
Issue Date: September 23, 2008 : RECONSIDERATION OF
Application No. 10/433,207 : PATENT TERM ADJUSTMENT
Filed: May 30, 2003 : AND NOTICE OF INTENT
Attorney Docket No. ALXN -PO1-060 : TO ISSUE CERTIFICATE OF CORRECTION
Title: CHRONIC LYMPHOCYTIC LEUKEMIA CELL LINE :

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by eight hundred and eleven (811) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred and eleven (811) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,427,665 B2

DATED : **September 23, 2008** **DRAFT**

INVENTOR(S) : Bowdish 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 379 days

Delete the phrase "by 379 days" and insert – by 811 days--

Day : Tuesday
Date: 3/23/2010

PALM INTRANET

Time: 17:31:07

PTA Calculations for Application: 10/433207			
Application Filing Date:	05/30/2003	PTO Delay (PTO):	607
Issue Date of Patent:	09/23/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	228
Post-Issue Petitions:	0	Total PTA (days):	811
PTO Delay Adjustment:	432		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
116	03/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	432		
107.5	09/03/2008	PTA 36 MONTHS			
107	09/23/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
106	08/22/2008	FINISHED INITIAL DATA CAPTURE			
105	08/22/2008	DISPATCH TO FDC			
104	07/08/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
103	07/08/2008	WORKFLOW - QUERY REQUEST - FINISH			
102	06/12/2008	ISSUE FEE PAYMENT VERIFIED			
101	06/12/2008	APPLICANT HAS FILED A VERIFIED STATEMENT OF SMALL ENTITY STATUS IN COMPLIANCE WITH 37 CFR 1.27			
100	06/12/2008	ISSUE FEE PAYMENT RECEIVED			
99	05/30/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
98	05/28/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
96	04/01/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
95	04/22/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
94	04/30/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
93	04/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		31	99
92	04/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		8	99
91	04/01/2008	REFERENCE CAPTURE ON IDS			

90	04/01/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		21	99
89	04/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
88	04/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
87	03/28/2008	PUBS CASE REMAND TO TC			
86	04/01/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
85	04/03/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
84	04/03/2008	WORKFLOW - QUERY REQUEST - BEGIN			
83	04/03/2008	TC RETURN TO PUBS			
82	04/02/2008	WORKFLOW - QUERY REQUEST - FINISH			
79	03/25/2008	MAIL NOTICE OF ALLOWANCE			
78	03/20/2008	ISSUE REVISION COMPLETED			
76	03/20/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
75	03/20/2008	CASE DOCKETED TO EXAMINER IN GAU			
74	03/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	02/12/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
70	02/12/2008	DOCUMENT VERIFICATION			
68	02/04/2008	NOTICE OF ALLOWABILITY			
65	12/21/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	01/18/2008	DATE FORWARDED TO EXAMINER			
60	01/16/2008	RESPONSE AFTER NON-FINAL ACTION			
59	12/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58	12/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	10/31/2007	MAIL NON-FINAL REJECTION			
56	10/29/2007	NON-FINAL REJECTION			
55	08/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	08/13/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	08/06/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
		INFORMATION DISCLOSURE STATEMENT			

52	10/15/2007	CONSIDERED			
50	10/15/2007	REFERENCE CAPTURE ON IDS			
49	10/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	10/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	08/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	08/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	08/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	08/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	08/06/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	08/14/2007	DATE FORWARDED TO EXAMINER			
41	08/06/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
40	08/14/2007	DATE FORWARDED TO EXAMINER			
39	08/06/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
38	08/14/2007	DISPOSAL FOR A RCE / CPA / R129			
37	08/06/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	08/06/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
35	05/02/2007	MAIL FINAL REJECTION (PTOL - 326)			
34	04/02/2007	FINAL REJECTION			
33	03/08/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	10/02/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31.7	03/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		59	29
31	03/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	01/22/2007	DATE FORWARDED TO EXAMINER			
29	01/08/2007	RESPONSE AFTER NON-FINAL ACTION		88	26
28	01/08/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
27.7	10/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
27	10/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	07/12/2006	MAIL NON-FINAL REJECTION			
25	07/10/2006	NON-FINAL REJECTION			
24	05/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	05/16/2006	REQUEST FOR REFUND			
21	05/19/2006	REFERENCE CAPTURE ON IDS			
20.7	05/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		21	18
20	05/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	05/04/2006	DATE FORWARDED TO EXAMINER			
18	04/28/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
17	03/29/2006	MAIL RESTRICTION REQUIREMENT	607		-1
16	03/23/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
15	10/17/2005	MISCELLANEOUS INCOMING LETTER			
14	11/02/2005	CORRESPONDENCE ADDRESS CHANGE			
13	11/03/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
12	05/30/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
11	08/22/2005	PRELIMINARY AMENDMENT			
10	08/30/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
9	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
8	02/20/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
7	02/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
6	02/19/2004	TRANSFER INQUIRY TO GAU			
5	12/01/2003	CLEARED BY OIPE CSR			
4	05/30/2003	371 COMPLETION DATE			
3	10/03/2003	APPLICATION DISPATCHED FROM OIPE			
2	10/06/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	05/30/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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17 SEP 20

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#5

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Gregory P. LaPointe
Bachman & LaPointe, P.C.
900 Chapel St., Suite 1201
New Haven, CT 06510-2802

In re Application of	:	
Uno	:	
US Application No.: 10/433,221	:	
PCT Application No.: PCT/SE01/02547	:	**DECISION ON**
International Filing Date: 16 November 2001	:	**PETITION FOR REVIVAL**
Priority Date: 20 November 2000	:	**UNDER 37 CFR 1.137(b)**
Attorney's Docket No.: 03-397	:	
For: RECEPTACLE	:	

The petition to revive under 37 CFR 1.137(b), filed on 30 May 2003 in the above-captioned application, is hereby **GRANTED** as follows.

On 16 November 2001, Applicant filed international application PCT/SE01/02547, which claimed priority of an earlier application filed on 20 November 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 23 May 2002. The period for paying the basic national fee is 30 months and ended at midnight on 20 May 2003.

The basic national fee was not submitted on or before 20 May 2003. The international application became abandoned as to the United States on 21 May 2003.

The instant petition is accompanied by, *inter alia*:

(1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, along with the $1,060 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(3);

(2) The $1,300 petition fee;

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

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

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

Applicant's claim for priority is acknowledged. The application has an international filing date of 16 November 2001 under 35 U.S.C. 363.

However, the declaration filed with the petition is not executed.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

04 MAR 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

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Robert Becker & Associates
707 Highway 66 East
Suite B
Tijeras, NM 87059-7382

In re Application of	:	
Eckmiller	:	
Application No. 10/433,246	:	
PCT No.: PCT/EP01/14077	:	
Int. Filing Date: 03 December 2001	:	DECISION
Priority Date: 01 December 2000	:	
Atty. Docket No.: LE/AS000343 US	:	
For: Removable Implant Fixing Device	:	

This is in response to the "Letter" filed on 28 October 2004, which is being treated as a petition to withdraw the holding of abandonment.

BACKGROUND

This international application was filed on 03 December 2001, claimed an earliest priority date of 01 December 2000, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 06 June 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 01 June 2003. On 30 May 2003, applicant filed *inter alia* the basic national fee.

On 09 September 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the filing of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b).

On 18 October 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to counsel, indicating that this international application had become abandoned with respect to the national stage in the U.S. for failure to timely reply to the Notification of Missing Requirements mailed on 09 September 2003.

DISCUSSION

Counsel states that an executed declaration, a surcharge under 37 CFR 1.492(e), an assignment and an assignment fee were filed via Express Mail on 17 July 2003, and "respectfully requests that the aforementioned documents [accompanying the petition] be entered as filed on July 17, 2003, that the Notification of Abandonment be withdrawn and that the filing receipt be issued recognizing the original filing date of the Missing Requirements." Review of the application file reveals that the original copy of the correspondence filed on 17 July 2003 is present, recently having been matched with the application file wrapper. As such, the Notification of Abandonment mailed on 18 October 2004 was in error and is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **17 July 2003**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

06 MAY 2004

#4

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Robert W. Becker & Associates
707 Highway 66 East
Suite B
Tijeras, NM 87059

In re Application of
SZEKERESCH et al.
Application No.: 10/433,253
PCT No.: PCT/EP01/13905
Int. Filing Date: 28 November 2001
Priority Date: 01 December 2000
Attorney's Docket No.: AZ.3384
For: METHOD FOR THERMALLY TREATING SUBSTRATES

DECISION ON

SUBMISSION

OF DECLARATION

This is a response to applicants' "Letter Regarding Missing Parts Filed July 17, 2003" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 01 March 2004.

BACKGROUND

On 30 May 2003, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 17 July 2003, applicants filed a declaration executed by the inventors, in compliance with 37 CFR 1.497(a) & (b) along with the $130 surcharge for filing the declaration after the 30 month period and an assignment.

On 16 September 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was inadvertently mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497 and the $130 surcharge was required.

On 01 March 2004, applicants, in response to the Notification of Missing Requirements, filed the instant communication, accompanied by a copy of the executed declaration/power of attorney and assignment, and a Customer Copy of the Express Mail label with Date-In of 17 July 2003.

DISCUSSION

The original declaration filed on 17 July 2003 is located in the application file. A review of the finance records for 10/433,253 indicates that the $130 surcharge for filing the declaration after the thirty month period was paid on 17 July 2003.

A review of the declaration filed on 17 July 2003 reveals that the declaration identifies each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The copy of the declaration originally submitted on 17 July 2003 is acceptable and meets the requirements of 37 CFR 1.497(a) & (b).

The Notification of Missing Requirements (Form PCT/DO/EO/905) inadvertently mailed on 16 September 2003 is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371 date is **17 July 2003.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

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07 DEC 2005

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P.O. Box 1450
Alexandria, VA 22313-1450
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EXXONMOBIL TECHNOLOGY COMPANY
Law Technology
PO Box 2149
Baytown, TX 77522-2149

In re Application of	:
WENG, et al.	:
Application No. 10/433,264	: DECISION ON PETITION
Filed: June 02, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2000B0775A	:

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed August 15, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1. 78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

The petition was accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

This nonprovisional application was filed on December 18, 2001, and was pending at the time of filing of this petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the declaration filed with the above-identified application.

Under current procedure, no petition will be required to accept a late claim for priority where: (1) a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application; and (2) the Office notes the claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed provisional application in the declaration, as shown by its inclusion on the filing receipt mailed October 14, 2003.

In view of the above, the $1,370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

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[1] *Note* MPEP 201.11 (III)(D) , pages 200-64 and 200-65 (Rev. 3. Aug 2005) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

Any questions concerning this decision on petition may be directed to Richard Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

BM

Boris Milef
Legal Examiner
Office of Petitions

26 NOV 2003
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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Richard J. Veltman
Black & Decker Corporation
701 E. Joppa Road
Towson, MD 21286

In re Application of
BLOOM et al.
Application No.: 10/433,283
PCT No.: PCT/US02/30878
Int. Filing Date: 27 September 2002
Priority Date: 03 October 2001
Attorney Docket No.: 5591-25
For: SINGLE CONTROL FAUCET INSTALLATION APPARATUS AND METHOD

DECISION ON

PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated Office" filed in the United States Patent and Trademark Office (USPTO) on 03 November 2003. The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 02 June 2003, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee and the $130 surcharge for filing the declaration after the 30 month period.

On 11 August 2003, applicants allegedly filed an executed declaration, in compliance with 37 CFR 1.497(a) & (b).

On 30 September 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497, 1.66 or 1.67 was required.

On 03 November 2003, applicants, in response to the Notification of Missing Requirements, filed a copy of a postcard bearing a USPTO mail room date-stamped of 11 August 2003 and an alleged copy of the declarations deposited on that date.

DISCUSSION

The alleged original declarations filed on 11 August 2003 are not located in the application file. However, a review of the finance records for 10/433,283 indicates that the $130 surcharge for filing the declaration after the thirty month period was paid on 02 June 2003.

As stated in section 503 of the Manual of Patent Examining Procedure (8th Ed., August 2001)(MPEP):

> A postcard receipt which itemizes and properly identifies the papers which

are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the USPTO postcard receipt date-stamped 11 August 2003 is not itemized and does not indicate that the combined declaration and power of attorney or that any other document was deposited with the USPTO on 11 August 2003.

Thus, the evidence submitted is not sufficient to establish that a declaration for this application was received in the USPTO on 11 August 2003. The communication filed 03 November 2003 includes two executed declarations. Th declarations filed on 03 November are considered responsive to the 30 September 2003 Notification of Missing Requirements.

A review of the two declarations submitted on 03 November 2003 reveals that the declaration identifies each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED WITHOUT PREJUDICE**.

The declarations submitted on 03 November 2003 are acceptable and meet the requirements of 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **03 November 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

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

RICHARD J VELTMAN
BLACK & DECKER CORPORATION
TW 199
701 EAST JOPPA ROAD
TOWSON MD 21286

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of :
Mark S. Bloom et al. :
Application No. 10/433,283 : ON PETITION
Filed: November 3, 2003 :
Attorney Docket No. 5591-25 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed December 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on August 7, 2005, for failure to timely file a reply to the final Office action May 6, 2005, which set a three (3) month shortened statutory period for reply. A response was filed September 2, 2005 with a one month extension of time but by Advisory Action mailed September 16, 2005 petitioner was advised that the response did not place the application in condition for allowance. Subsequently, another response was filed October 7, 2005 and again an Advisory Action was mailed October 24, 2005. Finally, yet another amendment was filed on October 26, 2005 and an Advisory Action was mailed November 10. 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

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

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

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

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

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $ 1500.00; and (3) an adequate statement of unintentional delay.

The Examiner has determined that the amendment filed with the present petition is acceptable. The matter therefore is being referred to Technology Center 3751.

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

20 OCT 2004

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

William C. Gerstenzang
220 East 42nd Street
New York, New York 10017

In re Application of	:	
Jurgen HANTEN	:	
Application No.: 10/433,312	:	DECISION ON
PCT No.: PCT/EP02/10976	:	PETITION
Int. Filing Date: 01 October 2002	:	UNDER 37 CFR 1.8(b)
Priority Date: 08 October 2001	:	
Attorney Docket No.: Eisenfuhr 203	:	
For: PROCESS FOR THE MANUFACTURE OF PACKS FOR A PRODUCT IN PORTIONS	:	

Applicant's "REQUEST FOR FILING RECEIPT" filed 26 August 2004 is being treated as a petition under 37 CFR 1.8(b) requesting the Office to accept the papers filed with the petition as being filed timely in response to the Notification of Missing Requirements issued 02 October 2003 in the above-captioned application. The petition is **DISMISSED**, without prejudice, as follows:

No petition fee is required.

37 CFR 1.8, at section (b), provides 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 in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

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

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

Applicant has satisfied items (1) and (3) required under 37 CFR 1.8(b).

With regard to item (2), applicant has not provided the Office with a copy of the correspondence filed 23 November 2003 including a copy of the executed declaration of the inventor. Accordingly, the petition under 37 CFR 1.8(b) cannot be accepted at this time.

If reconsideration on the merits of the petition under 37 CFR 1.8(b) is desired, applicant is required to correct the above-noted defect 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 1.8(b)."

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, 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 Office

NNH/LES:hn

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (571) 272-3290

03 NOV 2004

#6

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

William C. Gerstenzang
220 East 42nd Street
New York, New York 10017

In re Application of	:	
Jurgen HANTEN	:	
Application No.: 10/433,312	:	
PCT No.: PCT/EP02/10976	:	COMMUNICATION
Int. Filing Date: 01 October 2002	:	
Priority Date: 08 October 2001	:	
Attorney Docket No.: Eisenfuhr 203	:	
For: PROCESS FOR THE MANUFACTURE OF PACKS FOR A PRODUCT IN PORTIONS	:	

This communication is being issued in relation to the "DECISION ON PETITION UNDER 37 CFR 1.8(b)" and to inform applicant that the original response to the Notification of Missing Requirements filed 25 November 2003 was found and matched with the application. Accordingly, no response to the Decision on Petition Under 37 CFR 1.8(b) issued by the Office on 20 October 2004 is necessary. A review of the declaration of the inventor submitted 25 November 2003 reveals that it is in compliance with 37 CFR 1.497. The application has an international filing date of **01 October 2002** under 35 U.S.C. 363 and a date of **27 November 2003** under 35 U.S.C. 371.

The application is returned to the U.S. Designated/Elected Office for further processing.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/LES:hn

Tel: (571) 272-3290

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of :
Anthony TRESTON et al. :
Application No. 10/433,380 : DECISION DISMISSING PETITION
Filed: March 11, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 9516-108-999 :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed October 3, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application 60/250,219, filed November 30, 2000.

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

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

The petition does not comply with item (1).

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

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the

same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

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

Additionally, the amendment to the first line of the specification and the ADS filed with the petition are in conflict with one another as they refer to different provisional applications.

For the above-stated reasons, the petition is **DISMISSED**

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

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Anthony TRESTON et al. :
Application No. 10/433,380 : ON PETITION
Filed: March 11, 2004 :
Attorney Docket No. 9516-108-999 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed November 1, 2007 to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **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.

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 application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted

thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

The application is being forwarded to Technology Center AU 1624 for appropriate action on the amendment submitted November 1, 2007, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/250,219.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/433,380	03/11/2004	1624	1364	9516-108-999	16	2

CONFIRMATION NO. 4167

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

CORRECTED FILING RECEIPT

OC000000027077373

Date Mailed: 12/04/2007

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)

Anthony Treston, Rockville, MD;
Jamshed H Shah, Columbia, MD;
Robert J D'Amato, Lexington, MA;
Kimberly A Hunsucker, Germatown, MD;
John Rougas, Westchester, PA;
Barry P Conner, Laurel, MD;
Victor Pribdula, Silver Spring, MD;
Glenn M Swartz, Mt Airy, MD;

Power of Attorney:
Anthony Insogna--35203

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US01/45229 11/30/2001
which claims benefit of 60/250,219 11/30/2000

Foreign Applications

If Required, Foreign Filing License Granted: 12/04/2007
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/433,380**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No

Title

Method of synthesis of 4-amino-thalidomide enantiomers

Preliminary Class

514

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).

19 OCT 2004

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John P. White
Cooper & Dunham, LLP
1185 Avenue of the Americas
New York, NY 10036

In re Application of
HARRIS, et al.
Application No.: 10/433,387
PCT No.: PCT/US01/45099
Int. Filing Date: 30 November 2001
Priority Date: 30 November 2000
Atty. Docket No.: 62682-A-PCT-US/JPW/FHB
For: GROWTH OF HUMAN DENDRITIC CELLS FOR CANCER IMMUNOTHERAPY IN CLOSED SYSTEMS USING MICROCARRIER BEADS

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 23 August 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the Sequence Listing required by the October 27, 2003 Notification of Missing Requirements, from the May 27, 2004 due date, until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided a complaint sequence listing in response to the From PCT/DO/EO/905. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 30 November 2001 under 35 U.S.C. 363 and will be given a date of **10 May 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

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

07 JAN 2005

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09629
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

In re Application of :
MATSUKAWA, Eiji *et al* :
U.S. Application No.: 10/433,395 :
PCT No.: PCT/JP01/09736 :
Int. Filing Date: 07 November 2001 :
Priority Date: 04 December 2000 : **DECISION**
Attorney's Docket No.: 053848-5015 :
For: POLISHING STATE MONITORING METHOD AND DEVICE, POLISHING APPARATUS, SEMICONDUCTOR DEVICE MANUFACTURING METHOD AND SEMICONDUCTOR DEVICE :

This is a decision on the papers filed via facsimile on 06 January 2005 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 03 June 2003, applicants filed for entry into the national stage in the United States under 35 U.S.C. 371 for PCT/JP01/09736 which was accompanied by, *inter alia*, the basic national fee. An oath or declaration in compliance with 37 CFR 1.497(a) and (b) was not included with these papers.

On 21 August 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) in the above-captioned application.

On 08 June 2004, applicant filed a "Status Inquiry" request.

On 06 January 2005, applicant submitted the instant petition.

DISCUSSION

A check of the above-captioned application reveals that the Office erroneously placed a declaration from a different application in this file. The DO/EO/US processed this declaration and mailed a Form PCT/DO/EO/903 for the subject application to the law firm of the other application. This was a mistake.

A declaration in compliance with 37 CFR 1.497(a) and (b) has not yet been provided in the subject application.

Transmittal Letter Included in Filing on 03 June 2003

A further review of the above-captioned application shows that there is no record that a transmittal letter accompanied the national stage papers on 03 June 2003. MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants provided a copy of the date-stamped postcard receipt for the documents submitted 03 June 2003. The postcard receipt records that among the papers filed included a "Transmittal Letter concerning a filing under 35 U.S.C. § 371." The postcard receipt is stamped "OIPE JUN 03 2003" across its face. The international application number and attorney docket number were listed on the postcard receipt.

Accordingly, applicants have provided *prima facie* evidence that a transmittal letter was originally received with the national stage papers on 03 June 2003.

DECISION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The transmittal papers are to be included in the above-captioned application.

The Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 21 August 2003 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and $130.00 surcharge fee is required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED

APR 2 9 2005

OFFICE OF PETITIONS

Applicant: Sabelle et al.
Appl. No.: 10/433,408
International Filing Date: November 13, 2001
Title: OXIDATITON DYEING COMPOSITION BASED ON 1-(4-AMINOPHENYL) PYRROLIDINES SUBSTITUTED IN POSITION 2 AND 5
Attorney Docket No.: 05725.1217-00000
Pub. No.: US 2004/0064902 A1
Pub. Date: April 8, 2004

This is in response to the request for a corrected patent application publication under 37 CFR 1.221(b), which was received on June 8, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the publication contains errors in paragraph [0045] as the symbol "R_6" is misprinted as "R_8" and in paragraphs [0087] - [0102] as the example is printed twice.

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 error in paragraphs [0087] - [0102] wherein the example is printed twice is not a material Office mistake under 37 CFR 1.221(b). The mistake is a minor error, which does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The typographical error in the formula in paragraph [0045] wherein the symbol "R_6" is misprinted

[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).

as "R_s" is not a material mistake as required by 37 CFR 1.221(b). The mistake is not a material mistake as required by 37 CFR 1.221(b) because the error is not readily apparent from the Office records. The text of the formula as originally filed by Applicant is of a poor quality and difficult to read. 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 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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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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MAY 19 2010

OFFICE OF PETITIONS

In re Patent No. 6,929,144 :
Issue Date: August 16, 2005 :
Application No. 10/433,409 : DECISION ON PETITION
Filed: November 13, 2003 :
Attorney Docket No. **07059.0009** :

This is a decision on the petition October 30, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent that is being considered under 37 CFR 1.182.

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

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

It is noted that the petition included a payment of $130. However, a petition under 37 CFR 1.182 requires a fee under 37 CFR 1.17(f) that is currently $400. The balance of $270 has been assessed to the petitioner's deposit account, as authorized.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-4584. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703)756-1556.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, Randolph Square Building, 9th Floor, 09/D30-B
FAX No. (571) 270-9753

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Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

PROCESSED BY
PG PUB DIVISION

JAN 3 1 2005

Applicant: Eric Terranova et al.
Appl. No.: 10/433,411
Filing Date: June 4, 2003
Title: OXIDATION DYEING COMPOSITION BASED ON 1-(4-AMINOPHENYL)PYRROLIDINES SUBSTITUTED IN POSITIONS 2 AND 4
Attorney Docket No.: 05725.1218-00
Pub. No.: US 2004/0078905 A1
Pub. Date: April 29, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on June 29, 2004 for the above-identified application.

The request is granted.

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

Shelly Kittman, For

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

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BRINKS, HOFER, GILSON & LIONE
P.O. BOX 1340
MORRISVILLE, NC 27560

Mail Date: 04/21/2010

Applicant	: Jean-Francois Silvain	: DECISION ON REQUEST FOR
Patent Number	: 7585456	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/433,413	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **249** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAR 3 1 2008

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

In re Application of :

KAWANO, Kenichi et al. :
Application No. 10/433,417 : DECISION ON PETITION
Filed: June 04, 2003 : TO WITHDRAW
Attorney Docket No. **237601US0PCT** : 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 20, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on May 02, 2007.

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

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ANTHONY M. ZUPCIC**
FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of :
Georg HEIN, et al :
Application No. 10/433,437 : DECISION ON PETITION
Filed: June 4, 2003 : TO WITHDRAW
Attorney Docket No. 449122056300 : 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 18, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 have been withdrawn.

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

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

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: GEORG HEIN
DINKELSBUHLER STR. 51
81243 MUNCHEN
GERMANY

cc: KEVIN SPIVAK,
BELL, BOYD & LLOYD LLC
70 WEST MADISON STREET,
SUITE 3100
CHICAGO, IL 60602

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/433,437	06/04/2003	Georg Hein	449122056300

CONFIRMATION NO. 4219

OC000000024516388

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/18/2007.

- 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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

0 8 JAN 2004

#5

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Leo H. McCormick, Jr.
2112 Mishawaka Avenue
PO Box 4721
South Bend, IN 46634-4721

In re Application of
MICHON, Jean-Pierre, et al.
Application No.: 10/433,450
PCT No.: PCT/FR01/03719
Int. Filing Date: 26 November 2001
Priority Date: 29 November 2000
Docket No.: 800-00-460
For: BOOSTED BRAKING DEVICE FOR A MOTOR VEHICLE

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

Applicant's "Petition For Revival Under 37 CFR 1.137," filed in the above-captioned application on 17 June 2003 is **GRANTED**.

Applicant's statement that the abandonment was unintentional is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct understanding, applicant must notify the Office immediately. The appropriate national fee and the petition have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted. The fee for late furnishing of the oath or declaration and the surcharge for late furnishing of the English translation will be charged to deposit account no. 02-3222, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 03 June 2003 under 35 U.S.C. §371.

01/09/2004 MKAYPAGH 00000007 023222 10433450

01 FC:1617 130.00 DA
02 FC:1618 130.00 DA

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

01/14/2004 THOLLAND 00000001 023222 10433450

01 FC:1453 1330.00 DA

22 DEC 2003

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ROSSI & ASSOCIATES
P.O. BOX 826
ASHBURN, VA 20146-0826

In re Application of	
HIRAIWA	
Serial No.: 10/433,453	
PCT No.: PCT/JP01/10398	DECISION ON PETITION
Int. Filing Date: 28 November 2001	
Priority Date: 04 December 2000	UNDER 37 CFR 1.137(b)
Attorney's Docket No.: KIOI:029	
For: SYNCHRONIZER FOR SPEED REDUCER	

The petition to revive under 37 CFR 1.137(b) filed 19 November 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $920 was provided on 19 November 2003. The required petition fee of $1330 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c) date is **19 November 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of Patent Cooperation Treaty
Legal Administration Office

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WASHINGTON, DC 20037-1526

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MAR 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Peter Soderstrom	:	
Application No. 10/433,457	:	DECISION GRANTING PETITION
Filed: June 3, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. B1705.0003/P003	:	

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 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 March 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 17, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the filing of a continuing application (Application No. 11/227,261) on September 16, 2005, pursuant to the provisions of 37 CFR 1.53(b); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of March 16, 2005 is accepted as having been unintentionally delayed.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving this application, this application is again abandoned in favor of continuing Application No. 11/227,261, filed September 16, 2005.

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

Frances Hicks
Petitions Examiner
Office of Petitions

17 OCT 2006

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002779
BLANK ROME LLP
The Watergate Building
600 New Hampshire Ave., N.W.
Washington, DC 20037

In re Application of :
BOWEN, David :
U.S. Application No.: 10/433,465 :
PCT No.: PCT/GB01/05187 :
Int. Filing Date: 26 November 2001 : **DECISION**
Priority Date: 04 December 2000 :
Attorney Docket No.: 111869-00119 :
For: METAL CONTAINER SUITABLE TO ACCOMMODATE A HEATING OR COOLING COMPONENT METHOD AND FOR MANUFACTURING IT :

This is a decision on the "Petition to Withdraw Erroneous Notice of Abandonment" filed on 17 July 2006.

BACKGROUND

On 30 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided.

On 25 November 2003, applicant purportedly filed a response which included, *inter alia*, an executed declaration and the $130.00 surcharge fee. The declaration and fee were not part of the subject application.

On 04 April 2006, a Status Inquiry and Change of Correspondence Address was filed.

On 11 July 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to respond to the Form PCT/DO/EO/905 mailed 30 September 2003.

On 17 July 2006, applicant filed the subject petition which was accompanied by, *inter alia*, a date-stamped postcard receipt and copies of the documents purportedly filed 25 November 2003.

DISCUSSION

Applicant claims that a timely response to the Form PCT/DO/EO/905 was filed on 25 November 2003. MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicant has provided a copy of the date-stamped postcard receipt for documents filed 25 November 2003. The postcard receipt records that an executed declaration and $130.00 surcharge fee was provided. The postcard receipt is stamped "OIPE NOV 25 2003" across its face.

However, the documents filed 25 November 2003 were captioned with the wrong U.S. application number, *i.e.*, 10/443,465. Moreover, a search of U.S. application No. 10/443,465 verifies that an executed declaration and surcharge fee was submitted. Therefore, this is treated as a petition under 37 CFR 1.182 to correct applicant's error. The $400.00 petition fee has been charged to Deposit Account No. 23-02185 as authorized.

A review of the papers originally submitted on 25 November 2003 show that the name of the applicant, docket number, the above-captioned title, and PCT number were listed on these papers. However, the U.S. application number on the papers had one of the numbers listed incorrectly. Accordingly, it is clear that a timely response to the Form PCT/DO/EO/905 was clearly intended but was placed in the wrong application due to a clerical error. This is sufficient for a grantable petition. The clerical error has been corrected.

DECISION

For the reasons noted above, the petition under 37 CFR 1.182 and to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 11 July 2006 is hereby **VACATED**.

The declaration filed 25 November 2003 is in compliance with 37 CFR 1.497(a) and (b). The surcharge fee of $130.00 has been moved from U.S. application No. 10/443,465 to the financial records of the subject application.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 26 November 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 25 November 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

25 NOV 2003

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Leo H. McCormick, Jr.
Bosch Braking Systems
2112 Mishikawa Avenue
P.O. Box 4721
South Bend, IN 46634-4721

In re Application of	:	
Piel et al.	:	
Application No. 10/433,466	:	DECISION ON
PCT No.: PCT/FR01/03713	:	
Int. Filing Date: 26 November 2001	:	PETITION UNDER
Priority Date: 29 November 2000	:	
Atty. Docket No.: 825-00-461	:	37 CFR 1.137(b)
For: Pneumatic Brake-Booster With	:	
Hydraulic Boosting And Method	:	
For Boosting Using Such A Booster	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 30 September 2003.

BACKGROUND

This international application was filed on 26 November 2001, claimed an earliest priority date of 29 November 2000, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 06 June 2002. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. The 30 month time period for paying the basic national fee in the United States expired at midnight on 29 May 2003. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee, as indicated by the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 24 September 2003.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the basic national fee was filed on 03 June 2003.

Regarding requirement (2), the petition authorized the charging of the petition fee to

counsel's Deposit Account.

Regarding requirement (3), the petition includes a statement that "This abandonment was unintentional." This statement is being construed as 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 must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED** as to the national stage in the United States.

Applicant is advised that the declaration is defective in that the "residence and post office address" information for Nicolas Marlhe is incomplete in that the country was omitted. This information may be furnished on an application data sheet pursuant to 37 CFR 1.76. The declaration is being accepted for purposes of compliance with 35 U.S.C. 371(c)(4).

Applicant is further advised that the translation of the international application is defective in that the published international application includes multiple dependencies in the claims, but the translation does not.

Counsel's Deposit Account No. 02-3222 is being charged in the amounts of $1300.00 for the petition fee and $130.00 for the surcharge under 37 CFR 1.492(e), as authorized by the petition.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of a proper English translation of the international application and a processing fee under 37 CFR 1.492(f).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070913

DATE : September 13, 2007

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7,009,070

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: Yvonne Eyler — **Art Unit** 1621

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of :
William M. Anthony :
Application No. 10/433,482 : DECISION DISMISSING PETITION
Filed: June 12, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. X2YA0017U-PCT-US :

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), filed September 17, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of prior-filed applications set forth in the concurrently filed amendment.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The amendment submitted concurrently with the petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i) and 37 CFR 1.78(a)(5)(i). In this regard, the amendment does not comply with 37 CFR 1.121(b)(1)(ii). Amendments to the specification, other than the claims, must be made by adding deleting or replacing a paragraph, by replacing a section, or by a substitute specification, in the manner specified in 37 CFR 1.121(b)(1)(ii). The full text of any replacement paragraph must contain markings to show all the changes relative to the previous version of the paragraph. For example, the text of any added subject matter must be underlined. Additionally, the text of any deleted matter must contain a strike-through or double brackets placed before and after deleted characters of five or fewer consecutive characters. The amendment does not show any of the requirements noted above.

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

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with 37 CFR 1.121, along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).[1] No further petition fee is required.

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

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401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Marianne Jenkins at (571) 272-3223.

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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OFFICE OF PETITIONS

In re Application of :
William M. ANTHONY :
Application No. 10/433,482 : DECISION DISMISSING PETITIONS
Filed: June 12, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. X2YA0017U-PCT-US :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 18, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed October 18, 2005 fails to state properly the relationship of Application Nos. 09/982,553, filed October 17, 2001, and 10/003,711, filed November 15, 2001, to this application and is therefore unacceptable. Note that lines 7-12 of the amendment state "this 10/433,482 application claims the benefit of ... U.S. Non-Provisional Application No. 09/982,553, filed October 17, 2001, and U.S. Non-Provisional Application No. 10/003,711, filed November 15, 2001" and therefore, no proper relationship has been stated.

For the above-stated reasons, the petition is **DISMISSED**

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

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

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By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to David Bucci at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
William M. ANTHONY :
Application No. 10/433,482 : DECISION DISMISSING PETITIONS
Filed: June 12, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. X2YA0017U-PCT-US :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 12, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

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

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

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed December 12, 2006 fails to properly claim priority to various applications for the following reasons: (1) 10/433,482 was filed June 12, 2003 and both 10/003,711 and 09/982,553 were abandoned on January 18, 2003, therefore 10/433,482 cannot be a continuation-in-part of either 10/003,711 nor 09/982,553 as there is no copendency between 10/433,482 and the other two applications; (2) on lines 7-10 of the priority claim 10/433,482 cannot claim benefit of provisional applications 60/255,818, 60/280,819, 60/302,429, and 60/310,962 as there is no copendency between 10/433,482 and the provisional applications; and (3) on lines 34-38 of the priority claim 10/432,480 cannot claim the benefit of provisional applications 60/253,793, 60/255,818, 60/280,819, 60/302,429, and 60/310,962 as there is no copendency between 10/432,840 and the provisional applications.

For the above-stated reasons, the petition is **DISMISSED**

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

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

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Any questions concerning this matter may be directed to David Bucci at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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APR 12 2007

OFFICE OF PETITIONS

In re Application of :
William M. ANTHONY :
Application No. 10/433,482 : DECISION DISMISSING PETITIONS
Filed: June 12, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. X2YA0017U-PCT-US :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 4, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed December 12, 2006 fails to properly claim priority to various applications for the following reasons: (1) on lines 8 and 9 of the priority claim 10/433,482 was filed June 12, 2003 and both 10/003,711 and 09/982,553 were abandoned on January 18, 2003, therefore 10/433,482 cannot be a continuation-in-part of either 10/003,711 nor 09/982,553 as there is no copendency between 10/433,482 and the other two applications; (2) on lines 11-14 of the priority claim 10/433,482 cannot claim benefit of provisional applications 60/255,818, 60/280,819, 60/302,429, and 60/310,962 as there is no copendency between 10/433,482 and the provisional applications; and (3) on lines 40-44 of the priority claim 10/432,480 cannot claim the benefit of provisional applications 60/253,793, 60/255,818, 60/280,819, 60/302,429, and 60/310,962 as there is no copendency between 10/432,840 and the provisional applications. Additionally, it is noted that on line 37 of the priority claim "field" should be --filed--.

For the above-stated reasons, the petition is **DISMISSED**

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

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Any questions concerning this matter may be directed to David Bucci at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
William M. ANTHONY :
Application No. 10/433,482 : DECISION ON PETITIONS
Filed: June 12, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. X2YA0017UPCT-US :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed April 23, 2007 and supplemented June 28, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the additional benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **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 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(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

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 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 the undersigned at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2831 for appropriate action on the amendment submitted June 28, 2007, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/433,482	06/12/2003	2831	1592	X2YA0017UPCT-US	25	4

CONFIRMATION NO. 5267

31518
NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

CORRECTED FILING RECEIPT

OC000000024801478

Date Mailed: 07/12/2007

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)

William M. Anthony, Erie, PA;

Power of Attorney:

Richard Neifeld--35299

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US01/48861 12/17/2001
which is a CON of 10/003,711 11/15/2001 ABN
and is a CON of 09/982,553 10/17/2001 ABN
and claims benefit of 60/255,818 12/15/2000
and claims benefit of 60/280,819 04/02/2001
and claims benefit of 60/302,429 07/02/2001
and claims benefit of 60/310,962 08/08/2001
This application 10/433,482
is a CIP of 09/996,355 11/29/2001 ABN
and is a CIP of 10/432,840 05/28/2003
which is a 371 of PCT/US01/44681 11/29/2001
and said 09/996,355 11/29/2001
is a CIP of 10/003,711 11/15/2001 ABN
which is a CIP of 09/982,553 10/17/2001 ABN
and said 09/996,355 11/29/2001
claims benefit of 60/253,793 11/29/2000
and claims benefit of 60/255,818 12/15/2000
and claims benefit of 60/280,819 04/02/2001
and claims benefit of 60/302,429 07/02/2001
and claims benefit of 60/310,962 08/08/2001

and said 10/003,711 11/15/2001
is a CIP of 09/982,553 10/17/2001 ABN
and claims benefit of 60/248,914 11/15/2000
and claims benefit of 60/252,766 11/22/2000
and claims benefit of 60/253,793 11/29/2000
and claims benefit of 60/255,818 12/15/2000
and claims benefit of 60/280,819 04/02/2001
and claims benefit of 60/302,429 07/02/2001
and claims benefit of 60/310,962 08/08/2001
and said 09/982,553 10/17/2001
claims benefit of 60/241,128 10/17/2000
and said 10/432,840 05/28/2003
is a 371 of PCT/US01/44681 11/29/2001
which is a CIP of 10/003,711 11/15/2001 ABN
which is a CIP of 09/982,553 10/17/2001 ABN
and said PCT/US01/44681 11/29/2001
claims benefit of 60/253,793 11/29/2000
and claims benefit of 60/255,818 12/15/2000
and claims benefit of 60/280,819 04/02/2001
and claims benefit of 60/302,429 07/02/2001
and claims benefit of 60/310,962 08/08/2001

Foreign Applications

If Required, Foreign Filing License Granted: 07/12/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/433,482

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ENERGY PATHWAY ARRANGEMENTS FOR ENERGY CONDITIONING

Preliminary Class

361

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).

03 DEC 2003

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Ronald J. Baron
Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, New York 11791

In re Application of :
RUBIDO et al. :
Application No.: 10/433,492 : DECISION ON PETITION
PCT No.: PCT/CU01/00009 : UNDER 37 CFR 1.47(a)
Int. Filing: 29 November 2001 :
Priority Date: 01 December 2000 :
Attorney Docket No.: 976-13PCT/US :
For: METHOD FOR OBTAINING :
ANTIGENIC AGGREGATES AND THE
USE THEREOF IN FORMULATIONS

This is a response to applicants' "Petition Under 37 CFR 1.47(a)" filed 02 October 2003 to accept the application without the signatures of joint inventors, Luis Javier Cruz Ricondo and Dina Tleugabulova.

BACKGROUND

On 29 November 2001, applicants filed international application PCT/CU01/00009, which designated the United States. A Demand for international preliminary examination electing the United States was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 June 2003.

On 30 May 2003, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 08 September 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 02 October 2003, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or

cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and (4) have been satisfied.

Regarding item (2) above, Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration 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 CFR 1.47. Such a petition will be dismissed as inappropriate.
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

a. Inventor Luis Javier Cruz Ricondo

A review of the present petition reveals that applicants have not provided an acceptable showing that a diligent effort was made to reach the non-signing inventor, Luis Javier Cruz Ricondo. Petitioner has provided a copy of the cover letter and delivery certificate addressed to Luis Javier Cruz Ricondo, however, these documents have not been translated. Applicant must provide a complete translation of the cover letter and delivery certificate. Additionally, were any other attempts made to locate Luis Javier Cruz Ricondo? The single mailing of the papers to the non-signing inventor's last known address does not constitute a "diligent" effort to locate the inventor. Applicant must show that alternative means were employed, such as a search of telephone and/or Internet directories, in an attempt to locate Luis Javier Cruz Ricondo.

b. Inventor Dina Tleugabulova

A review of the present petition reveals that applicants have not provided an acceptable showing that a diligent effort was made to reach the non-signing inventor, Dina Tleugabulova. Petitioner has provided a copy of the cover letter and delivery certificate addressed to Dina Tleugabulova, however, these documents have not been translated. Applicant must provide a complete translation of the cover letter and delivery certificate. Additionally, were any other attempts made to locate Dina Tleugabulova? The single mailing of the papers to the non-signing inventor's last known address does not constitute a "diligent" effort to locate the inventor. Applicant must show that alternative means were employed, such as a search of telephone and/or Internet directories, in an attempt to locate Dina Tleugabulova.

For the above reasons, it would not be appropriate to accept this application without the signature of Luis Javier Cruz Ricondo and Dina Tleugabulova at this time.

CONCLUSION

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

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

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

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 703-308-6314
Facsimile: 703-308-6459

20 MAY 2004

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Ronald J. Baron
Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, New York 11791

In re Application of :
RUBIDO et al. :
Application No.: 10/433,492 : DECISION ON PETITION
PCT No.: PCT/CU01/00009 : UNDER 37 CFR 1.47(a)
Int. Filing: 29 November 2001 :
Priority Date: 01 December 2000 :
Attorney Docket No.: 976-13PCT/US :
For: METHOD FOR OBTAINING :
ANTIGENIC AGGREGATES AND THE
USE THEREOF IN FORMULATIONS

This is a response to applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed 01 March 2004 to accept the application without the signature of joint inventors, Luis Javier Cruz Ricondo.

BACKGROUND

On 29 November 2001, applicants filed international application PCT/CU01/00009, which designated the United States. A Demand for international preliminary examination electing the United States was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 June 2003.

On 30 May 2003, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 08 September 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 02 October 2003, applicants filed the present petition under 37 CFR 1.47(a). Applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice in a decision dated 03 December 2003.

On 01 March 2004, applicants filed Renewed Petition under 37 CFR 1.47(a) which included a declaration executed by Dina Tleugabulova.

Application No.:10/433,492

DISCUSSION

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

As to Item (2), a review of the present petition and the accompanying papers reveals that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Luis Javier Cruz Ricondo. The steps taken are sufficient to show that the missing inventor, Luis Javier Cruz Ricondo, could not be reached after diligent effort.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 29 November 2001 under 35 U.S.C. 363, and will be given a date of **01 March 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 703-308-6314
Facsimile: 703-308-6459

20 MAY 2004

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Luis Javier Cruz Ricondo
Calle A No. 120 entre 2da y 3ra.
San Miguel del Padron
C. Habana 11000

In re Application of
RUBIDO et al.
Application No.: 10/433,492
PCT No.: PCT/CU01/00009
Int. Filing: 29 November 2001
Priority Date: 01 December 2000
Attorney Docket No.: 976-13PCT/US
For: METHOD FOR OBTAINING ANTIGENIC AGGREGATES AND THE USE THEREOF IN FORMULATIONS

Dear Mr. Ricondo:

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

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

Ronald J. Baron
Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, New York 11791

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LOREN G. HELMREICH
BROWNING BUSHMAN PC
5718 WESTHEIMER - SUITE 1800
HOUSTON, TX 77057

COPY MAILED

FEB 09 2007

OFFICE OF PETITIONS

In re Application of :
Pamela Kay Krutilek et al :
Application No. 11/433,495 : ON PETITION
Filed: May 12, 2006 :
Attorney Docket No. JASPEN-5 :

This is in response to the communication entitled "Response to Missing Parts," filed September 11, 2006, which is being treated as a petition under 37 CFR 1.47(a).

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 items (1), (2) and (4) set forth above. As to item (3), as authorized, the $200 fee for the petition under 37 CFR 1.47(a) will be charged to petitioner's deposit account.

As to item (1) above, it is noted that a letter dated September 5, 2006 was mailed to non-signing inventor Margaret Scheib asking her to reconsider executing the Declaration and Power of Attorney. The letter of September 5, 2006 indicates that a copy

of the previously submitted provisional application, a copy of the patent application, a copy of the executed assignment, and the unexecuted Declaration and Power of Attorney were mailed therewith. This petition was filed by certificate of mailing on September 7, 2006, just two days after the mailing of the letter to Ms. Scheib. In view of the relatively short time between the mailing of the letter to Ms. Scheib and the mailing of the present petition, there would appear to have been insufficient time within which to receive a reply to the letter of September 5, 2006. Therefore, petitioner must state and/or provide corroborating evidence as to whether any further communication was received from Ms. Scheib between the date of filing this petition and the mailing of this decision on petition concerning her refusal to execute the application papers mailed on September 5, 2006.

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.

As to item (2), an oath or declaration for patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration does not set forth the inventors' residence and post office address. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by joint inventor Pamela Kay Krutilek on behalf of herself and joint inventor Margaret Scheib is REQUIRED. *See* 37 CFR 1.76 and MPEP 409.03(a).

As to item (4), a statement of the non-signing inventor's last known address is missing and is required.

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

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

By Hand: U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

23 JAN 2009

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P.O. BOX 1450
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PETER F. CORLESS
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of LEE et al :
U.S. Application No.: 10/433,508 :
PCT Application No.: PCT/KR2001/002137 :
Int. Filing Date: 10 December 2001 :
Priority Date Claimed: 11 December 2000 : DECISION
Attorney Docket No.: 59318(71970) :
For: FUSION PROTEIN HAVING THE :
ENHANCED IN VIVO ACTIVITY OF :
ERYTHROPOIETIN :

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181" filed 02 December 2008.

BACKGROUND

On 10 December 2001, applicant filed international application PCT/KR2001/002137, which claimed priority of an earlier Korea application filed 11 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 20 June 2002. The thirty-month period for paying the basic national fee in the United States expired on 11 June 2003.

On 03 June 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 04 May 2004, applicant purportedly filed a request to change the correspondence address.

On 11 September 2003, the DO/EO/US mailed a Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922).[1]

[1] Copy attached.

On 08 December 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely reply to Form PCT/DO/EO/922.

On 02 December 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

Form PCT/DO/EO/922 was sent to an address which is different from that specified in the copy of applicant's request to change the correspondence address. Thus, if applicant sufficiently demonstrates that the request to change the correspondence address was filed before the mailing of Form PCT/DO/EO/922, then the holding of abandonment will be withdrawn.

A review of the application file reveals that the request to change the correspondence address purportedly filed on 04 May 2004 is not present.

37 CFR 1.8(b) states:

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

With regard to item (1) above, the present petition is deemed to be promptly filed.

With regard to item (2) above, a copy of the previously transmitted declaration and certificate has been provided.

With regard to item (3) above, the petition does not include a statement from the person whose name appears on the certificate of transmission (i.e. Lee Dunkle), which attests to the previous transmission. It is noted that the copy of the sending unit's report submitted with the petition may be used to support such statement once the statement has been filed.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

2 2 MAY 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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PETER F. CORLESS
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of LEE et al	:	
U.S. Application No.: 10/433,508	:	
PCT Application No.: PCT/KR2001/002137	:	
Int. Filing Date: 10 December 2001	:	
Priority Date Claimed: 11 December 2000	:	DECISION
Attorney Docket No.: 59318(71970)	:	
For: FUSION PROTEIN HAVING THE ENHANCED IN VIVO ACTIVITY OF ERYTHROPOIETIN	:	

This is in response to applicant's "Renewed Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181" filed 23 March 2009.

BACKGROUND

On 10 December 2001, applicant filed international application PCT/KR2001/002137, which claimed priority of an earlier Korea application filed 11 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 20 June 2002. The thirty-month period for paying the basic national fee in the United States expired on 11 June 2003.

On 03 June 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 04 May 2004, applicant filed a request to change the correspondence address.

On 11 September 2003, the DO/EO/US mailed a Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922).

On 08 December 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely reply to Form PCT/DO/EO/922.

On 02 December 2008, applicant filed a petition under 37 CFR 1.181.

On 23 January 2009, this Office mailed a decision dismissing the 02 December 2008 petition.

On 23 March 2009, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

Form PCT/DO/EO/922 was sent to an address which is different from that specified in the copy of applicant's request to change the correspondence address. Thus, if applicant sufficiently demonstrates that the request to change the correspondence address was filed before the mailing of Form PCT/DO/EO/922, then the holding of abandonment will be withdrawn.

A review of the application file reveals that the request to change the correspondence address purportedly filed on 04 May 2004 is not present.

37 CFR 1.8(b) states:

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

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3) above, the renewed petition includes a statement from the person whose name appears on the certificate of transmission (i.e. Lee Dunkle), which attests to the previous transmission. A copy of the sending unit's report has been submitted and supports petitioner's assertion that the change of correspondence address was filed on 04 May 2004.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 08 December 2004 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 10 December 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 03 June 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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OFFICE OF PETITIONS

ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH PA 15219

In re Application of
SUGISHITA et al.
Application No.: 10/433,515
Attorney Docket No.: 290390-00001

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

This is a decision on the petition under 37 CFR 1.137(b), filed April 17, 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 August 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, by operation of law, the above-identified application became abandoned at midnight on November 23, 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; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 23, 2005 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 1713.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3286.

Cynthia M. Kratz
Attorney Advisor

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 09,2007

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/433,518 Patent No.: 6900683 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

N. DREW RICHARDS
SUPERVISORY PATENT EXAMINER
SPE

2816
Art Unit

#4

28 JUN 2004

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Kevin M. Kocun
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090

In re Application of	:	DECISION ON
Frederic Conchy	:	
PCT No.: PCT/FR01/03837	:	
Application No.: 10/433,531	:	PETITION UNDER
Int. Filing Date: 05 December 2001	:	
Priority Date: 05 December 2000	:	
Attorney's Docket No.: SPINE 3.3-417	:	37 CFR 1.47(b)
For: SPINAL INTERVERTEBRAL IMPLANT ADJUSTABLE IN SITU	:	

This decision is in response to applicant's "RESPONSE TO NOTICE TO FILE NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) AND PETITION" submitted on 30 April 2004 that seeks the acceptance of the application without the signature of the inventor Frederic Conchy. Applicant has been charged the requisite $130 petition fee to Deposit Account No. 12-1095 as authorized in the petition.

BACKGROUND

On 05 December 2001, applicant filed international application PCT/FR01/03837, which claimed priority of an earlier application filed 05 December 2000. A copy of the intentional application was transmitted on 13 June 2002 to the USPTO from the International Bureau.

On 05 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration or oath was submitted at such time.

On 30 September 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating, *inter alia*, that : (1) translation of the application into English, (2) processing fee for providing the translation of the application and/or the Annexes later than 30 months from the priority date and (3) the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing

date must be furnished within the period set forth below. The notification also indicated that the surcharge for filing the oath or declaration later than 30 months from the priority date as required by 37 CFR 1.492(e) must be filed. The notification set a period of two (2) months from the date of this notice or 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), petitioner filed on 30 April 2004, the following:

1) a petition under 37 CFR 1.47(b);

2) a Declaration for U.S. Patent Application executed by Mr. Kevin M. Kocun;

3) Declaration by Mr. Chris McDonnell;

4) the required petition fee.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicant has satisfied items (1) and (3) but not items (2), and (4)-(6) thus not completing the requirements under 37 CFR 1.47(b).

Applicant has satisfied item (1) since the petition fee has been provided by applicant.

Regarding requirement (2), although petitioner has concluded that Frederic Conchy has refused to sign the declaration the petition does not include sufficient proof to establish that inventor Mr. Conchy has refused to execute the application. The standards for proof are set forth in MPEP § 409.03(d), which provides:

> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted....
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the non - signing inventor, or, if the non - signing inventor is represented by counsel, to the address of the non - signing inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

Although the application papers including the statutory Declaration were presented to Mr. Conchy for his signature, the petition does not include sufficient proof to establish that inventor Mr. Conchy has refused to execute the application. In this instance, Mr. McDonnell's declaration does not detail the time and place of the verbal refusal as required when there is an express oral refusal.

Consequently, the current record does not sufficiently establish Mr. Conchy's refusal to sign the required papers.

Regarding item (3), applicant has stated the last known address of the inventor:

Mr. Frederic Conchy
4, chemin des Bouvreuils
Saint-Medard d'Eyrans
France F-33650

Regarding item (4) a declaration has been provided which is executed by Kevin M. Kocun, a patent agent signing on behalf of the corporation for the non-signing sole inventor, Mr. Conchy. The declaration, however, is defective because neither proof of the agent's authority in the form of a statement signed by an appropriate corporate officer has been submitted nor has the agent stated that he is authorized to sign on behalf of the corporation. Note MPEP § 409.03(b).

Regarding item (5) applicant has not submitted sufficient proof that applicant has a proprietary interest in the application. A copy of the employment agreement has been submitted but it has not been completely translated. In addition, the employment agreement refers to Societe DIMSO and not "Stryker" and petitioner has not provided proof that Societe DIMSO and "Stryker" are the same company.

Regarding item (6) applicant has not presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage if the response to the missing parts of the application is not timely.

Accordingly, since items (2) and (4)-(6) under 37 CFR 1.47(b) have not been met; therefore, it is not appropriate to accord the national stage application status at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." 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 the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

DT02 Rec'd PCT/PTO 27 AUG 2004

#5

Express Mail Label No. EV 312607153 US Dated: August 27, 2004

Docket No.: SPINE 3.3-417
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Frédéric Conchy

Application No.: 10/433,531 Confirmation No.: 2834

Filed: June 5, 2003 Art Unit: Not Yet Assigned

For: SPINAL INTERVERTEBRAL IMPLANT ADJUSTABLE IN SITU Examiner: Not Yet Assigned

RENEWED PETITION UNDER 37 C.F.R. § 1.47(b)

MS PCT
Office of PCT Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Decision On Petition under 37 C.F.R. § 1.47(b) dated June 28, 2003, dismissing the original petition under 37 C.F.R. § 1.47(b) without prejudice. It is respectfully requested, in light of the arguments and evidence set forth herein, that a petition under 37 C.F.R. § 1.47(b) be granted.

The June 28, 2003 communication from PCT Legal Examiner Leonard Smith states:

> A petition under 37 C.F.R. § 1.47(b) must be accompanied by (1) the fee under 37 C.F.R. § 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 C.F.R. § 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 C.F.R. § 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Legal Examiner Smith also indicated that applicant's original petition satisfied items (1) and (3), but not items (2), and (4)-(6), thus not completing the requirements under 37 C.F.R. § 1.47(b). The present renewed petition further clarifies and satisfies items (2) and (4)-(6) herein.

RECEIVED

With regard to item (2), applicant submits herewith the declaration of Kevin M. Kocun ("the Kocun declaration") in response to Legal Examiner's indication that the original petition did not include sufficient proof to establish that Mr. Conchy refused to execute the application. This declaration is enclosed as Exhibit A. As stated in the Kocun declaration, a further attempt to present the application papers was made on July 29, 2004 by written correspondence ("the July 29th correspondence"), via Federal Express to Mr. Conchy's last known address. A copy of the July 29th correspondence is enclosed as Exhibit B. The July 29th correspondence was received on August 9, 2004, by Mr. Conchy, as shown by the Federal Express shipment tracking results of Exhibit C. The July 29th correspondence included succinct instructions regarding the completion of the declaration and the deposit of such via an included Federal Express envelope. Instructions regarding how to reply in the event of refusal were also included in the July 29th correspondence.

As stated in the Kocun declaration, no response has been garnered from Mr. Conchy. The July 29th correspondence set forth that if Mr. Conchy wished to sign the statutory declaration he should do so via the included and addressed Federal Express envelope. A Federal Express telephone number was also included to allow Mr. Conchy to request a pick up in his area of France. In the event that Mr. Conchy did not wish to sign the statutory declaration, the July 29th correspondence set forth that he should advise Mr. Kocun in writing or by calling a toll free telephone number. However, Mr. Conchy has not responded in any manner to these requests. Exhibit D, an additional Federal Express shipment tracking printout, shows that the included Federal Express envelope was never placed in Federal Express possession despite the clear instructions on how to do so and the ease with which one can send a Federal Express package, particularly with a completed envelope and phone number. Similarly, as stated in the Kocun declaration, no other written correspondence or telephone calls were received from Mr. Conchy. Mr. Conchy's telephone number is unknown so calls to him could not be placed. As such, it is inherently clear in his failure to respond that Mr. Conchy has refused and will continue to refuse to sign the statutory declaration. Therefore, it is respectfully requested that item (2) is recognized as being sufficiently established.

It is respectfully argued that both the original petition under 37 C.F.R. § 1.47(b) and the statutory declaration submitted on April 30, 2004 properly adhered to the requirements of item (4). MPEP § 409.03(b) states, "[w]here an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation." The original petition under 37 C.F.R. § 1.47(b) stated, "Kevin M. Kocun is authorized to sign on behalf of Stryker." And, the statutory declaration submitted on April 30, 2004 stated, "Kevin M Kocun, Patent Agent has been authorized to and hereby signs on behalf of Stryker Spine." Clearly, both of these statements satisfy the requirement that the agent simply state he is authorized to sign on behalf of the corporation. Nevertheless, the Kocun declaration included herewith, contains a similar statement regarding Kevin M Kocun's authority to sign on behalf of Stryker Spine.

With regard to item (5), Exhibit E is a translated copy of Mr. Conchy's employment agreement originally presented in French. As is clearly shown in Article 11 of Amendment No. 03 (page 12), Mr. Conchy had a contractual duty to assign any invention relating to his employment to his employer. It is also shown in Amendment No. 5 (page 15) to the employment contract, that Mr. Conchy was initially employed by the company Dimso, and his employment duties under the initial employment contract continued after the name change from Dimso to Stryker Spine. As shown in the Certificate of Employment (page 17), Mr. Conchy left employment with Stryker Spine on July 12, 2002.

Finally, with regard to item (6), it is clear from the evidence presented previously and herein that Mr. Conchy had a duty to assign the subject matter of the present application to applicant. Failure to grant the petition under 37 C.F.R. § 1.47(b) would prevent applicant from properly responding to the notice of missing parts, and thereby cause the present application to go abandoned. If such were the case, applicant would lose all rights it is due in the present invention. Therefore, it is respectfully requested that the present petition be granted.

It is maintained that the previously presented Response and Petition, along with the present Renewed Petition and the papers enclosed herewith, meet the requirements of

37 C.F.R. § 1.47(b). Acceptance of the above-referenced application under 37 C.F.R. § 1.47 is respectfully requested.

In the event that any fees are due in connection with this present petition, the Commissioner is hereby authorized to charge Deposit Account No. 12-1095 therefor.

Dated: August 27, 2004

Respectfully submitted,

By_____

Kevin M. Kocun, Patent Agent
Registration No.: 54,230
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Agent for Applicant

Express Mail Label No. EV 312607153 US Dated: August 27, 2004

Docket No.: SPINE 3.3-417
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Frédéric Conchy

Application No.: 10/433,531

Confirmation No.: 2834

Filed: June 5, 2003

Art Unit: Not Yet Assigned

For: SPINAL INTERVERTEBRAL IMPLANT ADJUSTABLE IN SITU

Examiner: Not Yet Assigned

MS PCT
Office of PCT Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF KEVIN M KOCUN UNDER 37 C.F.R. § 1.47(b)

I, KEVIN M. KOCUN, declare and say that:

1. I am a registered patent agent (Registration No. 54,230) representing Stryker Spine ("Stryker"), the assignee of the above-referenced United Stated Patent Application No. 10/433,531 ("the '531 application") and any patents issuing therefrom. I submit this declaration with the proof required to establish that the sole inventor of the '531 application, Frédéric Conchy, has refused to participate in the application.

2. I have first-hand knowledge that Mr. Conchy has been presented with application papers relating to the '531 application. In addition to being previously presented with the application papers, as outlined in the declaration of Chris McDonnell dated April 29, 2004, a July 29, 2004 written communication ("the July 29th communication") sent via Federal Express is enclosed herewith and labeled as Exhibit B. The July 29th communication included a statutory declaration relating to the '531 application and explicit instructions on completing and forwarding the same to my office, via an included Federal Express envelope. The July 29th communication also included instructions for responding in the event that Mr. Conchy wished to refuse the execution of the statutory declaration. These instructions included responding in writing or via a toll free telephone number.

3. I also have first-hand knowledge that Mr. Conchy received the July 29th communication on August 9, 2004. This is shown in the Federal Express shipment tracking printout for the July 29th communication of Exhibit C.

4. I also have first-hand knowledge that Mr. Conchy has not responded to the July 29th communication. Exhibit D is a Federal Express shipment tracking printout for the Federal Express envelope included in the July 29th communication. As shown in Exhibit D, this envelope has not been deposited with Federal Express. Similarly, myself, nor anyone else in my office, has received any other communication, either in writing or via telephone, regarding Mr. Conchy's refusal to execute the statutory declaration. We are unaware of Mr. Conchy's phone number, and thus have not been able to call him.

5. It is my current opinion that Mr. Conchy's failure to respond is evidence that he refuses and will continue to refuse to sign the statutory Declaration.

6. I have authority, as patent agent for Stryker Spine, to sign on behalf of the corporation.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and, further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: August 27, 2004

KEVIN M. KOCUN

LAW OFFICES

LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP

SIDNEY DAVID
JOSEPH S. LITTENBERG
ARNOLD H. KRUMHOLZ
WILLIAM L. MENTLIK
JOHN R. NELSON
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WESTFIELD, NEW JERSEY 07090-1497

(908) 654-5000
FAX: (908) 654-7866
www.ldlkm.com

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Writer's Direct Dial:
(908) 518-6383
E-mail: kkocun@ldlkm.com

THOMAS M. PALISI
MICHAEL J. DOHERTY
MATTHEW B. DERNIER
FRANK J. CHESKY III
MICHAEL D. BRAUNSTEIN
SCOTT E. CHARNEY
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COREY M. WILLIAMS
DOUGLAS T. HUDSON*
RUSSELL W. FAEGENBURG*
DARYL K. NEFF
SCOTT S. SERVILLA

OF COUNSEL
LAWRENCE I. LERNER
DANIEL H. BOBIS
RAYMOND W. AUGUSTIN
HARVEY L. COHEN
GLEN M. DIEHL
JAMES M. HALL++
JOHN P. MALDJIAN
GERARD P. NORTON*

PATENT AGENT
ANDREW T. ZIDEL

July 29, 2004

Via Federal Express

Mr. Frederic Conchy
4, chemin des Bouvreuils
Saint-Medard d'Eyrans, FRANCE F-33650

Re: SPINE 3.3-417
Application No.: 10/433,531
U.S. Appln. Based on PCT/FR01/03837
SPINAL INTERVERTEBRAL IMPLANT ADJUSTABLE IN SITU

Re: SPINE 3.3-418
Application No.: 10/433,769
U.S. Appln. Based on PCT/FR01/03838
SPINAL INTERVERTEBRAL IMPLANT ADJUSTABLE IN SITU COMPRISING HARD PASS POINT

Dear Mr. Conchy:

Enclosed please find two declarations relating to the above mentioned United States patent applications, for which you have been named as inventor. Please execute each of the declarations, enclose the declarations in the included Federal Express envelope (with our account number), and deposit it with Federal Express or request a pick up by calling 33 140 853 888. If, for whatever reason, you cannot sign the declarations, please advise us in writing or call the undersign using the following toll free number (800) 654-5001.

If you have any questions or comments, please do not hesitate to contact us.

Sincerely yours,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK LLP

KEVIN M. KOCUN
Patent Agent

KMK/sm

506968_1.DOC

Track Shipments
Detailed Results

Quick Help

Tracking number	790223676347	**Reference**	SPINE-3478 3479/KMK
Signed for by	. CONCHY	**Delivery location**	SAINT-MEDARD D'EYRANS FR
Ship date	Jul 29, 2004		
Delivery date	Aug 9, 2004 11:45 AM	**Delivered to**	Receptionist/Front Desk
		Service type	Priority Envelope
		Weight	1.0 lbs.
Status	Delivered		

Date/Time		Activity	Location	Details
Aug 9, 2004	11:45 AM	**Delivered**	SAINT-MEDARD D'EYRANS FR	
	9:00 AM	On FedEx vehicle for delivery	MONT DE MARSAN FR	
Aug 6, 2004	2:04 PM	Delivery exception	MONT DE MARSAN FR	Customer not available or business closed
Aug 5, 2004	9:00 AM	On FedEx vehicle for delivery	MONT DE MARSAN FR	
Aug 4, 2004	7:00 PM	Delivery exception	MONT DE MARSAN FR	Future delivery requested
Aug 2, 2004	10:52 AM	Delivery exception	MONT DE MARSAN FR	Incorrect address
	8:00 AM	On FedEx vehicle for delivery	MONT DE MARSAN FR	
	7:26 AM	At local FedEx facility	MONT DE MARSAN FR	
Jul 30, 2004	9:55 PM	In transit	PARIS FR	
	9:55 PM	Int'l shipment release	PARIS FR	
	6:17 AM	In transit	NEWARK, NJ	Departed location
	3:06 AM	In transit	NEWARK, NJ	Departed location
Jul 29, 2004	10:34 PM	In transit	NEWARK, NJ	
	9:51 PM	Left origin	UNION, NJ	
	5:36 PM	Picked up	UNION, NJ	
	1:14 PM	Package data transmitted to FedEx; package not in FedEx possession		

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Track Shipments
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Quick Help

Tracking number	791899189189	**Reference**	SPINE-3478 & 3479/KMK
Ship date	Jul 29, 2004	**Delivery location**	WESTFIELD, NJ
		Service type	Priority Envelope
		Weight	1.0 lbs.
Status	Package data transmitted to FedEx; package not in FedEx possession		

Date/Time		Activity	Location	Details
Jul 29, 2004	1:11 PM	**Package data transmitted to FedEx; package not in FedEx possession**		

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TRANSLATION (SPINE 3.3-417):

EMPLOYMENT CONTRACT

Between the undersigned,

The company DIMSO
Company with a capital of 1,275,000 francs
URSSAF No. 330147625115
Headquartered at:
Zone Industrielle de Marticot
33610 CESTAS,

represented by its General Manager

ON THE ONE HAND,

and

Mr. Frédéric CONCHY
6, rue de Rigoulet
33000 BORDEAUX

ON THE OTHER HAND.

The following has been agreed upon and decreed:

ARTICLE 1: HIRING

Mr. Frédéric CONCHY, who declares himself to be free of any employment, is hired as R & D technician, class 335, level V, grade 2, pending the new employee medical examination.

The present contract is subject to the provisions of the Collective Bargaining Agreement for the Metallurgical Industry.

ARTICLE 2: DURATION OF THE CONTRACT – TRIAL PERIOD

The present contract is concluded for an indefinite duration starting 15 August 1994.

It will be final only after the end of a trial period of 1 month.
During this period, each of the parties may terminate the contract without notice or penalty.

ARTICLE 3: JOB DESCRIPTION

In his capacity as R & D technician, Mr. Frédéric CONCHY will have the status of foreman and will be with the Research and Development Department.

The duties assigned to Mr. Frédéric CONCHY are dynamic in nature and may be modified by DIMSO as a function of administrative and managerial requirements.

ARTICLE 4: WORK SCHEDULE

The work schedule is that of the occupational category to which Mr. Frédéric CONCHY belongs.

The work schedule of Mr. Frédéric CONCHY will be subject to modifications as a function of the particular working conditions.

ARTICLE 5: PLACE OF WORK

Mr. Frédéric CONCHY will perform his duties at the DIMSO site in CESTAS.

Depending on the services needed, DIMSO reserves the right to ask Mr. Frédéric CONCHY to make temporary moves not requiring a change of residence.

ARTICLE 6: PAYMENT

In return for his work, Mr. Frédéric CONCHY will receive a gross monthly payment of 11,000 francs for a period of 12 months.

ARTICLE 7: CONDITIONS OF IMPLEMENTING THE CONTRACT

Mr. Frédéric CONCHY agrees to comply with all the particular work assignments and instructions which will be given to him.

In addition, he agrees never to divulge to anyone, physical or intellectual, any confidential information obtained during his employment by the company and concerning the business of the company or of other companies of the Group, their clients, or their suppliers, for the entire duration of the present contract and thereafter.

Mr. Frédéric CONCHY will inform the company without delay of any change subsequent to his hiring which might affect his civil status, his family situation, or his address.

The present contract is drawn up in two copies, one of which must be signed and returned to DIMSO as soon as possible.

CESTAS, 15 August 1994

Employee*
Read and approved
/signature/
Frédéric CONCHY

General Manager
/signature/
Eric PETRETO

*Signature preceded by the words "Read and approved."

AMENDMENT No. 1 TO THE DIMSO SA/MR. FREDERIC CONCHY EMPLOYMENT CONTRACT SIGNED 15 AUGUST 1994

BETWEEN

The company DIMSO, a French company with a capital of 1,275,000 French francs, registered with the Bordeaux Commercial Register under No. B310967302, with headquarters at Zone Industrielle de Marticot, 33610 Cestas,
represented by Mr. Eric PETRETO, General Manager (hereinafter called "the company")

On the one hand,

AND

Mr. Frédéric CONCHY
6, rue de Rigoulet
33000 BORDEAUX

On the other hand,

THE FOLLOWING HAS BEEN AGREED UPON:

ARTICLE 8: INTELLECTUAL AND/OR INDUSTRIAL PROPERTY RIGHTS

If in the exercise of his duties, which involve inventive activity, Mr. Frédéric CONCHY develops any invention whatsoever, patentable or not, creates plans or models, methods, programs, formulas, or processes concerning the activities, studies, or research of the company and liable to be protected, the resulting intellectual and/or industrial property rights will automatically belong to the company.

All the other provisions of the contract remain unchanged.

Cestas, 23 October 1995.

/signature/
The Company
Eric PETRETO

read and approved
/signature/
Frédéric CONCHY
(Preceded by the words "read and approved")

AMENDMENT No. 02 TO THE EMPLOYMENT CONTRACT CONCLUDED 15 AUGUST 1994

BETWEEN THE UNDERSIGNED

The company DIMSO, a French company with a capital of 1,275,000 francs, registered with the Bordeaux Commercial Register under No. B310967302, URSSAF No. 330 147 625 115, SIRET No. 310 967 302 00038, APE Code 331 B

Headquartered at Zone Industrielle Marticot, 33610 Cestas
Represented by Mr. Erick CLOIX, General Manager
(hereinafter called "the company")

On the one hand,

AND

Mr. Frédéric CONCHY
Residing at 6, rue de Rigoulet
33000 BORDEAUX
National Health Service No. 1 66 06 13 055 329 11
Born 9 June 1966 in Marseille (13)

On the other hand,

THE FOLLOWING HAS BEEN AGREED UPON AND DECREED:

Article 1: JOB DESCRIPTION

As Research and Development Technician, the duties of Mr. Frédéric CONCHY are the following:

1. He is in charge of the testing laboratory. In the framework of this duty:

– he drafts and develops mechanical test protocols after discussing them with the project chief;

– he is responsible for running the laboratory (planning tests, maintenance of testing equipment);

– he designs the testing tools;

– he makes sure the tests are running well and he drafts the reports;

– depending on the instructions from the Director of Research and Development, he drafts the procedures necessary for the proper running of the testing laboratory.

2. He coordinates the tests which may be subcontracted out.

3. He manages the projects entrusted to him by the Director of Research and Development within the specified deadlines. In this framework:

– he defines and designs the layouts, instruments, and systems according to specifications;

– he develops and ensures close collaboration with design people;

– he establishes the plans and has the prototypes made which are necessary for the projects to progress.

Mr. Frédéric CONCHY reports to the Director of Research and Development.

Article 2: STATUS AND PAYMENT

The present amendment is subject to the provisions of the Collective Bargaining Agreement for the Metallurgical Industry and is concluded for an indefinite time without a trial period, starting 1 May 1997.

In his capacity as Research and Development Technician, Mr. Frédéric CONCHY retains the status of foreman with the occupational rank of level V, class 365.

In return for his work, Mr. Frédéric CONCHY will receive:

– a gross monthly payment of 13,500 francs (thirteen thousand five hundred francs).

All other provisions given in the initial contract concluded on 15 August 1994 remain unchanged.

The present amendment is drafted in two copies.

Cestas, 1 May 1997

read and approved
/signature/
Frédéric CONCHY
(Preceded by the words "read and approved")

/signature/
Erick CLOIX
General Manager

AMENDMENT No. 03 TO THE EMPLOYMENT CONTRACT CONCLUDED 15 AUGUST 1994

The company DIMSO, a French company with a capital of 1,275,000 francs, registered with the Bordeaux Commercial Register under No. B310967302, URSSAF No. 330 147 625 115, SIRET No. 310 967 302 00038, APE Code 331 B

Headquartered at Zone Industrielle Marticot, 33610 Cestas
Represented by Mr. Erick CLOIX, General Manager
(hereinafter called "the company")

On the one hand,

AND

Mr. Frédéric CONCHY
Residing at 6, rue de Rigoulet
33000 BORDEAUX
National Health Service No. 1 66 06 13 055 329 11
Born 9 June 1966 in Marseille (13)

On the other hand,

THE FOLLOWING HAS BEEN AGREED UPON AND DECREED:

Article 1: MODICATION OF THE JOB DESCRIPTION BY COMMON AGREEMENT OF THE PARTIES

Mr. Frédéric CONCHY was hired on 15 August 1994 as a Research and Development Technician. By common agreement of the parties, the job description of Mr. Frédéric CONCHY has been modified: DIMSO SA assigns to Mr. Frédéric CONCHY, who accepts it, the job of Project Chief in Charge of Testing, with the job status and occupational rank of level II, class 100.

The present amendment is subject to the provisions of the Collective Bargaining Agreement for the Metallurgical Industry.

Article 2: DURATION OF THE CONTRACT

The present amendment is concluded for an indefinite duration without trial period, starting 1 August 1997.

Article 3: JOB DESCRIPTION

In his capacity as Project Chief in Charge of Testing, level II, class 100, Mr. Frédéric CONCHY is responsible for the following, according to the instructions of the Director of Research and Development and in the absence of this latter:

– to be aware of the progress of the various activities under way in the Department so as to be able to inform the Director;

– to ensure the implementation of the actions defined in the framework of the projects and the daily management of the R & D Department;

– to make sure the procedures in force are followed;

– to make decisions under the authority of the R & D Director, after having referred to the General Manager (depending on the degree of importance), in order to avoid any harmful delay in projects;

– to approve orders made within the framework of projects and the daily management of the Department up to a ceiling amount of 10,000.00 francs;

– to sign documents such as: prototype and pre-production plans, production orders, changes in plan, circulation directives (plans, procedures).

As the person in charge of testing, he is responsible for:

– making sure of the good operation of the testing laboratory, while complying with the procedures in force;

– managing testing laboratory personnel according to their job descriptions;

– supervising the drafting of test protocols and reports, the designing of testing apparatus, the running of tests, and the use of testing equipment.

In the framework of his responsibilities as Project Chief and in consideration of the procedures in force, he is mainly responsible for:

– defining and designing layouts, instruments, and systems according to specifications;

– developing and ensuring close collaboration with design people;

– meeting with surgeons to establish specifications;

– making all the plans necessary for the progress of the different phases of projects;

– having prototypes made in-house or by subcontractors according to the estimates and

deadlines agreed upon;

– defining mechanical test protocols in collaboration with the Testing Director;

– being aware of technology that could benefit the R & D Department in the form of technical solutions which might prove useful in other areas;

– assisting in surgical interventions.

Mr. Frédéric CONCHY reports to the Director of Research and Development.

The duties assigned to Mr. Frédéric CONCHY are dynamic in nature, arising on the one hand from the needs of the company and its continuing development, and on the other hand from the experience and developing competence of Mr. Frédéric CONCHY.

Article 4: PLACE OF WORK

Mr. Frédéric CONCHY will perform his job at DIMSO SA, Zone Industrielle de Marticot, 33610 CESTAS.

Nevertheless, it is understood that for reasons involving the organization and the good operation of the business, DIMSO SA may need to change Mr. Frédéric CONCHY's place of work by transferring him to one of our establishments or branches.

Mr. Frédéric CONCHY will be informed of this decision at least 1 month before it goes into effect.

If Mr. Frédéric CONCHY refuses to comply with this decision, the termination of the employment contract which could result will be his fault and he may not claim any compensation for it.

The company agrees to invoke this clause only for reasons dictated by the interests of the company.

Depending on the services needed, DIMSO SA reserves the right to ask Mr. Frédéric CONCHY to make temporary moves not involving a change of residence. Mr. Frédéric CONCHY will be reimbursed for the expenses related to his job, in accordance with article 7.

Article 5: PAYMENT

In return for his work, Mr. Frédéric CONCHY will receive:

– a gross annual payment of 180,000.00 francs (one hundred eighty thousand francs).

It is understood that Mr. Frédéric CONCHY is expected to be dependable and responsible in doing his job, and that it is possible that he may occasionally have to work outside of normal working hours.

Mr. Frédéric CONCHY's payment was determined in consideration of this possibility, and Mr. Frédéric CONCHY will not therefore have the right to claim special payment for this additional work.

Article 6: ABSENCES/SICK LEAVE

Mr. Frédéric CONCHY must inform the company within 48 hours of absences due to illness or accident, which must be explained by a medical certificate.

The company reserves the right to obtain a second opinion from a physician of its choice.

Article 7: JOB-RELATED EXPENSES

Mr. Frédéric CONCHY's job-related expenses will be reimbursed every 2 weeks upon the presentation of receipts, countersigned by his appropriate superior.

Article 8: CONDITIONS FOR IMPLEMENTING THE CONTRACT

Mr. Frédéric CONCHY agrees to comply with all the particular work assignments and instructions which will be given to him. He must also transmit them to his subordinates and will be responsible for their proper implementation.

Mr. Frédéric CONCHY will receive paid annual vacation according to the provisions of the Collective Bargaining Agreement which applies to the company.

Mr. Frédéric CONCHY must inform the company without delay of any change subsequent to his hiring which might affect his civil status, family situation, address, or military status.

Article 9: NON-COMPETITION CLAUSE

In view of the highly technical nature of the job of Project Chief, Mr. Frédéric CONCHY may not do any of the following if the present contract should be terminated, regardless of the reason:

– enter into the service of a company manufacturing or selling products that might compete with those of DIMSO SA;

– be directly or indirectly involved in any way in a business which might compete with DIMSO SA (in the area of spinal surgery).

This prohibition against competition is limited to a period of 1 year, renewable once for the same duration, in accordance with article 28 of the Collective Bargaining Agreement.

This prohibition against competition begins on the day of the effective termination of the contract.

DIMSO SA will notify Mr. Frédéric CONCHY of the renewal of the prohibition against competition by registered letter with return receipt at least 1 month before the expiration of the period of 1 year.

This prohibition covers French territory.

In return for the non-competition obligation specified above, after the effective termination of his contract and for the entire duration of this prohibition, Mr. Frédéric CONCHY will receive a contractual compensation as specified by article 28, para. 4 and 5 of the Collective Bargaining Agreement, i.e.:

– a monthly compensation equal to 5/10 of the average monthly salary plus contractual benefits and bonuses which the employee received during his last 12 months with the company;

– if leaving the company is not based on a serious failing, this monthly compensation is raised to 6/10 of this average so long as he has not found new employment and within the limit of the duration of the non-competition.

The company may, however, free Mr. Frédéric CONCHY from the prohibition against competition and thereby be released from paying the compensation called for in return, provided the party concerned is informed in writing within 8 days following the notification of termination of the employment contract, in accordance with the Collective Bargaining Agreement.

In case Mr. Frédéric CONCHY does not comply with the non-competition clause:

– DIMSO SA will be freed from its obligation to pay the corresponding financial compensation;

– Mr. Frédéric CONCHY must pay a reimbursement for the monetary and intangible damage suffered by DIMSO SA.

DIMSO can order the competitive activity to be stopped under threat of a fine.

Article 10: DISCRETION CLAUSE

Without prejudice to the prohibition against communicating manufacturing secrets decreed by article 418 of the penal code, Mr. Frédéric CONCHY agrees to keep confidential all information concerning the activities of the company which he may acquire while doing his job.

This obligation of discretion pertains to both third parties and employees of the company. It will apply for the entire duration of the contract and will extend after the termination of this latter, regardless of the reason.

Article 11: INTELLECTUAL AND/OR INDUSTRIAL PROPERTY RIGHTS

If in the exercise of his duties, which involve inventive activity, Mr. Frédéric CONCHY develops any invention whatsoever, patentable or not, creates plans or models, methods, programs, formulas, or processes concerning the activities, studies, or research of the company and liable to be protected, the resulting intellectual and/or industrial property rights will automatically belong to the company.

Article 12: TERMINATION OF THE EMPLOYMENT CONTRACT

In accordance with the Collective Bargaining Agreement, each of the parties may terminate the present contract at any time, so long as the other party is notified of his intention in this matter by registered letter with return receipt, except for the case of a serious failing or circumstances beyond control, with observance of the notification deadlines specified.

The present contract is drafted in two copies, one of which must be signed and returned to DIMSO SA as soon as possible.

Cestas
1 August 1997
read and approved
/signature/
Frédéric CONCHY
(Preceded by the words "read and approved")

/signature/
Erick CLOIX
General Manager

AMENDMENT No. 4 TO THE EMPLOYMENT CONTRACT CONCLUDED 15 AUGUST 1994 BETWEEN DIMSO SA MR. FREDERIC CONCHY

BETWEEN

The company DIMSO

A company with a capital of 1,275,000 French francs
Registered with the Bordeaux Commercial Register under No.310 967 302
URSSAF No. 330 147 625 115
SIRET No. 310 967 302 00038
APE code 331B

With headquarters at:
Zone Industrielle de Marticot
33610 CESTAS

Represented by its General Manager

On the one hand,

AND

Mr. Frédéric CONCHY

Residing at:
4, Chemin des Bouvreuils
33650 SAINT MEDARD D'EYRANS

Born 9 June 1966 in Marseille (13)
National Health Service No. 1 66 06 13 055 329 11

On the other hand,

THE FOLLOWING HAS BEEN AGREED UPON AND DECREED:

ARTICLE 1: CONFIDENTIALITY CLAUSE

Mr. Frédéric CONCHY formally agrees to keep totally confidential all the information and all the documents which he will acquire or of which he will have knowledge, in the framework of doing his job or because he belongs to the company.

Mr. Frédéric CONCHY is obliged in particular to keep the most absolute secrecy regarding the company's projects, policies, and marketing methods, the list of suppliers and clients, technical or commercial studies done by the company or by one of its partners, accounting and financial data of the company or other companies belonging to the Group, and litigation of a penal, fiscal, commercial, or labor relations nature.

This information must in no way, unless required by the normal exercise of his duties, be made accessible to third parties or to other members of the company.

Any failure in this confidentiality obligation will constitute a serious failing justifying the dismissal of Mr. Frédéric CONCHY and possibly conferring a right to damages.

This confidentiality obligation is also imposed on Mr. Frédéric CONCHY beyond the termination of his employment contract, regardless of the reason.

After he leaves the company, Mr. Frédéric CONCHY must also refrain from any denigration with respect to the company, its managers, and its collaborators.

Failure to comply with this obligation, like any other disloyal behavior toward the company, may be penalized by damages.

Cestas, 20 October 1998
read and approved
/signature/ 11/3/98
Frédéric CONCHY
(Signature preceded by the words "read and approved")

/signature/
Erick CLOIX
General Manager

AMENDMENT No. 5 TO THE EMPLOYMENT CONTRACT CONCLUDED 15 AUGUST 1994

BETWEEN

The company STRYKER SPINE SA

A company with a capital of 1,275,000 French francs
Registered with the Bordeaux Commercial Register under No.310 967 302
URSSAF No. 330 147 625 115
SIRET No. 310 967 302 00038
APE code 331B

With headquarters at:
Zone Industrielle de Marticot
33610 CESTAS

Represented by Denis CHANDON, Interim Director of Human Resources

On the one hand,

AND

Mr. Frédéric CONCHY

Residing at:
4, Chemin des Bouvreuils
33650 ST MEDARD EN JALLES

Born 9 June 1966 in Marseille (13)
National Health Service No. 1 66 06 13 055 329 11

On the other hand,

THE FOLLOWING HAS BEEN AGREED UPON AND DECREED:

ARTICLE 1: EMPLOYMENT

Mr. Frédéric CONCHY has the job of Overall Project Chief with the occupational rank of level II, class 108.

The present amendment is subject to the National Collective Bargaining Agreement of Engineers and Salaried Personnel in the Metallurgical Industry.

ARTICLE 2: CONTRACTUAL DAYS AND PAYMENT

In consideration of the characteristics of this job, Mr. Frédéric CONCHY is paid on the basis of a defined contract as a function of the number of days of work per year.

The gross annual contractual payment to Mr. Frédéric CONCHY will be 300,000.00 francs (three hundred thousand francs) for 217 days per year.

This payment is independent of the number of hours of effective work and of days completed during the pay period.

Mr. Frédéric CONCHY will receive a basic bonus of 100% of 60,000 francs (sixty thousand francs), the criteria for which will be determined at the end of the month of January 2001 at the latest. This bonus is payable on a prorated basis in January 2002 at the latest.

All the other provisions of the contract and preceding amendments remain unchanged.

Cestas, 2 January 2001

/signature/ 1/20/01
Frédéric CONCHY
Employee

/signature/
Denis CHANDON
Interim Director of Human Resources

Stryker Spine SA
Z. I. Marticot
F-33610 Cestas
Phone +33 (0)5 57 97 06 30
Fax: +33 (0)5 57 97 08 31

CERTIFICATE OF EMPLOYMENT

I, the undersigned, Philippe CAHANE, acting as Human Resources Manager of the company STRYKER SPINE SA, headquartered at Zone Industrielle Marticot, 33610 CESTAS, certify that:

Mr. Frédéric CONCHY

National Health Service No. 1 66 06 13 055 329 11

Born 9 June 1966 in Marseille (13)

Residing at:
4, Chemin des Bouvreuils
33650 ST MEDARD D'EYRANS

has been employed with our company as:

- Research and Development Technician from 15 August 1994 to 31 July 1997,
- Project Chief in Charge of Testing from 1 August 1997 to 11 September 2000,
- General Project Chief from 12 September 2000 to 12 July 2002.

Mr. Frédéric CONCHY is now leaving us, free of any employment.

By virtue of which the present certificate is issued to him to serve as evidence thereof.

Cestas, 12 July 2002
/signature/
Philippe CAHANE
Human Resources Manager

14 JAN 2005

#6

UNITED STATES PATENT and TRADEMARK OFFICE

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Kevin M. Kocun
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090

In re Application of	:	
Frederic Conchy	:	DECISION ON
PCT No.: PCT/FR01/03837	:	
Application No.: 10/433,531	:	
Int. Filing Date: 05 December 2001	:	PETITION UNDER
Priority Date: 05 December 2000	:	
Attorney's Docket No.: SPINE 3.3-417	:	
For: SPINAL INTERVERTEBRAL IMPLANT ADJUSTABLE IN SITU	:	37 CFR 1.47(b)

This decision is in response to applicant's "RENEWED PETITION UNDER 37 C.F.R. 1.47(b)" submitted on 27 August 2004 that seeks the acceptance of the application without the signature of the inventor Frederic Conchy.

BACKGROUND

In a decision from this Office on 28 June 2004, the petition filed on 30 April 2004 was dismissed because applicant did not satisfy items (2) and (4)-(6) under 37 CFR 1.47(b).

On 27 August 2004, applicant filed a renewed petition which includes, inter alia, a declaration by Mr. Kocun and a copy of the Federal Express correspondence.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicant with the renewed petition has now satisfied items (1) – (6) thus completing the requirements under 37 CFR 1.47(b).

Regarding requirement (2), petitioner has concluded that Frederic Conchy has refused to sign the declaration and the petition does include sufficient proof to establish that inventor Mr. Conchy has refused to execute the application.

In the previous decision it was indicated that Mr. McDonnell's declaration did not detail the time and place of the verbal refusal when Mr. Conchy was presented with the application papers including the declaration as required when there is an express oral refusal under 37 CFR 1.47(b). The renewed petition does not provide any additional information about the verbal refusal as requested in the previous Office decision. Instead the renewed petition has a declaration by Mr. Kocun indicating the July 29th communication included a declaration relating to the '531 application for Mr. Conchy's review and that he did not execute it. A copy of the cover letter has been submitted that refers to the declaration.

Therefore the evidence provided does sufficiently demonstrate that a *bona fide* attempt was made to obtain the signature of Mr. Conchy since the application papers were presented to him and the declaration was mailed to him for his execution as required under MPEP 409.03(d).

Consequently, the current record does sufficiently establish Mr. Conchy's refusal to sign the required papers.

Regarding item (4) Mr. Kocun has provided the requisite statement that he is authorized to sign on behalf of the corporation.

Regarding item (5) applicant has submitted sufficient proof that applicant has a proprietary interest in the application since a translated copy of the employment agreement has been submitted and an explanation that Societe DIMSO name was changed to "Stryker."

Regarding item (6) applicant has presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage if the response to the missing parts of the application is not timely.

CONCLUSION

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

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) to continue national stage processing of the application. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **30 April 2004.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

14 JAN 2005

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ALEXANDRIA, VA 22313-1450
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Mr. Frederic Conchy
4, Chemin Des Bouvreuils
Saint-Medrad d'Eyrans
France F-33650

In re Application of
Frederic Conchy
PCT No.: PCT/FR01/03837
Application No.: 10/433,531
Int. Filing Date: 05 December 2001
Priority Date: 05 December 2000
Attorney's Docket No.: SPINE 3.3-417
For: SPINAL INTERVERTEBRAL IMPLANT
ADJUSTABLE IN SITU

Dear Mr. Conchy:

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

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

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

Kevin M. Kocun
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090

15 SEP 2004

#7

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Thomas F. Marsteller
Marsteller & Associates
P.O. Box 803302
Dallas, Texas 75380-3302

In re Application of		
BEN-ITZHAK, Yuval	:	
Application No.: 10/433,532	:	NOTIFICATION REGARDING
PCT No.: PCT/IL03/00352	:	REQUEST FOR EARLY
Int. Filing Date: 01 May 2003	:	PROCESSING UNDER
Priority Date: 09 May 2002	:	35 U.S.C. 371
Attorney Docket No.: :LUZ003PU	:	AND PETITION
For: METHOD FOR THE AUTOMATIC SETTING AND UPDATING OF A SECURITY POLICY	:	UNDER 37 CFR 1.181

The above-captioned application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371. Additionally, this is a response to applicant's facsimile communication filed 08 September 2004, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 01 May 2003, applicant filed international application PCT/IL03/00352 which claimed a priority date of 09 May 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 November 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States of America is set to expire at midnight on 09 November 2004.

On 05 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by a copy of the international application. The Basic National Fee was not submitted.

On 09 June 2004, applicant filed the basic national fee and an executed declaration.

On 12 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment under 35 U.S.C. 371 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

DISCUSSION

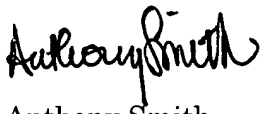
As stated above, the deadline for payment of the basic national fee is to expire 30 months from the priority date, or at midnight on 09 November 2004. On 05 June 2003, applicant submitted a transmittal letter for entry into the national stage in the United States and requested early examination pursuant to 35 U.S.C. 371(f). 09 June 2004, applicant filed the basic national fee and an executed declaration. Therefore, the Notification of Abandonment under 35 U.S.C. 371 (Form PCT/DO/EO/909) was mailed in error and is vacated.

A review of the application file reveals that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America were completed on 09 June 2004.

CONCLUSION

For the reasons above, the request is **GRANTED** and the Notification of Abandonment mailed 12 July 2004 is hereby **VACATED**. The holding of Abandonment is withdrawn.

This application is being returned to the United States/Designated Elected Office for processing in accordance with this decision.



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

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ROHM AND HAAS ELECTRONIC MATERIALS LLC
455 FOREST STREET
MARLBOROUGH MA 01752

COPY MAILED

MAR 26 2007

OFFICE OF PETITIONS

In re Application of
Seita, et al. :
Application No. 10/433,533 : DECISION ON
Filed: April 4, 2004 : PETITION
Attorney Docket No. 51559 :

This is in response to the "REQUEST FOR WITHDRAWAL OF ERRONEOUS ABANDONMENT NOTICE", filed January 30, 2007, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely file a reply to the final Office action mailed April 18, 2006. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 19, 2006. A Notice of Abandonment was mailed on November 29, 2006.

A review of the final Office action mailed April 18, 2006 reveals that it was properly mailed to the correspondence address of record at that time. Petitioner has not submitted evidence showing that he timely filed a change of correspondence address or power of attorney with the Office. Rather, petitioner merely states that he submitted a change of correspondence address prior to April 18, 2006.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 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 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 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Joseph S Tripoli
Thomson Multimedia Licensing Inc
Patent Operations CN 5312
Princeton NJ 08543-0028

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OFFICE OF PETITIONS

In re Application of :
Guguen et al. :
Application No. 10/433,547 :
Filed: October 24, 2003 :
Attorney Docket No. PF000127 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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

This application became abandoned for failure to reply properly and timely to the final Office Action mailed on August 8, 2005, which set a three (3) month shortened statutory period to reply. Petitioners obtained an extension of time for response within the third month. Accordingly, this application became abandoned on February 9, 2006. A Notice of Abandonment was mailed on March 16, 2006.

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

The Office finance records indicate that the Office mistakenly charged the Deposit Account twice for the RCE fee. Therefore, the duplicate RCE fee in the amount of $790.00 will be refunded to the Deposit Account.

This matter is being referred to Technology Center Art Unit 1734.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

11 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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William Gehris
Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, NY 10018

In re Application of :
BADER, et al. :
U.S. Application No.: 10/433,557 :
PCT No.: PCT/DE01/04512 : DECISION ON PETITION
Int. Filing Date: 04 December 2001 :
Priority Date: 04 December 2000 : UNDER 37 CFR 1.47(a)
Attorney Docket No.:5013.1054 :
For: USE OF CELLS DERIVED FROM EMBRYONIC STEM CELLS FOR INCREASING TRANSPLANTATION TOLERANCE AND FOR REPAIRING DAMAGED TISSUE :

This decision is in response to applicant's "Petition on Behalf of a Non-Signing Joint Inventor Who Refuses to Sign or Cannot be Reached (37 CFR 1.47(a))" filed 22 January 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 04 December 2001, applicant filed international application PCT/DE01/04512, which claimed priority of an earlier application filed 04 December 2000. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 13 June 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 June 2003.

On 04 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application and a First Preliminary Amendment. An executed oath or declaration was not included.

On 16 September 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.

Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees

On 22 January 2004, applicant responded with the present petition to accept the combined declaration and power of attorney without the signature of joint inventor Xiongbin LIN accompanied by a declaration executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventor accompanied by a petition for a two-month extension of time and payment of the appropriate petition fee.

DISCUSSION

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

As to item (4), applicant has a combined declaration and power of attorney executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventor. However, there is a discrepancy as to the fourth listed inventor. The inventor is identified in the published international application as Fred Fandrich whereas the inventor is identified as Fred Faendrich on the filed declaration. MPEP 201.03 explains that, "(B) Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration." As such, absent an explanation from applicant as to the discrepancy it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons above, a decision on applicant's petition under 37 CFR 1.47(a) is being held in abeyance pending a statement from applicant as to the fourth listed inventor.

Any response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Response to Decision on Petition Under 37 CFR 1.47(a)."

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

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

29 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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William Gehris
Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, NY 10018

In re Application of
BADER, et al.
U.S. Application No.: 10/433,557
PCT No.: PCT/DE01/04512
Int. Filing Date: 04 December 2001
Priority Date: 04 December 2000
Attorney Docket No.:5013.1054
For: USE OF CELLS DERIVED FROM EMBRYONIC STEM CELLS FOR INCREASING TRANS-PLANTATION TOLERANCE AND FOR REPAIRING DAMAGED TISSUE

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "Response to Decision on Petition Under 37 CFR 1.47(a)" filed 19 April 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 11 March 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration.

On 19 April 2004, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 11 March 2004, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1-3.

As to item (4), applicant's originally filed declaration contained an apparent discrepancy as to the fourth listed inventor. With the present filing and explanation of counsel, the apparent difference in the spelling of the fourth listed inventor's name has been resolved and it is appropriate to accept the declaration filed 22 January 2004 as compliant with 37 CFR 1.497 (a)-(b). As applicant has provided a compliant declaration executed by each 37 CFR 1.47(a)

applicant on his or her own behalf and on behalf of the non-signing joint inventor, item (4) is satisfied and it is proper to grant applicant's renewed petition under 37 CFR 1.47(a) at this time.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 04 December 2001 under 35 U.S.C. 363, and will be given a date of **22 January 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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

29 APR 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mr. Xiongbin Lin
Schlossstrasse 21 A
24103 Kiel
GERMANY

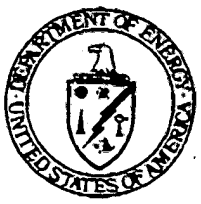
In re Application of
BADER, et al.
PCT No.: PCT/DE01/04512
Application No.: 10/433,557
Int. Filing Date: 04 December 2001
Priority Date: 04 December 2000
Atty. Docket No.: 5013.1054
For: USE OF CELLS DERIVED FROM EMBRYONIC STEM CELLS FOR INCREASING TRANS-PLANTATION TOLERANCE AND FOR REPAIR-ING DAMAGED TISSUE

Dear Mr. Lin:You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

William Gehris
Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, NY 10018
United States of America

10/433581
D111 Rec'd PCT/PTO 03 JUN 2003



Department of Energy
Washington, DC 20585

MAR 3 2003

Mr. Michael Carone
Office of Licensing and Review
U.S. Patent and Trademark Office
Technology Group 3600
Crystal Park 5
Arlington, Virginia

Re: Blanket Exemption from Requirements Under §42 U.S.C. 2182 for Incyte Genomics, Inc.

Dear Mr. Carone:

The U.S. Department of Energy (DOE) wished to grant Incyte Genomics, Inc. (Incyte) a blanket exemption form the requirements under §42 U.S.C. 2182 for their patent applications disclosing inventions involving radionuclides. This blanket exemption is granted based on assertions set forth in Incyte's letter to DOE dated February 25, 2003. No blanket exemption is granted from the requirements of any other statute, including the security review statute, §42 U.S.C. 2181.

This blanket exemption will be effective from the date of this letter for one (1) calendar year (the "Blanket Exemption Period"), and covers all Incyte patent applications now pending before the U.S. Patent and Trademark Office and will cover all Incyte patent applications filed within the Blanket Exemption Period. Therefore, the Blanket Exemption Period ends on February 26, 2004. For the Blanket Exemption Period, Incyte will include a copy of this letter with all applicable applications. This blanket exemption may be renewed for successive one (1) year periods upon Incyte's request, subject to DOE approval. DOE will notify your office in writing of such renewals, if granted.

Sincerely,

Paul A. Gottlieb
Assistant General Counsel
for Technology Transfer
and Intellectual Property
(202) 586-2802

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Law Offices of Karl Hormann
P O Box 381516
Cambridge MA 02238-1516

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OFFICE OF PETITIONS

In re Application of	:	
Ahrens et al.	:	
Application No.: 10/433589	:	DECISION ON
Filing or 371(c) Date: 06/05/2003	:	PETITION
Attorney Docket Number: 030572-US	:	

This is a decision in response to the "Letter and Petition under 37 CFR 1.8(b), filed May 7, 2008. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed April 19, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on July 20, 2007. A Notice of Abandonment was mailed November 16, 2007.

Applicant files the present petition and asserts that a timely reply to the Office action was using the certificate of mail procedures under 37 CFR 1.8. In support of this assertion, Applicant provides a copy of the reply. A review of the reply reveals that Applicant filed, *inter alia*, an "Amendatory Paper," that includes a Certificate of Mailing Under 37 CFR 1.8, dated July 3, 2007. The Certificate of Mailing is executed by Petitioner herein (37 CFR 1.8(b)(3)).

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

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to §a), the

correspondence will be considered timely if the party who forwarded such correspondence:

(1)Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

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

(3)Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

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

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

The application will be referred to Technology Center Art Unit 1756 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

08 MAR 2005

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WESTERMAN, HATTORI, DANIELS & ADRIAN LLP
1250 Connecticut Avenue, N.W.
Washington, DC 20036

In re Application of :
HANSEN, Igor :
Application No.: 10/433,615 :
PCT No.: PCT/PL02/00002 :
Int. Filing Date: 10 January 2002 :
Priority Date: 11 January 2001 : **DECISION**
Attorney's Docket No.: 030702 :
For: SYSTEM OF DATABASES OF PERSONAL DATA AND A METHOD OF GOVERNING ACCESS TO DATABASES OF PERSONAL DATA :

This decision is in response to applicant's "Response to Notification of Missing Requirements" filed 24 January 2005. This is treated as a petition under 37 CFR 1.182.

BACKGROUND

On 30 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. A two-month time period for response was set with extensions of time available.

On 30 December 2003, applicant filed a "Response to Notification of Missing Requirements," an executed declaration and a "Change of Correspondence Address." However, the U.S. application number was transposed on the "Change of Correspondence Address" and these papers were placed in U.S. application No. 10/433,165.

On 24 January 2005, applicant filed the instant response which was accompanied by, *inter alia*, copies of the documents filed 30 December 2003.

DISCUSSION

Applicant claims that a timely response to the Form PCT/DO/EO/905 was mailed in the above-captioned application on 30 December 2003. However, the U.S. application number was transposed and appeared as "10/433,165" on the "Change of Correspondence Address" and postcard receipt. (The correct application number was placed on the declaration and the "Response to Notification of Missing Requirements.)

As a result, these documents were placed in the wrong U.S. application.

A review of the above-captioned application and U.S. application No. 10/433,165 verify that the documents filed 30 December 2003 were placed in U.S. application No. 10/433,165. Moreover, the declaration and "Response to Notification of Missing Requirements" had U.S. application number No. 10/433,615 while the application number on the "Change of Correspondence Address" was transposed. Applicant also provided a copy of the date-stamped postcard receipt for the 30 December 2003 filing which also had the application number transposed. But the docket number, title and name of applicant on the postcard receipt correspond to the above-identified application.

Accordingly, this is treated as a petition to correct the papers filed 30 December 2003 pursuant to 37 CFR 1.182. The $130.00 petition fee has been charged to Deposit Account No. 50-2866 as authorized.

DECISION

Applicant's petition under 37 CFR 1.182 is hereby **GRANTED**.

The papers filed 30 December 2003 have been removed from U.S. application No. 10/433,165 and placed in the subject application. Applicant is advised to use only U.S. application No. **10/433,615** for all future correspondence. A review of the declaration filed 30 December 2003 shows that it is in compliance with 37 CFR 1.497(a) and (b).

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 10 January 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 30 December 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

AUG 29 2006

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of	:
Susumu Muto et al	:
Serial No.: 10/433,619	: PETITION DECISION
Filed: December 18, 2001	:
Attorney Docket No.: P23765.A12	:

This is in response to the petition under 37 CFR 1.59(b), filed June 7, 2006, to expunge a document from the above identified application..

Petitioner requests that inadvertently submitted confidential material be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

Petitioner requests that an 18 page document inadvertently submitted with their Information Disclosure Statement on February 6, 2006, be expunged. A review of the document shows it is labeled "Confidential – Attorney/Client Privileged Communication". It is clearly not a prior art reference or information relevant to patentability of the application. As the document has been converted to a scanned image, physical return of the paper cannot be effected. However, the scanned document has been closed to public access in the IFW file and will not be further considered by the examiner.

The petition is **GRANTED** to the extent indicated.

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

George C. Elliott
Director, Technology Center 1600

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MARTIN D. MOYNIHAN
PRTSI, INC.
P. O. BOX 16446
ARLINGTON, VA 22215

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FEB 16 2007
OFFICE OF PETITIONS

In re Application of :
Rami Goldreich :
Application No. 10/433,623 : ON PETITION
Filed: June 18, 2003 :
Attorney Docket No. 26008 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 1, 2005. A Notice of Abandonment was mailed on October 6, 2006.

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

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

This application is being referred to Technology Center AU 3736 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/433,630	09/30/2003	Jose Gurri Molins	450096.401USPC	4062

25315 7590 04/09/2009

BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

EXAMINER	
FLORES SANCHEZ, OMAR	
ART UNIT	PAPER NUMBER
3724	

NOTIFICATION DATE	DELIVERY MODE
04/09/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing-patent@blacklaw.com
smith@blacklaw.com

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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

In re Application of:	:	
MOLINS, JOSE GURRI	:	
Serial No. 10/433,630	:	
Filed: Jun. 3, 2003	:	DECISION ON PETITION
Docket: 450096.401USPC	:	UNDER 37 CFR § 1.181
Title: PORTABLE MOTOR-POWERED SHEARS	:	

This is a decision on the petition filed on February 9, 2009 under 37 CFR § 1.181. Petitioner requests withdrawal of the holding of abandonment and issuance of an examiner's answer.

The petition is granted.

Background

In response to the Notification of Non-Complaint Appeal Brief of March 7, 2007, the appellant filed a corrected Appeal Brief on April 12, 2007. On August 9, 2007, another Notification of Non-Compliant Appeal Brief was mailed to the appellant. The examiner stated that the brief filed on April 12, 2007 does not comply with 37 CFR 41.37 (c) (1) (v). On September 10, 2007, the appellant filed a request for reconsideration for rescission of the Notification of Non-Compliant Appeal Brief mailed August 9, 2007. On May 9, 2008, the examiner mailed a communication to the appellant. In particular, the examiner stated that the Appeal Brief still fails to contain a concise explanation of the subject matter referring to the specification by page and line number. On May 23, 2008, the appellant filed another request for reconsideration arguing that 37 C.F.R. § 41.37(v) merely states that the concise explanation of the claimed subject matter shall "refer to the specification by page and line number." The Appeal Brief filed on April 12, 2007 does include such citation to the specification by page and line number meets the explicit language of the relevant Regulation. On January 7, 2009, the examiner dismissed the appeal and mailed a Notice of Abandonment. The examiner stated in the abandonment notice that "The Summary refers to page 9, lines 25 through page 19, line 14, is not a concise explanation". The present petition was filed on February 9, 2009 requesting withdrawal of the holding of abandonment and issuance of an examiner's answer. The petitioners claim that the appeal brief complied with all of the mandatory aspects of 37 CFR § 41.37 (v) and therefore the Notice on Non-Compliant Appeal Brief should be rescinded.

Discussion

The communication of May 9, 2008 indicates that the examiner remains of the opinion that the Summary refers to page 9, lines 25 through page 19, line 14, is not a concise explanation to satisfy the requirements described in 37 CFR § 41.37(v) as grounds for non-compliance.

A review of the Appeal Brief of April 12, 2007 does show the appellant provided a concise explanation of the subject matter and referred to page 9, line 25 through page 19, line 14 of the application as the support for further details. In particular, the appellant on page 3 of the amended Appeal Brief of April 12, 2007 directs the Board's attention to "page 9, line 25 through page 19, line 14 of the specification for further details of the preferred embodiments". In addition, the appellant also provided reference numerals and applicable figure numbers for all claim elements in the independent claim 1. This is sufficient to meet the requirements as prescribed in 37 CFR § 41.37(v)[1]. Therefore, the Amended Appeal Brief filed on April 12, 2007 is hereby accepted.

Decision

For the foregoing reasons, the Notices of Non-Compliant Appeal Brief of August 9, 2007 and May 9, 2008 are hereby withdrawn. The application is returned to the examiner in Art Unit 3724 for response to the Appeal Brief filed on April 12, 2007.

PETITION GRANTED.

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

for

Donald T. Hajec, Director
Technology Center 3700

[1] With respect to relevant portion of the 37 CFR § 41.37(v), states: (v) Summary of claimed subject matter. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters.

02 MAR 2004

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Leo H McCormick Jr.
Bosch Braking Systems
2112 Mishawaka Avenue
P.O. Box 4721
South Bend, IN 46634-4721

In re Application of	:	DECISION ON
Jean-Pierre Gautier	:	
Application No.: 10/433,631	:	
PCT No.: PCT/FR01/03736	:	PETITION
Int. Filing Date: 26 November 2001	:	
Priority Date: 28 November 2000	:	
Attorney's Docket No.: 825-00-463	:	UNDER 37 CFR 1.137(b)
For: Pneumatic brake-booster with enhanced boost effect	:	

This decision is in response to applicants' "Petition for Revival under 37 CFR 1.137," filed on 25 September 2003, which is being treated as a petition under 37 CFR 1.137(b). The petition fee of $1,300 has been charged to applicant's Deposit Account No.: 02-3222.

BACKGROUND

On 26 November 2001, this international application was filed, claiming an earliest priority date of 28 November 2000.

A Demand electing the United States was filed in this international application on 20 June 2002. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 28 May 2003.

On 03 June 2003, applicant filed the a transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee and an executed declaration was filed at such time.

On 22 September 2002, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned because applicant failed to provide the copy of the International Application by 30 months.

On 25 September 2003, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, accompanied by the petition fee for revival of an unintentionally abandoned application.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Applicant's statement that "this abandonment was unintentional" is being construed as 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. Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 (c)(1), (c)(2), and (c)(4) date of this application is **03 June 2003.**

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

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JUN 07 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Howard E. Silverman
Greenberg Traurig, P.C.
Suite 2500
77 West Wacker Drive
Chicago IL 60601

In re Application of :
Michael Seedman, et al. :
Application No. 10/433,639 : DECISION ON PETITION
Filed: May 22, 2003 : TO MAKE SPECIAL
For: METHOD AND APPARATUS FOR :
DETECTING THE PRESENCE OF A WIRELESS :
NETWORK

This is a decision on the petition filed December 1, 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

10 MAR 2004

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Swidler Berlin Shereff Friedman
3000 K Street N W
Suite 300
Washington, DC 20007-5116

In re Application of
KJETIL HAVRE
Application No.: 10/433,653
PCT No.: PCT/IB01/02323
Int. Filing Date: 06 December 2001
Priority Date: 06 December 2000
Attorney's Docket No.: 19387.0043
For: METHOD, COMPUTER PROGRAM PRODUCT AND USE OF A COMPUTER PROGRAM FOR STABILIZING A MULTIPHASE FLOW

DECISION ON

PETITION

UNDER 37 CFR 1.47(b)

This is a decision on petition under 37 CFR 1.47(b), filed 18 November 2003 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing sole inventor, Kjetil Havre.

BACKGROUND

On 06 December 2001, applicant filed international application No. PCT/IB01/02323 which claimed a priority date of 06 December 2000, and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 13 June 2002.

On 06 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, within the thirty month period from the priority date and which was accompanied by, *inter alia*,: basic national filing fee.

On 20 October 2003 the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 18 November 2003, petitioner filed the instant petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by the employment contract of Kjetil Havre with ABB Teknologi AS (with English translation), 14 May 2003 correspondence from Kjetil Havre to Dagfinn Brodtkorb of ABB Corporate Research (ABB AS, Corporate Research Center), correspondence from ABB attorney Kjerstin Bull-Berg to Mr. Havre, and a return mail receipt. Petitioner also provided the last known address of Kjetil Havre.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after

diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner has satisfied items (1), (3) and (6) with payment of the requisite petition fee, a statement of the last known address of the inventor and the statement indicating that the action is necessary to preserve the rights of the parties. Petitioner provided a Combined Declaration and Power of Attorney executed on behalf of the sole inventor Kjetil Havre executed by Håkan Korske, Patent Manager for the Patent Department of ABB Sweden, satisfying Item (4).

With regard to item (2), petitioner has provided adequate proof that the sole inventor's conduct constitutes his refusal to sign the application. Specifically, the 14 May 2003 letter from Mr. Havre to ABB Corporate Research states that the assignment is "adequate. i.e. that a form to appoint ABB Corporate Research in Vesterås as my agent is unnecessary as ABB has the commercial and juridical rights to the patent." Further, a letter dated 06 June 2003 was sent to Mr. Havre, stating that a copy of the published international patent application, assignment and combined declaration and power of attorney forms were enclosed for Mr. Havre's review and signature. Petitioner provided a copy of the Swedish postal mail receipt, signed by Kjetil Havre, bearing the Swedish postmark indicating the delivery occurred on 19 June 2003. This is sufficient evidence to conclude that the nonsigning inventor's conduct constitutes a refusal to sign the application.

However, with regard to item (5), Section 409.03(f) of the MPEP, **Proof of Proprietary Interest**, states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office,
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)....

(Emphasis added.)

Here, Petitioner has not provided sufficient evidence to show that Mr. Havre has assigned his rights in the present application to the petitioner. The alleged assignment from Mr. Havre to ABB Research Ltd. appears to relate only to the Norwegian priority application, not to the present application and does not adequately identify the present application. Furthermore, a statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)

Moreover, Mr. Havre's employment agreement with ABB Teknologi AS does not establish that Mr. Havre agreed in writing to assign the invention described in the application, as the employment agreement is silent regarding the inventor's duty to assign to his employer all inventions made during employment.

As set forth in MPEP 409.03(f)), where the invention has not been assigned, and there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Accordingly, item (5) above has not been satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." 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 the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Tel: 703-306-5467
Fax: 703-308-6459

20 JUL 2005

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3000 K Street N W
Suite 300
Washington, DC 20007-5116

In re Application of KJETIL HAVRE Application No.: 10/433,653 PCT No.: PCT/IB01/02323 Int. Filing Date: 06 December 2001 Priority Date: 06 December 2000 Attorney's Docket No.: 19387.0043 For: METHOD, COMPUTER PROGRAM PRODUCT AND USE OF A COMPUTER PROGRAM FOR STABILIZING A MULTIPHASE FLOW	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

This is a decision on renewed petition under 37 CFR 1.47(b), filed 09 June 2004 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing sole inventor, Kjetil Havre.

BACKGROUND

On 06 December 2001, applicant filed international application No. PCT/IB01/02323 which claimed a priority date of 06 December 2000, and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 13 June 2002.

On 06 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, within the thirty month period from the priority date and which was accompanied by, *inter alia*,: basic national filing fee.

On 20 October 2003 the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 18 November 2003, petitioner filed the instant petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by the employment contract of Kjetil Havre with ABB Teknologi AS (with English translation), 14 May 2003 correspondence from Kjetil Havre to Dagfinn Brodtkorb of ABB Corporate Research (ABB AS, Corporate Research Center), correspondence from ABB attorney Kjerstin Bull-Berg to Mr. Havre, and a return mail receipt. Petitioner also provided the last known address of Kjetil Havre.

On 10 March 2004, a decision dismissing the petition under 37 CFR 1.47(b). On 09 June 2004, applicant filed a renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner has satisfied items (1), (2), (3), (4) and (6).

With regard to item (5), Section 409.03(f) of the MPEP, **Proof of Proprietary Interest**, states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office,
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

Petitioner argues that the assignment from Mr. Havre to ABB Research Ltd. relates to the present application as well as the Norwegian priority application. Upon review of the international application and the Norwegian priority application, the two applications appear to be the same invention. Thus, the assignment provided is sufficient evidence to show that Mr. Havre has assigned his rights in the *present* application to the petitioner.

Accordingly, item (5) above has now been satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

CONCLUSION

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

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 19 December 2000, and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 06 December 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **09 June 2004**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3286
Fax: 571-273-0459

20 JUL 2005
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KJETIL HAVRE
HATTEMAKERLIA 143
2019 SKEDSMOKORSET, NORWAY

In re Application of
KJETIL HAVRE
Application No.: 10/433,653
PCT No.: PCT/IB01/02323
Int. Filing Date: 06 December 2001
Priority Date: 06 December 2000
Attorney's Docket No.: 19387.0043
For: METHOD, COMPUTER PROGRAM PRODUCT AND USE OF A COMPUTER PROGRAM FOR STABILIZING A MULTIPHASE FLOW

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.47(b)

Dear Mr. Havre:

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

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Tele: 571-272-3286
Fax: 571-273-0459

Swidler Berlin Shereff Friedman
3000 K Street, N.W.
Suite 300
Washington, DC 20007-5116

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SUITE 310
ALEXANDRIA, VA 22314

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of :
Gerald Fellner :
Application No. 10/433,672 : ON PETITION
Filed: June 5, 2003 :
Attorney Docket No. P0301T :

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 28, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 29, 2004.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center AU 3634.

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

cc: YUSUKE TAKEUCHI
200 DAINGERFIELD ROAD
SUITE 202
ALEXANDRIA, VA 22314

30 SEP 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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www.uspto.gov

James W. Brady, Jr.
Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, NW
Washington, DC 20037-1526

In re Application of	:	
Harris, et al.	:	
Application Serial No.: 10/433,684	:	
PCT No.: PCT/US01/31789	:	DECISION ON PETITION UNDER
Intl. Filing Date: 12 October 2001	:	
Priority Date: 13 November 2000	:	37 CFR 1.137(b)
Attorney's Docket No.: 19000.0050/P050	:	
For: Probiotic Compositions and Methods Against	:	
Bacterial Infection in Livestock Animals	:	

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED APPLICATION", filed 05 June 2003.

BACKGROUND

On 12 October 2001, applicants filed international Application PCT/US01/31789 which claimed priority to an earlier application filed on 13 November 2000. A demand for international preliminary examination, in which the United States was elected, was made on 11 June 2002. Pursuant to 37 CFR 1.495, the thirty month period for paying the basic national fee expired at midnight 13 May 2003.

On 05 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a preliminary amendment, an Information Disclosure Statement, and a copy of the international application.

DISCUSSION

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

As to item (1), the petition is accompanied by the required reply in the form of a check for the basic national filing fee

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

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

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

CONCLUSION

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

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

Richard Cole
PCT Legal Examiner
PCT Legal Office

Kenya A. McLaughlin
PCT Legal Office Detailee
PCT Legal Office

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Edwin L Bondoc
Makati Central Box 3528
Post Office Box 1275
Makati City PH PHILIPPINES

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FROM DIRECTORS OFFICE

SEP 22 2005

TECHNOLOGY CENTER 3600

In re Application of :
Edwin L Bondoc :
Application No. 10/433,701 :
Filed: June 03, 2003 :
For: ELECTRON CAPTURE BY MAGNETIC RESONANCE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is response to the letters received July 21, 2004, July 28, 2004, October 07, 2004 and October 27, 2004. These letters are being considered a Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181. There is no fee for this petition.

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 (Restriction requirement) mailed December 18, 2003, which set a one-month shortened statutory reply period. A Notice of Abandonment was mailed on July 22, 2004, stating that no response had been received.

Petitioner contends that A) the Office action mailed December 18, 2003 was not received until February 12, 2003, a date after the one-month shortened statutory reply period, and B) a reply was immediately sent by mail on February 13, 2004 and confirmed as received by the USPTO on February 17, 2004 by the U.S. Postal Service.

In the event that correspondence from the Office is received late (A) due to delays in the U.S. Postal Service, or (B) because the mail was delayed in leaving the USPTO (the postmark date is later than the mail date printed on the correspondence), applicants may petition to reset the period for reply, which petition shall be evaluated according to the guidelines which follow.

I. PETITIONS TO RESET A PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN OFFICE ACTION

The Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met:

(A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;

(B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and

(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

There is no statutory requirement that a shortened statutory period of longer than 30 days to reply to an Office action be reset due to delay in the mail or in the Office. However, when a substantial portion of the set reply period had elapsed on the date of receipt at the correspondence address (e.g., at least 1 month of a 2- or 3-month period had elapsed), the procedures set forth above for late receipt of action are available. Where an Office action was received with less than 2 months remaining in a shortened statutory period of 3 months the period may be restarted from the date of receipt. Where the period remaining is between 2 and 3 months, the period will be reset only in extraordinary situations, e.g., complex Office action suggesting submission of comparative data.

II. PETITIONS TO RESET A PERIOD FOR REPLY DUE TO A POSTMARK DATE LATER THAN THE MAIL DATE PRINTED ON AN OFFICE ACTION

The Office will grant a petition to restart the previously set period for reply to an Office action to run from the postmark date shown on the Office mailing envelope which contained the Office action when the following criteria are met:

(A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;

(B) the reply period was for payment of the issue fee, or the reply period set was 1 month or 30 days; and

(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), (2) a copy of the envelope which contained the Office action showing the postmark date, and (3) a statement setting forth the date of receipt of the Office action at the correspondence address and stating that the Office action was received in the postmarked envelope.

The provisions of 37 CFR 1.8 and 1.10 apply to the filing of the above-noted

petitions with regard to the requirement that the petition be filed within 2 weeks of the date of receipt of the Office action.

The showings outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been delayed after receipt rather than a conclusion that the Office action was delayed in the mail or in the Office.

Applicant failed to file a petition within 2 weeks of February 12, 2004, the alleged date of receipt of the Office action and has failed to provide sufficient evidence showing date of receipt. The only date discernable on the copy of the envelope, which contained the Office action, provided by applicant is December 18, 2003. The January 30, 2004 postage date referenced in applicant's letter received October 27, 2004 is not found.

There is no record of the February 17, 2004 response in the file and Applicant has failed to provide any acceptable evidence of this response. Acceptable showings include: a date stamped post card receipt, a proper certificate of mail or transmission under 37 CFR 1.8 (MPEP 512), a proper express mail under 37 CFR 1.10 (MPEP 513), and a proper facsimile transmission of a CPA under 37 CFR 1.6 (MPEP 502.01).

The USPS tracking number and private delivery firm receipt provided are not acceptable evidence to accord the date of receipt of the copy of the earlier filed and later received correspondence because there is nothing serving to identify exactly what was submitted and thus no "tie-in" between the copy of the submission and the tracking number/delivery firm receipt date.

It is further noted that even if Applicant can provide acceptable evidence of a February 17, 2004 response, the response would not be considered timely filed unless it had included a petition for a one-month extension of time as the Office action mailed December 18, 2003 set a one-month shortened statutory reply period which would have expired on January 18, 2004.

A copy of Guidelines on Submissions for Pro Se Applicants is attached to assist Applicant with any future submissions.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

> A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause

of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

Further correspondence with respect to a petition to revive should be addressed as follows:

By Mail: Deputy Commissioner of Patent Examination Policy
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 should be directed to the Office of Petitions Staff at (571) 272-3282.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600

Rc

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

Edwin L Bondoc
Makati Central Box 3528
Post Office Box 1275
Makati City
PHILIPPINES

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OFFICE OF PETITIONS

In re Application of :
Bondoc :
Application No. 10/433,701 :
Filed: June 30, 2003 :
For: Electron Capture by Magnetic Resonance :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181, filed October 24, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

An Office action (Restriction Requirement) was mailed setting a one-month time period for response. Office records indicate the Office action was mailed December 18, 2003. However, petitioner has provided a copy of the envelope from the Office which bears a postmark dated January 30, 2004.

Petitioner states the Office action was received on February 12, 2003, and a reply was mailed on February 13, 2003. The Office file does not contain a copy of the February 13, 2003 reply. In support of petitioner's contention the reply was timely mailed, petitioner has submitted a copy of USPS information indicating a package was mailed by at least February 14, 2003, from petitioner to the PTO. The printout indicates the package was received on February 17, 2004. Although the printout does not indicate the papers filed were related to the instant application, a search of Office records indicates the only application which has been filed by petitioner is the instant application.

Upon consideration of all the facts and circumstances, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner should note similar facts in the future may not support withdrawal of the holding of abandonment. Petitioner should ensure all future correspondence is facsimile transmitted in compliance with 37 CFR 1.8 or that other appropriate steps. Petitioner may wish to consult the copy of Guidelines on Submissions for Pro Se Applicants attached to the prior decision.

Technology Center Art Unit 3641 will be informed of the instant decision so that the examiner may consider the merits of the copy of the election filed on July 28, 2005, and continue examination of the application.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

05 NOV 2004

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RUTAN & TUCKER, LLP
611 ANTON BOULEVARD
14TH FLOOR
COSTA MESA, CA 92628-1998

In re Application of
ZHENG EDWARD
U.S. Serial No.: 10/433,703
PCT Application No.: PCT/US00/33112
Int. Filing Date: 05 December 2000
Priority Date: None
Attorney Docket No.: 10069.0006US1
For: COLLAPSING CHAIR WITH SOLID ARMREST AND TENSIONED SEAT

: DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to applicants' "Petition Under 37 CFR 1.181(a)" to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on 28 October 2004 in the above referenced application.

On 05 August 2003, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the $65 surcharge for filing the oath or declaration after the thirty month period was required. Thereafter on 20 March 2004, applicant, *sua sponte*, filed an executed declaration and the $65 surcharge.

Upon contacting the PCT Help Desk to inquire about the status of the application, applicant was advised that the application was abandoned for failure to respond to the 05 August 2003 Notification of Missing Requirements. On 19 May 2004, applicant allegedly filed a Petition to Withdraw the Holding of Abandonment, which is not located in the application file.

On 26 October and 28 October 2004, applicant filed the instant petition to withdraw the holding of abandonment. On 01 November 2004, applicant refiled a copy of the petition allegedly filed on 19 May 2004.

DISCUSSION

Counsel indicates that he did not receive the 05 August 2003 Notification of Missing Requirements until it was received via facsimile on May 18, 2004. Applicant petitions to withdraw the holding of abandonment for failure to timely respond to the Notification of Missing Requirements, which he alleges was never received. Counsel offers no evidence that the Notification was not received by providing a copy of the docket record where the non-received Office action would have been entered had it been received. See MPEP §711.03(c), p.700-155.

In order to establish that papers were not received, as set forth in the Official Gazette at 1156 OG 53, applicant must provide the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

Counsel states that the 05 August 2003 Notification was not received and that "a search of the file jacket and the docket records in our Office indicated that the Notification of Missing

Requirements, as allegedly mailed on August 5, 2003, was not received." Counsel has satisfied Items (1) and (2) above. However, a copy of the docket record where the non-received Office action would have been entered had it been received (that is, the docket record for 06 October 2003) was not provided and is required.

With regard to the declaration, the originally filed declaration is found in the application file. The declaration is in compliance with 37 CFR 1.497(a) & (b) and is acceptable.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.181 is **DISMISSED WITHOUT PREJUDICE**. The application remains **ABANDONED**.

Applicant should submit a true copy of the docket record where the non-received Office action would have been entered had it been received and should be referenced in the practitioner's statement.

Any request for reconsideration on the merits of this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision.

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286

03 DEC 2004

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RUTAN & TUCKER, LLP
611 ANTON BOULEVARD
14TH FLOOR
COSTA MESA, CA 92628-1998

In re Application of
ZHENG EDWARD
U.S. Serial No.: 10/433,703
PCT Application No.: PCT/US00/33112
Int. Filing Date: 05 December 2000
Priority Date: None
Attorney Docket No.: 10069.0006US1
For: COLLAPSING CHAIR WITH SOLID ARMREST AND TENSIONED SEAT

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to applicants' "Response to Decision on Petition to Withdraw Holding of Abandonment", filed in the United States Patent and Trademark Office (USPTO) on 15 November 2004 in the above referenced application.

On 05 August 2003, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the $65 surcharge for filing the oath or declaration after the thirty month period was required. Thereafter on 29 March 2004, applicant, *sua sponte*, filed an executed declaration and the $65 surcharge.

Upon contacting the PCT Help Desk to inquire about the status of the application, applicant was advised that the application was abandoned for failure to respond to the 05 August 2003 Notification of Missing Requirements. On 19 May 2004, applicant allegedly filed a Petition to Withdraw the Holding of Abandonment, which is not located in the application file.

On 26 October and 28 October 2004, applicant filed a "Petition Under §1.181" to withdraw the holding of abandonment. On 01 November 2004, applicant refiled a copy of the petition allegedly filed on 19 May 2004.

On 05 November 2004, a decision dismissing the petition was mailed to applicant indicating that applicant had failed to provide evidence that the Notification was not received. Applicant was advised to provide a copy of the docket record where the non-received Office action would have been entered had it been received (that is, the docket record for 06 October 2003).

DISCUSSION

As previously stated, in order to establish that papers were not received, as set forth in the Official Gazette at 1156 OG 53, applicant must provide the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

Counsel has satisfied Items (1) and (2) above.

Counsel offers the docket record for this specific application. What is required is a copy of the law firm's docket record showing *all replies* docketed for a date two months from the mail date (05 August 2003) of the nonreceived Office action or for 06 October 2003 (05 October 2003 was a Sunday) where the non-received Office action would have been entered had it been received. See MPEP §711.03(c), p.700-155. The law firm docket record required is the record where actions for all cases would be recorded; i.e. a tickler system. This docket record must be attached to and referenced in practitioner's statement.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.181 is **DISMISSED WITHOUT PREJUDICE**. The application remains **ABANDONED**.

Applicant should submit a true copy of the docket record where the non-received Office action would have been entered had it been received and should be referenced in the practitioner's statement.

Any request for reconsideration on the merits of this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision.

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286

17 FEB 2005

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RUTAN & TUCKER, LLP
611 ANTON BOULEVARD
14TH FLOOR
COSTA MESA, CA 92628-1998

In re Application of
EDWARD ZHENG
U.S. Serial No.: 10/433,703
PCT Application No.: PCT/US00/33112
Int. Filing Date: 05 December 2000
Priority Date: None
Attorney Docket No.: 10069.0006US1
For: COLLAPSING CHAIR WITH SOLID ARMREST AND TENSIONED SEAT

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to applicants' "Response to Decision on Petition to Withdraw Holding of Abandonment", filed in the United States Patent and Trademark Office (USPTO) on 20 December 2004 in the above referenced application.

On 05 August 2003, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the $65 surcharge for filing the oath or declaration after the thirty month period was required. Thereafter at midnight 05 March 2004, the application was abandoned for failure to reply to the Notification of Missing Requirements within the time period set forth therein.

On 29 March 2004, applicant, *sua sponte*, filed an executed declaration and the $65 surcharge. On 07 June 2004, a copy of the declaration was filed with the USPTO.

Upon contacting the PCT Help Desk to inquire about the status of the application, applicant was advised that the application was abandoned for failure to respond to the 05 August 2003 Notification of Missing Requirements within the time limits set forth therein or by 05 March 2004. The 19 May 2004 Petition to Withdraw the Holding of Abandonment is now found and located in the application file.

On 26 October 2004, applicant filed a "Petition Under §1.181(a)" to withdraw the holding of abandonment and 28 October 2004, applicant refiled the 26 October 2004 petition along with a copy of the 19 May 2004 petition. On 01 November 2004, applicant refiled a copy of the petition filed on 19 May 2004.

On 05 November 2004, a decision dismissing the petitions was mailed to applicant indicating that applicant had failed to provide evidence that the Notification was not received. Applicant was advised to provide a copy of the docket record where the non-received Office action would have been entered had it been received (that is, the docket record for 06 October 2003).

On 12 November 2004 via facsimile, (and a copy filed on 15 November 2004 via first class mail), applicant filed a response to the 05 November 2004 decision. Applicant provided a docket record for U.S. application no. 10/433,703 along with a record of notes regarding this application.

On 03 December 2004, a decision dismissing applicant's petition was mailed indicating that counsel offered the docket record for this specific application. Applicant was advised that

"what is required is a copy of the law firm's docket record showing *all replies* docketed for a date two months from the mail date (05 August 2003) of the nonreceived Office action or for 06 October 2003 (05 October 2003 was a Sunday) where the non-received Office action would have been entered had it been received."

On 20 December 2004, the instant renewed petition was filed along with a docket record for application no. 10/433,703.

DISCUSSION

A review of the docket records submitted by counsel in this matter to the USPTO on 12 November, 15 November, and 20 December 2004 indicate counsel has provided the docket notes relating to *this specific application*. These records are not the records needed to prove the nonreceipt of an Office action. The docket record required is the law firm's *docket records where actions for all cases* would be recorded; i.e. a tickler system.

The 05 August 2003 Notification of Missing Requirements set a two month period for reply or 06 October 2003 (since 05 October 2003 was a Sunday). What is required is a copy of the docket report showing *all replies* docketed for 06 October 2003, which is a date two months from the mail date (05 August 2003) of the nonreceived Office action. This is the record that must be submitted as documentary proof of nonreceipt of the Office action. That is, the docket record showing *all replies* due on 06 October 2003 where the non-received Office action would have been entered had it been received. As previously advised in the decision mailed on 03 December 2004, this docket record must be attached to and referenced in practitioner's statement.

Counsel is advised to review MPEP 711.03(c) I. A. *Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action* found on pp. 700-162, 163. In the alternative, applicant may wish to consider filing a petition under 37 CFR 1.137 to revive a patent application unavoidably or unintentionally abandoned.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.181 is **DISMISSED WITHOUT PREJUDICE**. The application remains **ABANDONED**.

Applicant should submit a true copy of the law firm's docket record for replies in all applications due on 06 October 2003, where the non-received Office action would have been entered had it been received. This docket record should be attached to and referenced in practitioner's statement.

Any request for reconsideration on the merits of this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision.

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286

25 MAR 2005

#9

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29 MAR 2005

RUTAN & TUCKER, LLP
611 ANTON BOULEVARD
14TH FLOOR
COSTA MESA, CA 92628-1998

In re Application of
EDWARD ZHENG
U.S. Serial No.: 10/433,703
PCT Application No.: PCT/US00/33112
Int. Filing Date: 05 December 2000
Priority Date: None
Attorney Docket No.: 100697.0006US1
For: COLLAPSING CHAIR WITH SOLID ARMREST AND TENSIONED SEAT

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to applicants' "Response to Decision on Petition to Withdraw Holding of Abandonment", filed in the United States Patent and Trademark Office (USPTO) on 25 February 2005 in the above referenced application.

On 05 August 2003, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the $65 surcharge for filing the oath or declaration after the thirty month period was required. Thereafter at midnight 05 March 2004, the application was abandoned for failure to reply to the Notification of Missing Requirements within the time period set forth therein.

On 29 March 2004, applicant, *sua sponte*, filed an executed declaration and the $65 surcharge. On 07 June 2004, a copy of the declaration was filed with the USPTO.

On 19 May 2004, applicant filed a Petition to Withdraw the Holding of Abandonment.

On 26 October 2004, applicant filed a "Petition Under §1.181(a)" to withdraw the holding of abandonment.

On 05 November 2004, a decision dismissing the petitions was mailed to applicant indicating that applicant had failed to provide evidence that the Notification was not received. Applicant was advised to provide a copy of the docket record where the non-received Office action would have been entered had it been received (that is, the docket record for 06 October 2003).

On 12 November 2004 via facsimile, applicant filed a response to the 05 November 2004 decision. Applicant provided a docket record for U.S. application no. 10/433,703 along with a record of notes regarding this application.

On 03 December 2004, a decision dismissing applicant's petition was mailed indicating that counsel offered the docket record for this specific application. Applicant was advised that "what is required is a copy of the law firm's docket record showing *all replies* docketed for a date two months from the mail date (05 August 2003) of the nonreceived Office action or for 06 October 2003 (05 October 2003 was a Sunday) where the non-received Office action would have been entered had it been received."

On 20 December 2004, the instant renewed petition was filed along with a docket record for application no. 10/433,703.

On 17 February 2005, a decision dismissing applicant's petition was mailed indicating that the docket records submitted by counsel in this matter to the USPTO on 12 November, 15 November, and 20 December 2004 indicated counsel had provided the docket notes relating to *this specific application*. These records were not the records needed to prove the nonreceipt of an Office action. The docket record required was the law firm's *docket records where actions for all cases* showing *all replies* due on 06 October 2003 would be recorded; i.e. a tickler system.

On 25 February 2005, applicant filed the instant renewed petition along with the law firm's docket record for the time period 05 October through 06 October 2003.

DISCUSSION

Counsel has now provided a copy of the law firm's docket report showing *all replies* docketed for 06 October 2003, which is a date two months from the mail date (05 August 2003) of the nonreceived Office action. This record provides documentary proof of nonreceipt of the Office action.

CONCLUSION

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

The application will be forwarded to the United States Designated/Elected Office for further processing. The declaration fulfills the requirements of 37 CFR 1.497(a) and (b). The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is **29 March 2004.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286

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Office of the Director
Group 3600

ROBERT D. FISH
RUTAN & TUCKER
611 Anton Boulevard
14th Floor
Costa Mesa, CA 92626

In re application of : **DECISION ON PETITION**
John Addink et al : **TO MAKE SPECIAL**
Application No. 10/433,704 : **(APPLICANT'S AGE)**
Filed: September 12, 2003 :
For: RECORDING AND PROCESSING UTILITY COMMODITY USAGE

This is a decision on the petition submitted on November 10, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a declaration signed by Mr. Addink indicating that he is at least 65 years of age.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/pav: 5/22/04

23 NOV 2004

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Randolph E. Digges
Rankin, Hill, Porter & Clark. LLP
925 Euclid Avenue, Suite 700
Cleveland, Ohio 44155-1405

In re Application of :
GEORGIADES, Jerzy A. :
Application No.: 10/433,709 :
PCT No.: PCT/GB01/05376 : DECISION ON PETITION
Int. Filing Date: 05 December 2001 : UNDER 37 CFR 1.47(b)
Priority Date: 06 December 2000 :
Attorney Docket No.: AAT-14866 :
For: PEPTIDES DERIVED FROM :
COLOSTRININ

This decision is in response to applicant's "Renewed Petition under 37 CFR 1.47(b)" filed 29 March 2004, to accept the application without the signature of inventor, Jerzy Georgiades.

BACKGROUND

On 05 December 2001, applicant filed international application PCT/GB01/05376 which claimed a priority date of 06 December 2000. A Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was to expire 30 months from the priority date, 06 June 2003.

On 04 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); preliminary amendment; and a copy of international application.

On 16 September 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 14 November 2003, applicant filed a petition under 37 CFR 1.47(b). In a "Decision on Petition" dated 12 February 2004, applicant's petition under 37 CFR 1.47(b) was dismissed without prejudice.

On 29 March 2004, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

A review of the materials submitted with the renewed petition reveals that applicant has now submitted materials which, taken in combination with the previous submissions, satisfy all the requirements for a grantable petition under 37 CFR 1.47(b).

CONCLUSION

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

The application will be given an international filing date of 05 December 2001 under 35 U.S.C. 363, and a date of **14 November 2003** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

23 NOV 2004

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Jerzy A. GEORGIADES
9615 Bayou Brook
Houston, Texas 77063

In re Application of
GEORGIADES, Jerzy A.
Application No.: 10/433,709
PCT No.: PCT/GB01/05376
Int. Filing Date: 05 December 2001
Priority Date: 06 December 2000
Attorney Docket No.: AAT-14866
For: PEPTIDES DERIVED FROM COLOSTRININ

Dear Mr. Georgiades:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

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

Anthony Smith
Attorney-Advisor
Office of Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

Counsel of Record:

Randolph E. Digges
Rankin, Hill, Porter & Clark. LLP
925 Euclid Avenue, Suite 700
Cleveland, Ohio 44155-1405

12 FEB 2004

#7

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Randolph E. Digges
Rankin, Hill, Porter & Clark. LLP
925 Euclid Avenue, Suite 700
Cleveland, Ohio 44155-1405

In re Application of :
GEORGIADES, Jerzy A. :
Application No.: 10/433,709 :
PCT No.: PCT/GB01/05376 : DECISION ON PETITION
Int. Filing Date: 05 December 2001 : UNDER 37 CFR 1.47(b)
Priority Date: 06 December 2000 :
Attorney Docket No.: AAT-14866 :
For: PEPTIDES DERIVED FROM :
COLOSTRININ

This decision is in response to applicant's "Petition under 37 CFR 1.47(b)" filed 14 November 2003, to accept the application without the signature of inventor, Jerzy Georgiades.

BACKGROUND

On 05 December 2001, applicant filed international application PCT/GB01/05376 which claimed a priority date of 06 December 2000. A Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was to expire 30 months from the priority date, 06 June 2003.

On 04 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); preliminary amendment; and a copy of international application.

On 16 September 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 14 November 2003, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of item (1), (3), (4), (5), and (6). However, item (2) has not been satisfied.

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

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

A review of the present petition and the accompanying papers reveal that applicant has not satisfied item (2) above, in that the applicant has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Jerzy Georgiades. Martin Small states that a complete application was sent to

Jerzy Georgiades via United Parcel Service on 07 March 2003. A review of the UPS Tracking Detail reveals that the package was delivered but does not reveal whether the package was signed for by the nonsigning inventor or someone residing at the address. Additionally, it appears that the package was left at the "front door." Thus, it is unclear whether Mr.Georgiades in fact resides at the address to which the complete application was sent and if he was presented with the application papers required when a refusal is alleged. Additionally, Mr. Small states that, "Malcolm Beveridge contacted Dr. Georgiades by telephone on April 4, 2003. Mr. Beveridge told me (Martin Small) that Dr. Georgiades confirmed during their telephone conversation that he had received the application papers and cover letter I had sent to him by courier." The statements regarding the receipt of the application papers constitutes secondhand knowledge in that the receipt of the application (and refusal) was made to Mr. Malcolm Beveridge, not Martin Small.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, and drawings) were sent to Jerzy Georgiades, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Jerzy Georgiades under 37 CFR 1.47(b) at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)."

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

Anthony Smith

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

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Date : October 6, 2006

Patent No. :7,063,351
Inventor(s) :Jochen Winkler
Issued :June 20, 2006
Docket No. :3390.2.10

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
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.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Craig J. Madson
Madson & Austin
15 West South Temple,
Ste 900
Salt Lake City, Utah 84101

CBN/arg

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MADSON & AUSTIN
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY UT 84101

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CANCELLED

In re Patent No. 7,063,351 :
Application No. 10/433,733 :
Filed: October 7, 2003 : ON PETITION
Issued: June 20, 2006 :
Attorney Docket No. 3390.2.10 :

This is a decision on the petition filed December 11, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The 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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ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P.O. BOX 224
MONROE CT 06468

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OFFICE OF PETITIONS

In re Application of :
Jeremy Philip Swadling :
Application No. 10/433,744 : DECISION GRANTING PETITION
Filed: June 6, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 508-074.002 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection mailed December 3, 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 3744.

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

22 MAR 2005

#15

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Astra Zeneca Pharmaceuticals LP
Global Intellectual Property
1800 Concord Pike
Wilmington, DE 19850-5437

In re Application of	:	
Barlaam et al.	:	
Application No.: 10/433,746	:	
PCT No.: PCT/SE01/02725	:	
Int. Filing Date: 07 December 2001	:	DECISION
Priority Date: 07 December 2000	:	
Attorney Docket No.: 100218-1P US	:	
For: Therapeutic Benzimidazole Compounds	:	

This is in response to the petition under 37 CFR 1.181 filed 13 July 2004.

BACKGROUND

This international application was filed on 07 December 2001, claimed an earliest priority date of 07 December 2000, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 13 June 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 07 June 2003. On 06 June 2003, applicants filed *inter alia* the basic national fee.

On 09 September 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b), a surcharge under 37 CFR 1.492(e), additional claims fees in the amount of $810.00, an initial or substitute computer readable form ("CRF") of the "Sequence Listing," an initial or substitute paper copy or compact disc of the "Sequence Listing," and an amendment directing its entry into the specification.

On 06 November 2003, applicants filed a declaration and fees, but applicants did not file the CRF and paper copy of the sequence listing.

On 03 December 2003, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, again requiring the submission of additional claims fees in the amount of $810.00, an initial or substitute computer readable form ("CRF") of the "Sequence Listing," an initial or substitute paper copy or compact disc of the "Sequence Listing," and an amendment directing its entry into the specification.

On 18 December 2003, applicants filed a further response, including *inter alia* a substitute Sequence Listing and a CRF of the substitute Sequence Listing, which was found to be defective.

On 19 February 2004, another Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, again requiring the submission of an initial or substitute computer readable form ("CRF") of the "Sequence Listing," an initial or substitute paper copy or compact disc of the "Sequence Listing," and an amendment directing its entry into the specification.

On 19 March 2004, applicants filed a further response, including *inter alia* another substitute Sequence Listing and another CRF of the substitute Sequence Listing, which was found to be defective.

On 24 May 2004, a Notification of Defective Response Abandonment (Form PCT/DO/EO/918) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to properly respond to the Form PCT/DO/EO/905 mailed on 09 September 2003.

DISCUSSION

Counsel requests the withdrawal of the holding of abandonment on the basis that counsel allegedly filed a timely and *bona fide* response to each Notification mailed by the USPTO. Counsel argues that

> the Office's holding of abandonment is inequitable in view of Applicants' repeated demonstrations of timely and good-faith attempts to respond to the Notifications. This is not a case of Applicants' ignoring or forgetting about the most recent Notification (or either of the others, for that matter); Applicants made a *bona fide* and proper response to the February 19th Notification within the time limit allowed and should not be penalized with a holding of abandonment because the Office has since come up with additional requirements not yet known. Applicants should be allowed additional time to address the latest assertions of defects in the sequence listing.

Counsel is respectfully advised that the mailing of a Notification of Defective Response does not operate to grant a new period for response, but instead merely offers notice and additional time in which to perfect a *bona fide* response which already has been filed. Counsel is advised that it is the policy of the USPTO to provide only one opportunity, in the form of a Notification of Defective Response, in which to perfect a particular requirement. Although counsel complains that the Notification of Defective Response Abandonment mailed on 24 May 2004 "set forth entirely new allegations of defects of which Applicants were not aware at the time they prepared their March 19, 2004 response," counsel had been notified in the Notification of Missing Requirements mailed on 09 September 2003, the Notification of Defective Response mailed on 03 December 2003, and the Notification of Defective Response mailed on 19 February 2004 that the submission of, *inter alia*, an initial or substitute computer readable form ("CRF") of the "Sequence Listing," an initial or substitute paper copy or compact disc of the "Sequence Listing," and an amendment directing its entry into the specification was required, but counsel had not complied with those

requirements as of the mailing of the Notification of Defective Response Abandonment on 24 May 2004. Further, applicant's reply of 06 November 2003 failed to include the required materials to comply with the sequence listing requirements set forth in 37 CFR 1.821 - 1.825. As such, the holding of abandonment was proper. As such, the petition to withdraw the holding of abandonment is **DISMISSED**, without prejudice.

With regard to the petition under 37 CFR 1.78(a)(6) filed on 21 April 2004, 37 CFR 1.78(a)(6) provides in part that

> the claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed

Insofar as the instant case is currently abandoned, it would not be appropriate to accept the priority claim at this time, since the application is not pending at this time. *See also* 35 U.S.C. 119(e)(1). As such, the petition under 37 CFR 1.78(a)(6) is **DISMISSED**, without prejudice.

DECISION

The petition is **DISMISSED**, without prejudice, as described above.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

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

Astra Zeneca Pharmaceuticals LP
Global Intellectual Property
1800 Concord Pike
Wilmington, DE 19850-5437

14 SEP 2006

In re Application of :
Barlaam et al. :
Application No.: 10/433,746 :
PCT No.: PCT/SE01/02725 :
Int. Filing Date: 07 December 2001 : DECISION
Priority Date: 07 December 2000 :
Attorney Docket No.: 100218-1P US :
For: Therapeutic Benzimidazole Compounds :

This is in response to the petition under 37 CFR 1.137(b) filed 04 August 2005 and the petition under 37 CFR 1.78(a)(6) filed on 21 April 2004.

DISCUSSION

In a decision mailed on 22 March 2005, the petition to withdraw the holding of abandonment filed on 13 July 2004 was dismissed without prejudice because

> Counsel is respectfully advised that the mailing of a Notification of Defective Response does not operate to grant a new period for response, but instead merely offers notice and additional time in which to perfect a *bona fide* response which already has been filed. Counsel is advised that it is the policy of the USPTO to provide only one opportunity, in the form of a Notification of Defective Response, in which to perfect a particular requirement. Although counsel complains that the Notification of Defective Response Abandonment mailed on 24 May 2004 "set forth entirely new allegations of defects of which Applicants were not aware at the time they prepared their March 19, 2004 response," counsel had been notified in the Notification of Missing Requirements mailed on 09 September 2003, the Notification of Defective Response mailed on 03 December 2003, and the Notification of Defective Response mailed on 19 February 2004 that the submission of, *inter alia*, an initial or substitute computer readable form ("CRF") of the "Sequence Listing," an initial or substitute paper copy or compact disc of the "Sequence Listing," and an amendment directing its entry into the specification was required, but counsel had not complied with those requirements as of the mailing of the Notification of Defective Response Abandonment on 24 May 2004. Further, applicant's reply of 06 November 2003 failed to include the required materials to comply with the sequence listing requirements set forth in 37 CFR 1.821 - 1.825. As such, the holding of abandonment was proper. As such, the petition to withdraw the holding of abandonment is **DISMISSED**, without prejudice.

The decision mailed on 22 March 2005 also dismissed without the petition under 37 CFR 1.78(a)(6) filed on 21 April 2004, because

37 CFR 1.78(a)(6) provides in part that the claim under 35 U.S.C. 119(e)

> for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed Insofar as the instant case is currently abandoned, it would not be appropriate to accept the priority claim at this time, since the application is not pending at this time. *See also* 35 U.S.C. 119(e)(1). As such, the petition under 37 CFR 1.78(a)(6) is **DISMISSED**, without prejudice.

Petition Under 37 CFR 1.137(b)

The instant petition seeks revival of this international application with regard to the national stage in the United States. 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 as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply is an initial or substitute computer readable form ("CRF") of the "Sequence Listing," an initial or substitute paper copy or compact disc of the "Sequence Listing," and an amendment directing its entry into the specification. Inspection of the records of the USPTO reveals that such a reply has been filed.

Regarding requirement (2), the petition authorized the petition fee to be charged to counsel's Deposit Account No. 23-1703.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

Petition Under 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed 21 April 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

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 pending 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).

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. 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.

DECISION

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

The petition under 37 CFR 1.78(a)(6) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **06 November 2003**.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

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OFFICE OF PETITIONS

In re Application of	:	
EDENS, et al.	:	
Application No. 10/433,747	:	DECISION ON PETITION
Filed: November 10, 2003	:	TO WITHDRAW
Attorney Docket No. 4662-379	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2006.

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

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on October 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Patricia Volpe at (571) 272-6825.

Volpe for

David Bucci
Petitions Examiner
Office of Petitions

cc: NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Docket No.: H0498.70369US01
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Andreas R. Bausch et al.
Serial No.:	10/433,753
Confirmation No.:	1859
Filed:	December 8, 2003
For:	METHODS AND COMPOSITIONS FOR ENCAPSULATING ACTIVE AGENTS
Examiner:	H. S. Ahmed
Art Unit:	1618

Certificate of Electronic Filing Under 37 CFR 1.8

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: Signature: _____

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

Dear Madam:

DO NOT ENTER /H.A./
19 OCTOBER 2009

INTRODUCTORY COMMENTS

In response to the Office Action dated May 28, 2009, Applicants respectfully request reconsideration in view of the following:

Remarks begin on page 2 of this paper.

15 JUL 2004

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of	:	
PAPONNEAU et al.	:	
Application No.: 10/433,769	:	DECISION
PCT No.: PCT/FR01/03838	:	
Int. Filing Date: 05 December 2001	:	
Priority Date: 05 December 2000	:	
Attorney Docket No.: SPINE-418	:	
For: SPINAL INTERVERTEBRAL IMPLANT ADJUSTABLE IN SITU COMPRISING HARD PASS POINT	:	

This is a decision on applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) AND PETITION UNDER 37 C.F.R. § 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 30 April 2004.

BACKGROUND

On 05 December 2001, applicants filed international application PCT/FR01/03838, which designated the United States and claimed priority of an earlier application filed on 05 December 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 13 June 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 June 2003.

On 05 June 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 30 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that: an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b); the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date; a translation of the application into English and the surcharge under 37 CFR 1.492(f) for providing the translation later than thirty months from the priority date were required.

On 05 April 2004, applicants filed the instant "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) AND PETITION UNDER 37 C.F.R. § 1.47(a)". The submission was accompanied by a petition/fee for a five month extension of time; a translation of the international application into English; the surcharge under 37 CFR 1.492(e); and the surcharge under 37 CFR 1.492(f). The petition under 37 CFR 1.47(a) was accompanied by a declaration of inventors and a declaration of facts by Chris McDonnell.

DISCUSSION

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

Items (1), (3), and (4) have been satisfied.

Item (2) has not been satisfied. The declaration of facts of Chris McDonnell states that "[s]ubsequent to presenting the copy of the application papers to Mr. Conchy, he refused to sign the statutory Declaration." It is not clear whether the refusal was made to Mr. McDonnell or to someone else. MPEP § 409.03(d) states in part:

> 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.

Also, it is not clear whether this refusal was oral or written. MPEP § 409.03(d) states in part:

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

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(a) at this time.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

04 JAN 2005
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#7

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of	:	
PAPONNEAU et al.	:	
Application No.: 10/433,769	:	DECISION
PCT No.: PCT/FR01/03838	:	
Int. Filing Date: 05 December 2001	:	
Priority Date: 05 December 2000	:	
Attorney Docket No.: SPINE-418	:	
For: SPINAL INTERVERTEBRAL IMPLANT ADJUSTABLE IN SITU COMPRISING HARD PASS POINT	:	

This is a decision on applicants' "RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 15 September 2004.

BACKGROUND

On 05 December 2001, applicants filed international application PCT/FR01/03838, which designated the United States and claimed priority of an earlier application filed on 05 December 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 13 June 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 June 2003.

On 05 June 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 30 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that: an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b); the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date; a translation of the application into English and the surcharge under 37 CFR 1.492(f) for providing the translation later than thirty months from the priority date were required.

On 30 April 2004, applicants filed a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) AND PETITION UNDER 37 C.F.R. §

1.47(a)". The submission was accompanied by a petition/fee for a five month extension of time; a translation of the international application into English; the surcharge under 37 CFR 1.492(e); and the surcharge under 37 CFR 1.492(f). The petition under 37 CFR 1.47(a) was accompanied by a declaration of inventors and a declaration of facts by Chris McDonnell.

On 15 July 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) because sufficient factual proof that the missing inventor refused to execute the application had not been provided.

On 15 September 2004, applicants submitted the instant "RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)", which was accompanied by, *inter alia*, a declaration of facts by Kevin M. Kocun, a letter addressed to the nonsigning joint inventor Frederic Conchy dated 29 July 2004, and a copy of a printout from a FedEx database dated 14 September 2004.

DISCUSSION

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

As noted in the decision mailed 15 July 2004, items (1), (3), and (4) have been satisfied.

Regarding item (2), the submission filed 15 September 2004 is sufficient to establish that the nonsigning inventor Mr. Conchy refuses to execute the application.

CONCLUSION

For the above reasons, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **30 April 2004**.

Daniel Stemmer
Legal Examiner

PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

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Ronald P. Kananen
Rader Fishman & Grauer
Suite 501
1233 20th Street, NW
Washington, DC 20036

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OFFICE OF PETITIONS

In re Application of :
Shigeru Arisawa, et. al. :
Application No. 10/433,785 : ON PETITION
Filed: June 6, 2003 :
Attorney Docket No. SON-2520 :

This is a decision on the petition under 37 CFR 1.137(b), filed on December 15, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed September 14, 2006.

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

The Office also acknowledges receipt of $9 for three (3) advance order soft copies submitted on December 15, 2006.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

20 NOV 200

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P.O. BOX 1450
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Elbie R. De Kock
Russell Reyneke
Suite 700, Two Bentall Centre
555 Burrard Street
Vancouver, BC
CANADA V7X 1M8

In re Application of	:	
HAHN, et al.	:	
Application No.: 10/433,787	:	
PUT No.: PCT/ZA01/00196	:	DECISION ON PETITION
Int. Filing Date: 10 December 2001	:	
Priority Date: 08 December 2000	:	UNDER 37 CFR 1.42
Attorney Docket No.: 203101	:	
For: PROCESS AND GAS GENERATOR FOR GENERATING FUEL GAS	:	

The above-identified applications come before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371. The filing of the declaration on 06 June 2003 is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 10 December 2001, applicant filed the international application, which claimed a priority date of 08 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 June 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 08 June 2003.

On 06 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, a First preliminary amendment and a declaration executed by joint inventors Hans Helmut Hahn and Heinrich Mosch as well as Janusz Franciszek Luterek on behalf of the deceased joint inventor, Heinz Mallek.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The declaration filed 06 June 2003 is executed by Janusz Franciszek Luterek on behalf of the deceased joint inventor, Heinz Mallek. However, it appears that Luterek is merely an assignee to the invention and not the sole heir or legal representative of the estate of the deceased inventor. As such it is not possible to accept the declaration. Applicant is required to provide an oath or declaration executed by all of the heirs of the deceased inventor or his legal representative. Should an oath or declaration be submitted which is signed by the legal heirs, applicant is required to provide a statement either from those signing the document or from counsel which sets forth that they are in fact all of the heirs of the deceased inventor. In addition, said statement should set forth that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. Applicant is further advised that 37 CFR 1.497(b) requires that the residence, post office address and country of citizenship information must be provided for both the deceased joint inventor and the surviving heirs or legal representative.

It is noted that the first page of the declaration was inadvertently not filed. As a result the declaration does not comply with 37 CFR 1.497(a)(2) in that the document does not identify the specification to which it is directed.

CONCLUSION

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

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

06 MAY 2004

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#7

Elbie R. De Kock
Russell Reyneke
Suite 700, Two Bentall Centre
555 Burrard Street
Vancouver, BC
CANADA V7X 1M8

In re Application of HAHN, et al. Application No.: 10/433,787 PUT No.: PCT/ZA01/00196 Int. Filing Date: 10 December 2001 Priority Date: 08 December 2000 Attorney Docket No.: 203101 For: PROCESS AND GAS GENERATOR FOR GENERATING FUEL GAS	DECISION ON RENEWED PETITION UNDER 37 CFR 1.42

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.42" filed 17 February 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 20 November 2003, applicant was mailed a decision dismissing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 17 February 2004, applicant filed the present renewed petition under 37 CFR 1.42 accompanied by a petition for a one-month extension of time and payment of the appropriate extension of time fee. As such, applicant's renewed petition is timely filed.

DISCUSSION

As detailed in the decision mailed 20 November 2003, 37 CFR 1.42 states, in part:

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

A review of the presently filed papers finds that applicant has submitted a compliant combined declaration and power of attorney. The document is executed by joint inventors Hans Helmut HAHN and Heinrich MOSCH. In addition, the declaration is executed by Kirsten

Braeker as legal representative to the estate of the deceased inventor, Heinz Gustav MALLEK. The declaration provides the residence, postal address and citizenship for both the legal representative and the deceased joint inventor. Therefore it is appropriate to grant applicant's renewed request at this time.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.42 is GRANTED.

The application has an international filing date of 10 December 2001 under 35 U.S.C. 363, and will be given a date of **17 February 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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25 SEP 2006

Kriegsman & Kriegsman
665 Franklin Street
Framingham MA 01702

In re Application of SCHACHT Serial No.: 10/433,793 PCT No.: PCT/EP01/14320 Int. Filing Date: 06 December 2001 Priority Date: 06 December 2000 Attorney's Docket No.: 47675-185 For: DIAGNOSIS OF DISEASES ASSOCIATED WITH ANGIOGENESIS.....	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 31 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" , which meets the requirements of 37 CFR 1.137(b)(3). The required petition fee of $750 was also paid.

A review of the application file reveals that the proper reply, that is, the sequence listing, in response to the 10 April 2006 Notice of Defective Response, was provided on 31 July 2006 and is entered. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing.

Cynthia M. Kratz
Attorney Advisor
Office of Patent Cooperation Treaty
Legal Administration Office

Telephone: (571) 272-3286
Facsimile : (571) 273-0459

23 SEP 200

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Steven J. Keough
Fredrikson & Byron, P.A.
4000 Pillsbury Center
200 South Sixth Street
Minneapolis, MN 55402-1425

In re Application of	:	
FRASER et al.	:	
Application No.: 10/433,799	:	DECISION ON
PCT No.: PCT/GB01/05345	:	
Int. Filing Date: 04 December 2001	:	PETITION UNDER
Priority Date: 04 December 2000	:	
Attorney Docket No.: 48306.1.2	:	37 CFR 1.137(b)
For: DEVICES FOR IMAGING RADIONUCLIDE EMISSIONS	:	

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 05 June 2003.

BACKGROUND

On 04 December 2001, applicant filed international application PCT/GB01/05345, which designated the United States and claimed a priority date of 04 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 June 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 04 June 2003.

On 05 June 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, an assertion of small entity status, an unexecuted declaration of inventors, and the instant "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)."

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee for a small entity on 05 June 2003.

As to item (2), applicant submitted the petition fee for a small entity on 05 June 2003.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

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Bates & Tyde, LLC
931 Monroe Drive NE
Suite A-102-153
Atlanta GA 30308

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DEC 03 2008

In re Application of :
Ducray et al. :
Application No. 10/433,811 : DECISION ON PETITION
Filed: 06/06/2003 :
Attorney Docket No. NOVAR-0001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 14, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 15, 2008. On August 14, 2008, the Office mailed a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1615 for appropriate action by the Examiner in the normal course of business on the replies received on July 31, 2008, and August 5, 2008.

Christina T. 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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/433,811	06/06/2003	Pierre Ducray	H-31682A

CONFIRMATION NO. 2910

POA ACCEPTANCE LETTER

Bates & Tyde, LLC
931 Monroe Drive NE
Suite A-102-153
Atlanta, GA 30308

OC000000033407731

Date Mailed: 12/02/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/31/2008.

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

/ctdonnell/

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

14 SEP 2004

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WASHINGTON, D.C. 20231
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Jerry Cohen
PERKINS SMITH & COHEN
One Beacon Street
Boston, MA 02108

In re Application of	:	
ALESSANDRO DAZZA	:	
Appl. No.: 10/433,815	:	DECISION UNDER
PCT No.: PCT/EP01/13972	:	37 CFR 1.181
Int. Filing Date: 29 November 2001	:	
Priority Date: 08 December 2000	:	
Agent's File Reference: 12707 P08	:	
For: AL203 AND ZR02 BASED ABRASIVE GRAIN, METHOD FOR THE PRODUCTION AND USE THEREOF		

This Office is in receipt of applicants' 24 August 2004 communication, which is being treated as a petition under 37 CFR 1.181 requesting that the copies of the declaration, powers of attorney and assignment filed with the present petition be accepted in lieu of the originals filed on 10 October 2003. No petition fee is required. The petition is **GRANTED**.

BACKGROUND

On 06 June 2003, applicants filed U.S. application 10/433,815 as a national stage entry of international application PCT/EP01/13972, which claimed priority to a German application filed 08 December 2000. An oath/declaration was not included with the application papers.

On 30 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating, inter alia, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) or (b) must be filed in order to complete the requirements for acceptance under 35 U.S.C. 371.

On 24 August 2004, applicants filed the present petition forwarding a copy of the declaration executed in accordance with 37 CFR 1.497, copies of the powers of attorney and assignment accompanied by a copy of the return receipt postcard indicating a receipt date of 10 October 2003.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

A review of the papers filed with the present petition reveals that a declaration, powers of attorney and assignment were received by the Office on 10 October 2003. The proof is in the copy of the postcard receipt which itemizes, inter alia, "...PTO/-1595, Assignment,...PTO/SB/01, PTO/SB81...". Therefore, in view of the evidence of record and counsel's affirmation that the papers filed on 24 August 2004 are true copies of the originals filed on 10 October 2003, the copies of the declaration, powers of attorney and assigment may properly be **accepted as having been filed on 10 October 2003.**

CONCLUSION

Accordingly, the copies of the declaration, powers of attorney and assignment filed with the present petition are accepted as having been filed on 10 October 2003.

This application is being returned to the United States International Preliminary Examining Authority for the issuance of a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903), indicating a date under 35 U.S.C. 371(c) of 10 October 2003.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

JSF/RC:jf

(703)308-6154

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OFFICE OF PETITIONS

HAMRE SCHUMANN MUELLER & LARSON, P.C.
P.O. BOX 2902-0902
MINNEAPOLIS, MN 55402-0902

In re Application of :
Hideki Kitaura et al :
Application No. 10/433,818 : ON PETITION
Filed: June 6, 2003 :
Attorney Docket No. 10873.1164USWO

This is a decision on the petition filed, August 3, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 19, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2627 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

05 SEP 2[illegible]

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Mark H. Hopkins
MARSHALL, GERSTEIN & BORUN
233 S. Wacker Drive, Suite 6300
Chicago, IL 60606-6357

In re Application of :
SENKPEIL, Richard F. *et al* :
U.S. Application No.: 10/433,835 :
PCT No.: PCT/US01/32243 :
Int. Filing Date: 17 October 2001 :
Priority Date: 17 October 2000 :
Attorney Docket No.: 29479/501A-NSC :
For: PRODUCTION OF ALPH-HYDROXY- :
CARBOXYLIC ACIDS USING :
A COUPLED ENZYME SYSTEM :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an Application for Patent Designating the US Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 09 June 2003 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) has been submitted.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 17 October 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 09 June 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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06 FEB 2007

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

In re Application of
ERI et al.
Application No.: 10/433,846
PCT No.: PCT/GB01/05461
Int. Filing Date: 11 December 2001
Priority Date: 11 December 2000
Atty. Docket No.: 1101.120US01
For: FISCHER-TROPSCH CATALYST, PREPARATION, and USES THEREOF

DECISION

This decision is issued in response to applicants' "Request for Corrected Filing Receipt" and "Request for Corrected Notice of Acceptance" filed on 12 January 2004, which is being treated as a petition under 37 CFR 1.181. (Additionally, this decision is issued in response to applicant's request filed 05 April 2005 and 16 September 2005.)

BACKGROUND

On 09 June 2003, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a copy of the international application; and a preliminary amendment.

In response to the Notification of Missing Requirements dated 23 October 2003, applicants filed an executed declaration of inventors on 10 November 2003.

On 10 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 10 November 2003 and a 35 U.S.C. 371 completion date of 11 June 2004.

On 12 January 2004, applicants filed "Request for Corrected Filing Receipt" and "Request for Corrected Notice of Acceptance."

DISCUSSION

As stated above, applicants are requesting that this application properly acknowledge the claim to foreign priority, United Kingdom application number 0030170.5, filed 11 December 2000, on the Official Filing Receipt. In accordance with section 1893.03(c) Manual of Patent Examining Procedure, it is appropriate to identify United Kingdom application number 0030170.5 (11 December 2000) under "Foreign Applications" on the Official Filing Receipt.

Further, applicants request that the date of receipt of all 35 U.S.C. 371 requirements on the Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495 should be corrected to 10 November 2003. The Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) indicates the date of receipt of the 37 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements and it also indicates the date of completion of all 35 U.S.C. 371 requirements. Here, applicants submitted an executed declaration on 10 November 2003, which is the date set forth in 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). Therefore, the Notification of Acceptance will indicate 10 November 2003 as the date that the all 35 U.S.C. 371 requirements were met. Accordingly, the correction of the Notification of Acceptance to indicate a date of 10 November 2003 is proper.

Per the preliminary amendment filed 09 June 2003, the title of the invention will be amended to FISCHER-TROPSCH CATALYST, PREPARATION, and USES THEREOF.

CONCLUSION

Applicants' request under 37 CFR 1.181 for issuance of a corrected Notification of Acceptance and Official Filing Receipt is **GRANTED**. The Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 10 December 2003 are hereby **VACATED**.

The National Stage Processing Branch of the International Division will be instructed to issue a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date as 10 November 2003 and a corrected filing receipt which identifies 10 November 2003 as the filing date.

Thereafter, this application will be referred to its appropriate Art Unit.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

#6

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GlaxoSmithKline
Corporate Intellectual Property - UW 2220
PO Box 1539
King of Prussia, PA 19406-0939

In re Application of	:	
KRAMER, Hans	:	
Application No.: 10/433,850	:	DECISION ON
PCT No.: PCT/EP01/14040	:	
Int. Filing Date: 03 December 2001	:	PETITION
Priority Date: 07 December 2000	:	
Attorney Docket No.: C70461	:	UNDER 37 CFR 1.181
For: BRUSH PART FOR ELECTRIC TOOTHBRUSH	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.181," filed on 12 May 2005. It has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 03 December 2001, applicant filed international application PCT/EP01/14040, claiming a priority date of 07 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 25 October 2001. The deadline for entry into the national stage in the United States was thirty months from the priority date, 07 June 2003.

On 05 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 30 September 2003, the Office mailed Notification of Missing Requirements, indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), the surcharge for late filing of the oath or declaration and the processing fee for late submission of the translation were required.

On 19 October 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909).

On 12 May 2005, applicant mailed the instant petition accompanied by a copy of a declaration and transmittal letter that applicant claims was submitted on 23 October 2003.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of an auto-reply facsimile receipt from the Office, identifying the instant application by application number and docket number, stamped 23 October 2003. The receipt does not itemize the contents of the 23 October 2003 submission, but the Office has no papers on file in the application from 23 October 2003. As applicant claims that the submission on 12 May 2005 including a declaration is a true copy of the 23 October 2003 submission and the Office has no submission from 23 October 2003 in the file, the Office is accepting applicant's copy as a true copy of the 23 October 2003 submission. The declaration is accepted as having been received on 23 October 2003.

The declaration submitted on 23 October 2003 satisfies the requirements of 37 CFR 1.497(a)-(b).

A review of the file reveals no English translation, though the Notification of Missing Requirements lists one as having been received.

CONCLUSION

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

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 30 September 2003 is **VACATED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 19 October 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the preparation and mailing of a new Notification of Missing Requirements, requiring submission of an English translation of the international application.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

28 JUN 2005

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2005 JUL -1 A 11:56

GlaxoSmithKline
Corporate Intellectual Property - UW 2220
PO Box 1539
King of Prussia, PA 19406-0939

In re Application of	:	
KRAMER, Hans	:	
Application No.: 10/433,850	:	DECISION ON
PCT No.: PCT/EP01/14040	:	
Int. Filing Date: 03 December 2001	:	PETITION
Priority Date: 07 December 2000	:	
Attorney Docket No.: C70461	:	UNDER 37 CFR 1.181
For: BRUSH PART FOR ELECTRIC TOOTHBRUSH	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.181," filed on 12 May 2005. It has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 03 December 2001, applicant filed international application PCT/EP01/14040, claiming a priority date of 07 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 25 October 2001. The deadline for entry into the national stage in the United States was thirty months from the priority date, 07 June 2003.

On 05 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 30 September 2003, the Office mailed Notification of Missing Requirements, indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), the surcharge for late filing of the oath or declaration and the processing fee for late submission of the translation were required.

On 19 October 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909).

On 12 May 2005, applicant mailed the instant petition accompanied by a copy of a declaration and transmittal letter that applicant claims was submitted on 23 October 2003.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

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Applicant has submitted a copy of an auto-reply facsimile receipt from the Office, identifying the instant application by application number and docket number, stamped 23 October 2003. The receipt does not itemize the contents of the 23 October 2003 submission, but the Office has no papers on file in the application from 23 October 2003. As applicant claims that the submission on 12 May 2005 including a declaration is a true copy of the 23 October 2003 submission and the Office has no submission from 23 October 2003 in the file, the Office is accepting applicant's copy as a true copy of the 23 October 2003 submission. The declaration is accepted as having been received on 23 October 2003.

The declaration submitted on 23 October 2003 satisfies the requirements of 37 CFR 1.497(a)-(b).

A review of the file reveals no English translation, though the Notification of Missing Requirements lists one as having been received.

CONCLUSION

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

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 30 September 2003 is **VACATED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 19 October 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the preparation and mailing of a new Notification of Missing Requirements, requiring submission of an English translation of the international application.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: David Albert James	: DECISION ON REQUEST FOR
Patent Number	: 7595131	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/433,860	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1377** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE2400
CHICAGO IL 60603-5803

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OFFICE OF PETITIONS

In re Application of :
STEVEN L. WEBB :
Application No. 10/433,874 : DECISION ON PETITION
Filed: 06/03/2003 :
Attorney Docket No. TJK/381 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 9, 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 December 10, 2005. A Notice of Abandonment was mailed on April 3, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2875 for appropriate action by the Examiner in the normal course of business on the reply received on April 5, 2007.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

#5

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Edwin D. Schindler
Five Hersch Avenue
P.O. Box 966
Coram, NY 11727-0966

In re Application of :
ABRAHAM :
Application No.: 10/433,887 :
PCT No.: PCT/GB01/05390 : DECISION ON PETITION
Int. Filing Date: 05 December 2001 :
Priority Date: 05 December 2000 :
Attorney Docket No.: None :
For: METHOD OF FORMING SUBSTRATES :
WITH VISUAL FEATURES :

This decision is in response to applicant's "Petition to Vacate Erroneous Holding of Abandonment, Pursuant to 37 C.F.R. §§1.10 and 1.181" identifying serial number 10/443,887 filed in the United States Patent and Trademark Office (USPTO) on 25 October 2004. The petition is being treated as a Petition under 37 CFR 1.182. The $400 petition fee under 37 CFR 1.17 has been charged to Deposit Account no. 19-0450 as authorized in the Transmittal Letter filed 05 June 2003.

BACKGROUND

On 05 December 2001, applicant filed international application PCT/GB01/05390 which claimed a priority date of 05 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 June 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 05 June 2003.

On 05 June 2003, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 30 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventor and the $130.00 surcharge for filing after the thirty-month period were required. The notification set a TWO MONTH period for response.

On 08 October 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating, in effect, that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 30 September 2003.

On 25 October 2004, applicant filed "Petition to Vacate Erroneous Holding of

Abandonment, Pursuant to 37 C.F.R. §§1.10 and 1.181" which was accompanied by a copy of the declaration/power of attorney, assignment document for recording and a post card receipt dated 31 July 2003 for application no. 10/443,887. It is noted that the $130. surcharge for submitting a declaration later than 30 months and the $40.00 assignment recordation fee were charged to application no. 10/443,887. These fees will be transferred to the present National stage application.

DISCUSSION

Accordingly, the present petition has been treated as a petition under 37 CFR 1.182 to correct the application number identified on applicant's 31 July 2003 submission to the proper application number, that is, 10/433,887.

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant and title. The receipt itemizes, inter alia: Declaration/Power-of-Attorney; Assignment w/Cover Sheet. The receipt is stamped "DT14 Rec'd PCT/PTO 31 JUL 2003" across its face. A review of the papers filed 31 July 2003 reveals that the declaration included sufficient information to permit identification of the application to which it was intended to be directed, i.e., national stage application no. 10/433,887.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **GRANTED**.

The Notification of Abandonment mailed 08 October 2004 is hereby **VACATED**.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 05 December 2001 and a date of **31 July 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

20 FEB 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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John Mion
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213

In re Application of :
FOCKE et al. :
Application No.: 10/433,892 :
PCT No.: PCT/EP01/14185 : DECISION ON
Int. Filing Date: 04 December 2001 : PAPERS UNDER 37 CFR 1.42
Priority Date: 11 December 2000 :
Attorney Docket No.: Q85823 :
For: PACKAGE, PARTICULARLY A CIGARETTE PACKAGE, AND METHOD AND DEVICE FOR THE . . .

This decision is in response to the declaration filed 23 January 2004, which is being treated a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 04 December 2001, applicants filed international application PCT/EP01/14185, which claimed a priority date of 11 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 June 2002. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was extended to expire on 11 June 2003.

On 06 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a preliminary amendment; and a translation of the international application.

On 23 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 23 January 2004, applicants filed the present request under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor,

administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed on 23 January 2004 is executed by Jurgen Focke and Doris Focke as the "legal representatives" of the deceased inventor, Heinz Focke. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 23 January 2004 does not include the citizenship for the legal representatives. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

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

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

27 OCT 2005

#8

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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John Mion
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213

In re Application of
FOCKE et al.
Application No.: 10/433,892
PCT No.: PCT/EP01/14185
Int. Filing Date: 04 December 2001
Priority Date: 11 December 2000
Attorney Docket No.: Q785823
For: PACKAGE, PARTICULARLY A CIGARETTE PACKAGE, AND METHOD AND DEVICE FOR THE . . .

DECISION ON
PAPERS UNDER 37 CFR 1.42

This decision is in response to the "Submission of Supplemental Declaration" filed 18 March 2004, which is being treated as a renewed request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 04 December 2001, applicants filed international application PCT/EP01/14185, which claimed a priority date of 11 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 June 2002. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was extended to expire on 11 June 2003.

On 06 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a preliminary amendment; and a translation of the international application.

On 23 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 23 January 2004, applicants filed a request under 37 CFR 1.42. In a decision dated 20 February 2004, applicants' request under 37 CFR 1.42 was dismissed without prejudice

On 18 March 2004, applicants filed the present renewed request under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

The declaration submitted on 18 March 2004 was executed by Jurgen Focke and Doris Focke as the "legal representatives" of the deceased inventor, Heinz Focke. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

The application has an international filing date of 04 December 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **18 March 2004**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: (571) 272-3298
Fax: (571) 273-0459

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVE, NW
SUITE 800
WASHINGTON, DC 20037

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of :
SPAHR, et al. :
Application No. 10/433,903 : DECISION ON PETITION
Filed: June 6, 2003 : TO WITHDRAW
Attorney Docket No. Q87997 : 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 12, 2006.

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

A review of the file record indicates that the power of attorney to Peter D. Olexy and the attorneys associated with customer number 23373 have been revoked by the assignee of the patent application on June 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP**
901 New York Avenue, NW
Washington, DC 20001-4413

23 AUG 2004

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Richard M Beck
Connolly Bove Lodge & Hutz LLP
P O Box 2207
Wilmington DE 19899-2207

In re Application of YOSHIAKI KYOGOKU Application No.: 10/433,913 Filing Date: 04 June 2003 Attorney Docket No.: 00278-00089US For: DYNAMIC BALANCE TESTING MACHINE	DECISION ON PAPERS FILED UNDER 35 U.S.C. 111(a)

This communication is in response to application papers filed by applicant in the United States Patent and Trademark Office (USPTO), on 04 June 2003 in the above-captioned application. This is also responsive to applicant's status inquiry received on 29 March 2004.

On 04 June 2003, applicant filed a Utility Patent Application Transmittal (Form PTO/SB/05), a Transmittal letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO-1390), Fee Transmittal for FY 2003 (PTO/SB/17) and a declaration executed by the inventor and directed to a Japanese patent application (which was not a PCT international application).

Although applicant filed a transmittal letter to the United States concerning a filing under 35 U.S.C. 371, applicant did not made reference to an international application filed under the Patent Cooperation Treaty. Thus, applicant is not entitled to file a U.S. national stage application under 35 U.S.C. 371. However, applicant also filed a transmittal letter under 35 U.S.C. 111, along with a copy of the Japanese patent application and translation thereof. Therefore, the papers filed on 04 June 2003 are considered a U.S. application filed under 35 U.S.C. 111(a).

CONCLUSION

This application is accepted as an application filed under 35 U.S.C. 111(a) with a filing date of 04 June 2003. The basic utility fee for an application filed under 35 U.S.C. 111(a) is $750. Applicant's deposit account will be charged the filing fee of $750 per his authorization.

The application will then be forwarded to the Office of Initial Patent Examination (OIPE) for further processing as a national application filed under 35 U.S.C. 111(a) with a filing date of 04 June 2003.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

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TECHNOLOGY CENTER

SHAPER ILER LLP
1800 WEST LOOP SOUTH
SUITE 1450
HOUSTON TX 77027

In ré Application of: Stephen Shaper
Application No. 10/433,914
Filed: June 4, 2003
Attorney Docket No.: 50134
For: SYSTEMS FOR FACILITATING CARD PROCESSING SYSTEMS/IMPROVED RISK CONTROL

DECISION ON PETITION
UNDER 37 CFR 1.181

This is in response to Applicant's petition under 37 CFR 1.181 filed April 28, 2008 requesting withdrawal of the finality of the Office action mailed April 15, 2008 as being premature.

The Petition is **DISMISSED**.

Applicant alleges that the final rejection mailed April 15, 2008 is premature because the Office action allegedly fails to give an opportunity to the applicant to respond to the examiner's new arguments based on the amended claims.

Applicant also argues that the Office action dated April 15, 2008, should not have been made final, as that claim1 has been rejected under new rational given based on the original rejection.

However, a review of the application history shows that starting with Office action dated October 18, 2007 claim 1 is directed towards a method of charge card transaction that does not require a card to be present. As the claim states "[c]harge card transaction involving ***a card not present***..." (emphasis added). It is clear that the card not need to be present or in hand or at the place of the transaction or even at the possession of the user. However, on January 1, 2008 the claim was amended to read as follows: "[c]harge card transaction involving ***a card not presented***..." (emphasis added). The amendment clearly requires a different approach as the user is suppose to have custody of the card; however, does not need to really present the card to conduct a transaction. As provided in the rejection, it has clearly been demonstrated by the example of users using their cards in mail order transactions, there is no need of the actual charge card to be presented when you order over a telephone or internet.

Therefore, the final rejection mailed on April 15, 2008 was proper. However, since the filing of the instant petition, applicant has filed a Request for Reconsideration (RCE). The filing of an RCE effectively removes the finality of the previous Office action.

Questions concerning this decision should be referred to SPE Kambiz Abdi at (571) 272-6702.

The petition is **DISMISSED**.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

TR

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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JUN 0 8 2007

OFFICE OF PETITIONS

In re Application of :
Gert Silber et al :
Application No. 10/433,922 : ON PETITION
Filed: June 6, 2003 :
Attorney Docket No. HAWE-49US :

This is a decision on the petition, filed June 7, 2007, under 37 CFR 1.313(c) 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 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).

The instant petition is not accompanied by any of the above.

Petitioner may consider filing under 37 CFR 1.313(c)(2).

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

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

By facsimile: (571) 273-2500
Attn: Office of Petitions

By hand: Randolf Building
401 Dulany Street
Alexandria, VA 22314

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

Karen Creasy
Petitions Examiner
Office of Petitions

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

In re Application of :
Gert Silber et al :
Application No. 10/433,922 : ON PETITION
Filed: June 6, 2003 :
Attorney Docket No. HAWE-49us :

This is a decision on the petition, filed June 8, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 30, 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 1614 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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441 VINE STREET
CINCINNATI OH 45202

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
Silber, et al. : DECISION
Application No.: 10/433,922 :
Filed: June 6, 2003 :
Docket No.: HAWE-49US :

This decision is in response to the petition under 37 CFR 1.183 as a petition to waive the requirements of 37 CFR 1.67, filed June 8, 2007.

Applicants have submitted a supplemental declaration under 37 CFR 1.67 signed by less than all of the inventors named in the instant application.

37 CFR 1.67(a)(1) states:

> "Deficiencies or inaccuracies relating to all the inventors or applicants (§§ 1.42, 1.43, or § 1.47) may be corrected with a supplemental oath or declaration signed by all the inventors or applicants."

Petitioners allege that inventor Weissenfluh refused to execute the supplemental declaration.

In accordance with MPEP 603, "[w]hen an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP §409.03(a)."

A grantable petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.67 requires petitioners to establish that this is an extraordinary situation where justice requires waiver of the rules.

Petitioners herein have set forth the steps taken to obtain the inventor's signature on the § 1.67 declaration. The inventor, however, did not execute the declaration after having been presented with it. Under the circumstances, it is concluded that petitioners have demonstrated that this extraordinary situation warrants waiver of the rules.

In view of the circumstances outlined in the instant petition, the 37 CFR 1.67 declaration may be entered, despite the fact that the requirement that all of the inventors sign the supplemental declaration has not been satisfied.

Accordingly, the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.67(a)(1) is hereby **GRANTED**.

The application file is being forwarded to Technology Center 1600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

22 JAN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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J.C. Patents
4 Venture, Suite 250
Irvine, CA 92618

In re Application of :
NATSUYAMA, Susumu *et al* :
Application No.: 10/433,925 :
PCT No.: PCT/JP02/06142 : **DECISION**
Int. Filing Date: 20 June 2002 :
Priority Date Claimed: 22 June 2001 :
Attorney Docket No.: JCLA11525 :
For: POWDER PROCESSING APPARATUS :

This decision is in response to applicants' "Petition Under 37 C.F.R. §1.182" filed on 07 November 2003.

02/11/2004 MPERSON 00000001 500710 10433925
01 FC:1617 130.00 DA

BACKGROUND

On 23 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) must be provided.

On 07 November 2003, applicants filed a "Response to Notice to File Missing Parts of Application" which was accompanied by, *inter alia*, the instant petition; a "Statement of Kunihiko Shiromura" ("Shiromura Decl."); a "Statement of Takayuki Morita" ("Morita Decl."); an executed declaration; and authorization to charge the $130.00 petition fee and all required fees to Deposit Account No. 50-0710.

01/23/2004 MKAYPOGN 00000165 500710 10433925
01 FC:1617 130.00 DA

DISCUSSION

In the instant response, applicants included an executed declaration and claim that the third inventor's first name was inadvertently identified as "Noriyuki" instead of "Takayuki" on the international application. The third named inventor signed his name as "Takayuki Morita" on the declaration. Accordingly, applicants submitted a petition under 37 CFR 1.182 to correct the inventor's name.

Applicants included a declaration by a Japanese patent attorney, Kunihiko Shiromura, who explains how this mistake occurred and states that "[a]ccording to Japanese phonetic presentation, the third inventor's name can be pronounced either as "Noriyuki" or as "Takayuki." Without confirming with the third inventor, I inadvertently used the name "Noriyuki Morita" in the PCT application form when filing the corresponding international application." Shiromura Decl. at ¶ 4.

Applicants also filed a declaration by the inventor, who confirms the error and declares that "as far as I am concerned, the above error regarding my name was made inadvertently without deceptive intent." Morita Decl. at ¶ 5.

This evidence is sufficient for a grantable petition.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

The first name of the third listed joint inventor has been changed to "Takayuki."

The $130.00 petition fee and $130.00 surcharge fee pursuant to 37 CFR 1.492(e) have been charged to counsel's Deposit Account No. 50-0710 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 20 June 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 07 November 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

31 AUG 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Pamela Ruschau
Leydig, Voit, Mayer, Ltd.
Two Prudential Plaza
Suite 4900
Chicago, Illinois 60601-6780

In re Application of :
TAFAZOLLI et al. :
U.S. Application No.: 10/433,926 :
PCT No.: PCT/GB01/05384 : DECISION
Int. Filing Date: 05 December 2001 :
Priority Date: 06 December 2000 :
Attorney's Docket No.: 222899 :
For: MOBILE POSITIONING USING INTEGRATED AD-HOC NETWORK :

This decision is in response to applicants' "Correction of Erroneous Establishment of Small Entity Status and Payment of Fee Deficiency" filed 01 August 2003 and facsimile communication dated 18 August 2004 which is being treated as a Petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 05 December 2001, applicant filed international application PCT/GB01/05384 which claimed priority date of 06 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 June 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 06 June 2003.

On 06 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by the basic national fee; a copy of the international application; and a preliminary amendment.

On 01 August 2003, applicants filed "Correction of Erroneous Establishment of Small Entity Status and Payment of Fee Deficiency."

On 30 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 18 August 2004, applicants filed the present facsimile communication which included a copy of the executed declaration and power of attorney filed 24 June 2003.

DISCUSSION

A. Correction of Erroneous Establishment of Small Entity Status

Applicants state in "Correction of Erroneous Establishment of Small Entity Status and Payment of Fee Deficiency" filed 03 August 2003 that "applicants erroneously paid the National Fee set forth in 37 CFR 1.492(a)(5) for a small entity, thereby establishing the small entity status of the applicants. The payment error and the erroneous establishment of small entity status were cause by simple error in good faith." 37 CFR 1.28(c) provides:

> that if small entity status is established in good faith and the small entity fees are paid in good faith, and it later discovered that such status as a small entity was established in error or through the Office was not notified of a change, the error will be excused upon compliance with the separate submission and itemization requirements of 37 CFR 1.28(c)(1) and (c)(2) and the deficiency payment requirement of 37 CFR 1.28(c)(2) is calculated using the date on which deficiency was paid in full.

Applicants have fulfilled the requirements set forth in 37 CFR 1.28(c) and counsel's deposit account has been charged the appropriate fees under 37 CFR 1.492(a)(5) and 37 CFR 1.492(e).

B. Petition under 37 CFR 1.181

Applicants state in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 24 June 2003. A review of the present application reveals that the declaration and power of attorney filed 24 June 2003 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies: the application by applicant, international application number; and attorney docket number. The receipt itemizes declarations executed by the joint-inventors. The receipt is stamped "Rec'd. PCT/PTO 24 June 2003" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 24 June 2003.

CONCLUSION

The request under 37 CFR 1.28(c) is **GRANTED**.

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The application has an international filing date of 05 December 2001 under 35 U.S.C. 363, and will be given a date of **24 June 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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

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

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OCT 22 2007

OFFICE OF PETITIONS

In re Application of :
Gert Serroyen :
Application No. 10/433,951 : DECISION ON PETITION
Filed: November 25, 2003 : TO WITHDRAW
Attorney Docket No. 449122058600 : 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 25, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN R. SPIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

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Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

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SEP 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Manfred Angemayr et al. :
Application No. 10/433,952 : DECISION ON PETITION
Filed: June 9, 2003 : TO WITHDRAW
Attorney Docket No. 118744-110 : 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 25, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on August 2, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

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Second Floor
745 South 23RD Street
Arlington, VA 22202

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APR 26 2005

Director's Office
Group 3700

In re Application of :
Michel Delmotte *et al* :
Application No. 10/433,962 : DECISION ON PETITION
Filed: November 18, 2003 :
Attorney Docket No. 0512-1170 :

This is a decision on the petition filed on February 8, 2005 by which petitioners request withdrawal of the holding that this application is abandoned for failure to file a timely and proper reply to the Office letter dated March 29, 2004. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did not receive the Office action in question. Therefore, a reply thereto could not be filed. In support of this allegation, petitioner has made a showing as discussed at MPEP § 711.03(c). The showing has been reviewed and it clearly satisfies the requirements of the Notice published at 1156 OG 53 pertaining to abandonment resulting from nonreceipt of Office correspondence. Based upon petitioners' showing, it is clear this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for Technology Center 3700 to mail a complete copy of the Office letter dated March 29, 2004, together with all attachments thereto. The period for filing a reply to the remailed Office action will run THREE MONTHS from the date of remailing, and may be extended pursuant to 37 CFR 1.136(a). In no event may the period for filing a reply to the remailed letter be extended to run more than six months form the date of remailing. See 35 USC § 133.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

19 DEC 2003

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#3

Richard P. Fennelly
Akzo Nobel Inc.
Intellectual Property Department
7 Livingstone Avenue
Dobbs Ferry, NY 10522-3408

In re Application of WILLIAMS et al
U.S. Application No.: 10/433,968
PCT Application No.: PCT/US01/51604
Int. Filing Date: 13 November 2001
Priority Date Claimed: 13 November 2000
Attorney Docket No.: ACA6184WO
For: BLEND OF ORGANOPHOSPHORUS FLAME RETARDANT, LACTONE STABILIZER, AND PHOSPHATE COMPATIBILIZER

DECISION

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 09 June 2003.

BACKGROUND

On 13 November 2001, applicant filed international application PCT/US01/51604, which claimed priority of an earlier United States application filed 13 November 2000. The thirty-month period for paying the basic national fee in the United States expired on 13 May 2003.

International application PCT/US01/51604 became abandoned as to the United States for failure to timely pay the basic national fee.

On 09 June 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

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

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

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 13 November 2001, and a date under 35 U.S.C. 371(c) of 09 June 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

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NOV 0 9 2009

OFFICE OF PETITIONS

In re Patent No. 7,595,534 :
Issue Date: September 29, 2009 :
Application No. 10/433,969 : ON PETITION
Filed: November 17, 2003 :
Attorney Docket No. 536-009-3 :

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

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

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

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 04/27/2010

Applicant	: Bernd Heinemann	: DECISION ON REQUEST FOR
Patent Number	: 7595534	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/433,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

08 JAN 2004

#5

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Walter Ottesen
Patent Attorney
PO Box 4026
Gaithersburg, Maryland 20885-4026

In re Application of	:	
SCHNEIDER et al.	:	
Application No.: 10/433,982	:	DECISION ON PETITION
PCT No.: PCT/DE01/04920	:	UNDER 37 CFR 1.47(a)
Int. Filing: 22 December 2001	:	
Priority Date: 28 December 2000	:	
Attorney Docket No.: R40143	:	
For: METHOD FOR CONTROLLING A DIAGNOSIS OF A CATALYTIC CONVERTER IN THE EXHAUST GAS OF AN INTERNAL COMBUSTION . . .	:	

This is a response to applicants' "Petition Under 37 CFR 1.47(a)" filed 17 November 2003 to accept the application without the signature of joint inventor, Andreas Blumenstock.

BACKGROUND

On 22 December 2001, applicants filed international application PCT/DE01/04920 which claimed a priority date of 22 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 July 2002. A Demand for international preliminary examination electing the United States was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 June 2003.

On 10 June 2003, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 16 September 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 17 November 2003, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

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

Regarding item (2) above, Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration 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 CFR 1.47. Such a petition will be dismissed as inappropriate.
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

A review of the present petition reveals that applicants have not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventor, Andreas Blumenstock. Petitioner states that "Andreas Blumenstock is unable to join the application as he has taken an excused one year leave of absence . . . and has no access to a mail facility where he can receive and send mail." However, the declaration of Gunnar Lochmahr states that "the unavailable inventor is not expected to return until March 1, 2004." Since the Mr. Blumenstock is expected to return 01 March 2004, the nonsigning inventor cannot be considered unavailable. As stated above, the fact that a non signing

inventor is on vacation or temporarily unavailable is not an acceptable reason for filing under 37 CFR 1.47.

For the above reasons, it would not be appropriate to accept this application without the signature of Andreas Blumenstock at this time.

CONCLUSION

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

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

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

Anthony Smith

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 703-308-6314
Facsimile: 703-308-6459

08 AUG 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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MILLEN, WHITE, ZELANO & BRANIGAN
2200 Clarendon Blvd., Ste 1400
Arlington, VA 22201

In re Application of:	:	
ELGER, Walter, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/433,984	:	REVIVE ABANDONED
PCT No.: PCT/US00/23771	:	APPLICATION UNDER 37
International Filing Date: 31 August 2000	:	CFR 1.137(b)
Priority Date: 31 August 1999	:	
Attorney's Docket No.: SCH-1713(A)	:	
For: MESOPROGESTINS ... FOR HORMONE	:	
REPLACEMENT THEAPY (HRT)	:	

The petition to revive under 37 CFR 1.137(b) filed 10 June 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

Applicants have now submitted the small entity basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

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

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

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Dennemeyer & CO,LTD.
Regent House
Stockport Cheshire
England, SK41BB
NIGER

Mail Date: 04/21/2010

Applicant	: Kristof Chwalisz	: DECISION ON REQUEST FOR
Patent Number	: 7629334	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/433,984	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1000** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

GC

Mailed: 4-5-07

In re application of :
Fukui et al. :
Serial No. 10/433,990 : DECISION ON
Filed: October 14, 2003 : PETITION
For: MATERIAL PROCESSING :

This is a decision on the PETITION UNDER 37 CFR 1.144 REQUESTING WITHDRAWAL OF THE RESTRICTION REQUIREMENT made final in the office action mailed September 29, 2006.

On March 13, 2006 the examiner made a restriction requirement under 35 USC 121 and 372 based upon a finding that the claims lack unity of invention as defined in PCT Rules 13.1 and 13.2. In a response to the requirement filed on April 24, 2006 applicants traversed the requirement. The examiner maintained the restriction requirement in an office action mailed on September 29, 2006 and made the requirement final.

The instant petition was timely filed on November 27, 2006 requesting that the requirement for restriction be withdrawn. Petitioner argues that the claims have unity of invention in that all of the claims include a common special technical feature which is linked such that one claim can not be adequately searched for examination without also searching for the other.

DECISION

The instant application has been filed under 35 USC. 371 as a national phase application of PCT/GB01/05489 and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B.

Section 1850 of the MPEP cites PCT rule 13.1 and 13.2 as:

13.1..
Requirement
The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention").

13.2..

Circumstances in Which the Requirement of Unity of Invention Is To Be Considered Fulfilled

Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

37 CFR 1.475. Unity of invention before the International Searching Authority, the International Preliminary Examining Authority and during the national stage.

(a) An international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention "). Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features " shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(1) A product and a process specially adapted for the manufacture of said product; or

(2) A product and a process of use of said product; or

(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or

(4) A process and an apparatus or means specifically designed for carrying out the said process; or

(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

(c) If an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present.

(d) If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the main invention in the claims, see PCT Article 17(3)(a) and § 1.476(c).

(e) The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

37 CFR 1.499. Unity of invention during the national stage

If the examiner finds that a national stage application lacks unity of invention under § 1.475, the examiner may in an Office action require the applicant in the response to that action to elect the invention to which the claims shall be restricted. Such requirement may be made before any action on the merits but may be made at any time before the final action at the discretion of the examiner. Review of any such requirement is provided under § § 1.143 and 1.144.

Petitioner argues that the basis of the holding of lack of unity in the Office Action filed March 13, 2006 that the special technical features of the claimed apparatus is taught by Chalasani (US Patent No. 5,884,138) is plainly incorrect in that the special technical feature shared by the claims is plainly not "a container for controlled processing". Petitioner further argues that independent claims 22 and 35 plainly share a special technical feature in the steps/components of parts a-c of claim 22 and parts b-d of claim 35 with the parts being linked such that one claim can not be adequately searched for examination without also searching for the other. Finally Petitioner states that parts a-c of claim 22 and parts b-d of claim 35 do define a special technical feature which "define[s] the contribution which each claimed invention, considered as a whole, makes over the prior art".

Petitioner's arguments are not persuasive. It is clear from the record that no special technical feature exists in Group I, claims 22-34 and 40-43 as evidenced by the rejection of all the elected independent claims of the group under 35 USC 102 over CN 1230915A or alternatively over Yamaki (US Patent No. 6,146,577). *See Office Actions mailed September 29, 2006 and February 27, 2007.* Thus, Group I has no special technical feature which defines over the prior art and there can be no same or corresponding special technical feature between Groups I and II as required by PCT Rules 13.1 – 13.4 and 37 CFR 1.475.

Petitioner also argues the election of species requirement in that all of the claims in Species A (22 and/or 40) and species B (41) disallow foaming and plainly share the same technical features. Petitioner suggests an indication that claims 22, 34, 40, and 41 correspond to Species A and claims 42 and 43 correspond to Species B and C , respectively.

Petitioner's arguments are not persuasive. The species election is between Species A, where no foaming occurs, Species B where a foamed ceramic article is formed, and Species C where a foamed metallic article is formed. The identification of which claims belong in each Species is clear on the record, i.e. Species A, claims 22-34, 40, 43; Species B, claim 41; Species C, claim 42. Additionally, it is clear from the record that no special technical feature exists in Species A, claims 22-34, 40 and 43 as evidenced by the rejection of all the elected independent claims of the group under 35 USC 102 over CN 1230915A or alternatively over Yamaki (US Patent No. 6,146,577). *See Office Actions mailed September 29, 2006 and February 27, 2007.* Thus, Species A has no special technical feature which defines over the prior art and there can be no same or corresponding special technical feature between Species A, B and C as required by PCT Rules 13.1 – 13.4 and 37 CFR 1.475. Petitioner's confusion is not understood. Note the following claim language: Claim 22, "insufficient, in amount, to cause foaming to the material"; Claim 40, "insufficient to cause foaming of the material"; Claim 41, "foamed ceramic articles"; Claim 42, "foamed metallic articles"; Claim 43, "so as to not cause or allow foaming of the material".

The holding of lack of unity is deemed to be proper, albeit for different reasons than set forth originally by the examiner. Accordingly, the petition to withdraw the restriction requirement is **DENIED**. It is noted however, that if at such time a determination is made that a common special technical feature is not disclosed by the prior art, withdrawal of the lack of unity and rejoinder should be considered if deemed appropriate. The application remains in pending status awaiting a response by Applicants to the Office Action mailed February 27, 2007.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

DEWITT ROSS & STEVENS
INTELLECTUAL PROPERTY DEPARTMENT
FIRSTAR FINANCIAL CENTRE
8000 EXCELSIOR DRIVE SUITE 401
MADISON WI 53717-1914

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RESEARCH TRIANGLE PARK, NC 27709

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of :

CHANG, et al. :
Application No. 10/434,004 : DECISION ON PETITION
Filed: May 8, 2003 : TO WITHDRAW
Attorney Docket No. 4080-116 : 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 21, 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 Steven Hultquist on behalf of all attorneys of record who are associated with customer No. 23448. Stephen Hultquitst has been withdrawn as attorney or agent of record; all other attorneys Marianne Fuierer, Janet Elliot and Tristan Fuierer remain of record.

The correspondence address of record has been changed as of June 12, 2006 and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **MOORE & VAN PLLC**
P.O. BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

cc: **DR. KEWN-JEN CHANG**
ARDENT PHARMACEUTICALS, INC.
104 SIERRA DRIVE
CHAPEL HILL, NC 27514

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MARIANNE FUIERER
MOORE & VAN ALLEN, PLLC
P.O. BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

In re Application of :
Kwen-Jen Chang, et al. :
Application No. 10/434,004 : DECISION ON PETITION
Filed: May 8, 2003 : TO WITHDRAW
Attorney Docket No. 021353-91.116 : 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 8, 2009.

The request is **APPROVED**.

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

The request was signed by Marianne Fuierer on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: PARAMOUNT BIOSCIENCES/
MOUNT COOK BIOSCIENCES
787 7TH AVENUE
48TH FLOOR
NEW YORK, NY 10019

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/434,004	05/08/2003	Kwen-Jen Chang	021353-91.116

CONFIRMATION NO. 5559

POWER OF ATTORNEY NOTICE

Marianne Fuierer
Moore & Van Allen, PLLC
P.O. Box 13706
Research Triangle Park, NC 27709

OC00000003760847O

Date Mailed: 09/01/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/08/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

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

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Director's Office
Group 3700

In re Application of
Virgil E. Stanley
Application No. 10/434,023
Filed: May 8, 2003
Attorney Docket No.: 4486-087

: DECISION ON PETITION

This is a decision on the petition filed on January 21, 2005 by which petitioner requests supervisory review of the examiner's final holding that claims 1-20 and claims 30-37 are directed to patentably distinct inventions and therefore subject to a restriction requirement. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

The record shows that the first Office action, dated August 19, 2004, included a requirement to restrict between patentably distinct inventions. The relevant portion of the restriction requirement held that claims 1-20 were directed to a balloon inflation kit., that claims 30-37 were directed to a method of inflating a balloon, and these inventions were patentably distinct because the balloon inflation kit could be used to practice other than the claimed method. The basis for this holding was the allegation that the method required sealing of the inflated balloon, but the apparatus could be used to inflate a balloon in methods that did not require the sealing step of recited in the method.

Petitioner traversed the restriction requirement, arguing that the method was not patentably distinct from the apparatus because reciting a sealing step in the method was not a proper basis for holding that apparatus could practice a method that materially differed from the process of claim 30. However, petitioner concurrently amended claim 30 to remove the sealing step from the process. In the final rejection dated January 10, 2005, the examiner repeated the restriction requirement and made it final. The examiner noted that method claim 30 had been amended to remove the recitation of helium, but that inflation kit claim 1 still required that the kit include a gas container containing helium. The examiner opined that the process as claimed in amended claim 30 could be performed by a kit that was materially different from the kit of claim 1, such as a kit including a cylinder of compressed air rather than a cylinder of helium.

It is recognized that the form paragraph set forth in MPE § 806.05(e) for use in composing a restriction requirement employees the term "materially different." However, as pointed out in MPEP § 806.05:

> "Where two or more related inventions are being claimed, the principal question to be determined in connection with a requirement to restrict ... is whether or not the inventions as claimed are distinct. If they are distinct, restriction may be proper. If they are not distinct, restriction is never proper."

See also MPEP § 806.

Further, as noted in MPEP § 803:

> "The term 'distinct' means that two or more subjects as disclosed are related, for example, ... as process and apparatus for its practice, ... but are capable of separate manufacture, use, or sale as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER (though they may each be unpatentable because of prior art." (Emphasis in the original.)

Applying these principles, it appears that the restriction requirement as made final cannot be upheld. It is the opinion of the undersigned that any prior art teaching a kit as recited in claim 1 would necessarily defeat the patentability of claim 30, while any prior art teaching the method of claim 30 would necessarily defeat the patentability of claim 1 because it would appear that any gas taught by such prior art would, in this field of endeavor, render claim 1 unpatentable over that prior art teaching in view of any teaching suggesting that helium could be used to inflate the balloon. The undersigned is convinced that prior art teaching the inflation of a balloon with helium gas is in fact of record, inasmuch as the examiner has rejected claim 1 over prior art and helium is a limitation of claim 1.

For the foregoing reasons, the restriction requirement as made final in the Office action dated January 10, 2005 is hereby vacated. The examiner is instructed to rejoin the inventions recited in Groups I and III as defined by claims 1-20 and claims

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Coats & Bennett, PLLC
P.O. Box 5
Raleigh, NC 27602

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TIBERIU WEISZ, ESQ.
GOTTLIEB, RACKMAN & REISMAN, P.C.
270 MADISON AVENUE
NEW YORK, NY 10016-0601

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OFFICE OF PETITIONS

In re Application of :
James Chillington :
Application No. 10/434,039 : ON PETITION
Filed: May 8, 2003 :
Attorney Docket No. 4628-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed July 1, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 2, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

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

Retta Williams

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

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JAMES M. THOMSEN
P.O. BOX 5572
KEY WEST, FL 33045

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OFFICE OF PETITIONS

In re Application of
Arts, Thomsen, Chirayath & Schentag
Application No. 10/434,041
Filed: May 8, 2003
Attorney Docket No. 21562-0002
For: AIR DECONTAMINATION DEVICES

LETTER

Dear Mr. Thomsen:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: Brandon N. Sklar
Kaye Scholer LLP
425 Park Avenue
New York NY 10022-3598

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Paper No. 9

Brandon N. Sklar
Kaye Scholer LLP
425 Park Avenue
New York NY 10022-3598

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OFFICE OF PETITIONS

In re Application of
Arts, Thomsen, Chirayath & Schentag
Application No. 10/434,041
Filed: May 8, 2003
Attorney Docket No. 21562-0002
For: AIR DECONTAMINATION DEVICES

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 23, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor, James M. Thomsen, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Theodore A.M. Arts, a joint inventor, establishes that the non-signing inventor was twice e-mailed the application papers, including the specification, claims and drawings, but the inventor expressly refused to join in the application's filing. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

Pursuant to petitioners' authorization, deposit account no. 50-0988 will be charged a $475 extension of time fee, a $130.00 petition fee, and a $65.00 surcharge for the late filing of the declaration.

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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In re Application of :
Francis Wayne Peer :
Application No. 10/434,050 : ON PETITION
Filed: May 8, 2003 :
Attorney Docket No. 02-1512A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 24, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2444 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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FitzPatrick, Cella Harper & Scinto
30 Rockefeller Plaza
New York, New York 10112-3801

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OFFICE OF PETITIONS

In re Application of :
Korenaga :
Application No. 10/434,058 : DECISION GRANTING REQUEST
Filed: May 9, 2003 :
Attorney Docket No. :

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 cfr 1.705(d) filed on December 18, 2005 requesting that the Office review the PTA determination to determine if USPTO granted too little time. Applicant believes the proper amount of PTA is fifty days.

Applicants' REQUEST is **GRANTED-IN PART. The Office agrees with applicants assertion that the 24 day reduction is in error. However, the Office notes that applicants should have received a reduction under 37 CFR 1.704(c)(8) for the supplemental IDS submission after the RCE submission on November 24, 2004. The correct determination at the time of the issuance of the patent is ZERO (0) days not fifty as requested by applicant.**

Applicant may provide a response to this decision within **thirty (30) days**. No extensions of time will be granted. After thirty days the Office will *sua sponte* issue a certificate of correction reflecting this decision.

Applicants assert that the twenty-four day reduction is in error because the paper filed on June 6, 2005 was a request that the Office acknowledge the IDS submission of January 2005.

Applicants' argument is persuasive as to the reduction under 37 CFR 1.704 (c)(10). The request for acknowledgment of IDS submission was the first opportunity by applicant to have such issue addressed. The applicant submitted the prior art and the next action was a notice of allowance by the Office. Accordingly, the Office will not assess a reduction pursuant to 37 CFR 1.704(c)(10) under the present factual scenario.

However, the Office failed to assess a reduction under 37 CFR 1.704(c)(8) for the supplemental submission of the IDS after the mail date of the notice of allowance. Applicants filed an RCE and then filed two IDS prior to the Office acting upon the application. Moreover, applicant has reviewed applicants statement as to submitting such within three months of the search report. Note that under 37 CFR 1.704(d) applicants could have the reduction waived if they could make the certification requirement under 37 CFR 1.704(d). The reduction is one hundred and five

days.[1]

After the mailing of this decision, the Office will forward the application to the certificate of correction to await any response from applicants and then to issue the certificate of correction.

The Office has assessed the $200.00 fee. No additional fees are required by applicants.

Any questions concerning this decision should be directed to Kery A. Fries, at 571-272-7757.

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

cc :Draft c of c
Adjusted PAIR calculation

[1]The reduction began on November 23, 2004 and ended on March 7, 2005, a one hundred and five day reduction.

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,954,041 B2

DATED : Oct. 11, 2005

INVENTOR(S) : Korenaga

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 (26) days

Delete the phrase "by 26 days" and insert – by 0 days--

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MICROFABRICA INC.
ATT: DENNIS R. SMALLEY
7911 HASKELL AVENUE
VAN NUYS, CA 91406

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OFFICE OF PETITIONS

In re Application of :
Cohen, et. al : DECISION ON PETITION
Application No. 10/434,103 :
Filed: May 7, 2003 :
Docket No.: P-US066-A-MG :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 21, 2006 and supplemented September 20, 2006.

The petition is hereby **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed March 29, 2006. Notice of Abandonment was mailed July 28, 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 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication 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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MCDERMOTT WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of :
Hiroshi Asai et al :
Application No. 10/434,105 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. 65326-026

This is a decision on the petition, filed March 1, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Patent No. 7,480,871 :
Issue Date: January 20, 2009 :
Application No. 10/434,107 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket Number: 50023-197 :

This is a decision on the petition, filed September 8, 2009, requesting the issuance of duplicate Letters Patent for the above-identified application. The petition is treated under 37 CFR 1.182.

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 January 20, 2009, 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.

Petitioners state that the Letters Patent were received and that they forwarded them to their client, however, it appears that the client never received the Letters Patent. As petitioners are not alleging that the loss of the letters patent was the fault of the USPTO and since petitioners have provided authorization to charge the petition fee, a copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. Per the authorization to charge the petition fee, petitioner's deposit account no. 50-0417 has been charged in the amount of $400.

A copy of this decision is being forwarded to Publishing Division for issuance of 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: Niomi Farmer (Fax – (571) 270-9753)

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Paper No. 7

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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MAY 25 2005
OFFICE OF PETITIONS

In re Application of
McCamy
Application No. 10/434,115
Filed: May 9, 2003
Attorney Docket No. 4031-4
For: BIODEGRADABLE TREE SHELTER

ON PETITION

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

The above-identified application became abandoned for failure to reply in a timely manner to the January 5, 2004 non-final Office action which set an extendable three (3) month period for reply. No timely extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on April 6, 2004. A Notice of Abandonment was mailed on August 12, 2004.

Applicant has submitted an amendment in reply to the January 5, 2004 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the January 5, 2004 non-final Office action, and the petition fee.[1]

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center G.A.U. 3644's technical support staff for entry of the amendment filed on January 18, 2005.

[1] Regarding fees, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $ 510.00 extension of time submitted with the petition on January 18, 2005 was subsequent to the maximum period obtainable for reply, a treasury check refund will be scheduled in due course.

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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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60610-4764

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OFFICE OF PETITIONS

In re Application of

TURNER, James E. et al.
Application No. 10/434,129
Filed: May 08, 2003
Attorney Docket No. **057679-0102**

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 April 25, 2008.

The request is **NOT APPROVED.**

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, transfer of this case, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JAMES E. TURNER**
11613 HIGHBURY WAY
TAMPA, FL 33626-2565

cc: **JASON BROOKS**
1144 SAINT LOUIS PL NE
ATLANTA, GA 30306-4532

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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60610-4764

COPY MAILED

JUL 16 2008

In re Application of

TURNER, James E. et al.
Application No. 10/434,129
Filed: May 08, 2003
Attorney Docket No. **057679-0102**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 24, 2008.

The request is **NOT APPROVED**.

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

The 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, transfer of this case, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JAMES E. TURNER**
11613 HIGHBURY WAY
TAMPA, FL 33626-2565

cc: **JASON BROOKS**
1144 SAINT LOUIS PL NE
ATLANTA, GA 30306-4532

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BUTLER, SNOW, O'MARA, STEVENS & CANNADA PLLC
6075 POPLAR AVENUE
SUITE 500
MEMPHIS TN 38119

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OCT 1 0 2008

OFFICE OF PETITIONS

In re Application of :

DUNN, Jacky F. :
Application No. 10/434,137 : DECISION ON PETITION
Filed: May 08, 2003 : TO WITHDRAW
Attorney Docket No. **023866.43082** : 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, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Christa R. Baer on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Jacky F. Dunn at the address indicated below.

There is an outstanding Office action mailed April 17, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JACKY F. DUN**
BIOMED PERSONAL METABOLIC & NUTRITIONAL TESTING, INC.
P.O. BOX 10145
RUSSELLVILLE, AR 72802

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Paper No. 092704

OCT 14 2004

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

In re Application of:
ANTHONY D. KURTZ et al.
Serial No.: 10/434,146
Filed: May 08, 2003
Attorney Docket No.: **N0843-00094**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 02, 2004.

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

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Plevy & Howard, at the below address, until otherwise notified by applicant.

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

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

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston, VA 20195

Mail Date: 04/30/2010

Applicant	: Boris Roman Wirstiuk	: DECISION ON REQUEST FOR
Patent Number	: 7610063	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/434,160	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **914** 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.

APR 30 200

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RECEIVED
1 200
Young & Thompson

Benoit Castel
Young & Thompson
745 South 23rd Street
Arlington, Virginia 22202

In re Application of
WATSON, et al.
U.S. Application No.: 09/555,360
PCT No.: PCT/AU98/00991
Int. Filing Date: 27 November 1998
Priority Date: 27 November 1997
Attorney Docket No.: 00P061:RC:SB
For: SAMPLE DISTRIBUTION APPARATUS SYSTEM

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "PETITION UNDER 37 CFR §1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 26 September 2000.

BACKGROUND

On 27 November 1998, applicant filed international application PCT/AU98/00991, which claimed priority of an earlier application filed 27 November 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 June 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 June 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 May 2000.

On 30 May 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an Information Disclosure Statement; a First Preliminary Amendment; an International Preliminary Examination Report; an International Search Report and a Patent Data Entry Sheet. An oath or declaration as required by 35 U.S.C. 371 (c)(4) was not filed. Applicant provided payment of the $130.00 surcharge for filing an oath or declaration later than thirty months from the priority date. (27 May 2000 being a Saturday and 29 May 2000 being a Federal holiday in which the USPTO was not open for business, the basic national fee was considered to be timely filed on 30 May 2000.)

On 26 June 2000, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and

(b), identifying the application by the International application number and international filing date. Applicant was given one month to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 26 September 2000, applicant responded with the present petition to accept the combined declaration and power of attorney absent the signature of inventor Christian Decosterd accompanied by payment of the $130.00 petition fee for a petition under 37 CFR 1.47(a), a petition for a two-month extension of time, payment of the two-month extension of time fee and a combined declaration and power of attorney executed by inventors: Leslie Watson, Christoph Tschopp, Ross Weaver, Ian Henderson and Pieter Kuiper.

DISCUSSION

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

As to Item (1), applicants have enclosed a check for the required petition fee of $130.00.

As to Item (2), the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal states that, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." Applicants have provided a declaration from Mr. Ricky Chia that said papers were sent to the last-known address of inventor Decosterd and returned stamped with the words "Return to Sender" and ticketed "Left Address." In addition, applicants have provided a copy of the envelope containing the markings. Mr. Chia has also avowed that he has no knowledge of a forwarding address nor telephone nor electronic contact details. Applicants have provided sufficient evidence to satisfy Item (2).

As to Item (3), the petition states the last known address of the non-signing inventor, Mr. Christian Decosterd.

Regarding Item (4), accompanying the petition is a declaration signed by the remaining inventors on their behalf, and on behalf of the non-signing inventor. Accordingly, applicant has satisfied the four items above and it is proper at this time to **GRANT** applicants' petition under 37 CFR §1.47(a).

CONCLUSION

Applicants' petition under 37 CFR §1.47(a) is **GRANTED**.

The application will be given an international filing date of 27 November 1998 under 35 U.S.C. 363, and a date of 26 September 2000 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Leonard E. Smith
Legal Examiner
PCT Legal Office

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

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8-30-07

In re Application of	:	
Smiljanic Olivier et al.	:	WITHDRAWAL
Serial No. 10/434,181	:	FROM ISSUE
Filed: May 9, 2003	:	UNDER 37 CFR1.313(b)

For: **METHOD AND APPARATUS FOR PRODUCING SINGLE-WALL CARBON NANOTUBES**:

The above-identified application is withdrawn from issue after payment of the issue fee because of unpatentability of one or more claims. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Stanley Silverman at 571-272-1358.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

JMStone

Jacqueline Stone, Director
Technology Center 1700/2900
Chemical and Materials Engineering

BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

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BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.l.
40 KING STREET WEST
BOX 401
TORONTO, ON M5H 3Y2
CANADA

Mail Date: 04/22/2010

Applicant	: Smiljanic Olivier	: DECISION ON REQUEST FOR
Patent Number	: 7591989	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/434,181	: OF WYETH
Filed	: 05/09/2003	:
		:

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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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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OFFICE OF PETITIONS

In re Application of :
Wang et al. :
Application No. 10/434,234 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. BHT/3167-120 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 30, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Walsh

Liana Chase Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MURRAY NADLER
2000 MORSE STREET
HOUSTON TX 77019

In re Patent No. 6,966,190 :
Issue Date: November 22, 2005 :
Application No. 10/434,244 : ON PETITION
Filed: May 8, 2003 :
Title of Invention: COMBINED CYCLE FOR GENERATING ELECTRIC POWER :

This is a decision on the petitions filed February 2, 2010 under 37 CFR 1.137(a)[1] and under 37 CFR 1.378(c), to accept the delayed payment of the maintenance fee for the above-identified patent. The petition is being treated under 37 CFR 1.378(b) and (c).

The petition under 37 CFR 1.378(b) is **DISMISSED**.
The petition under 37 CFR 1.378(c) is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

The patent issued on November 22, 2005. The first maintenance fee due could have been paid during the period from November 22, 2008 to May 22, 2009 or, with a surcharge during the period from May 23, 2009 to November 22, 2009. Accordingly, this patent expired on November 22, 2009, for failure to timely remit the first maintenance fee.

---

[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)).

While the petition was filed under 37 CFR 1.137(a), petitioner is advised that 37 CFR 1.137(a) is used for reviving abandoned patent applications. As application no. 10/434,244 has matured into a patent and since the maintenance fees on the patent weren't timely paid, revival of a patent application is not an appropriate cause of action and instead, petitioner should be requesting for the acceptance of a delayed maintenance fee and to have the expired patent reinstated in compliance with 37 CFR 1.378(b) and (c).

A petition to accept the delayed maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(I)(1).

Although petitioner has paid the maintenance fees, petitioner has not submitted payment or authorization to charge a deposit account for the surcharge after expiration under either the unavoidable standard or the unintentional standard (37 CFR 1.378(b) or 37 CFR 1.378(c) respectively). As such, the merits of this petition will not be discussed. Petitioner will need to clarify under which standard the petition is to be treated and accordingly, pay the appropriate fees therein.

At this writing the fee under 37 CFR 1.378(b) is $700 and the fee under 37 CFR 1.378(c) is $1640, however prior to paying the fees, petitioner should verify the correct fees and to ensure that fee increases haven't occurred in the interim.

This patent expired November 22, 2009 and will remain in that status until such time as the appropriate maintenance fees have been submitted and a grantable petition and fees has been submitted.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Pawan Seth et al :
Application No. 10/434,266 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. 100338.54178CP :

This is a decision on the petition under 37 CFR 1.78, filed December 14, 2004, which is being treated under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed PCT Application No. PCT/US03/04866, filed February 21, 2003.

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 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 petition fails to comply with item (1) above.

A reference to add the above-noted, prior-filed PCT application on page one following the first sentence of the specification has been included in an amendment filed on December 14, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed PCT application. Petitioner's attention is directed to Dart Industries v.

Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

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

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

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

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

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

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

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[1] *Note* 37 CFR 1.121

Any questions concerning this matter may 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

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INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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OFFICE OF PETITIONS

In re Application of :
Seth Pawan et al :
Application No. 10/434,266 : DECISION ON PETITION
Filed: May 9, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 100338.54178CP :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 6, 2005, 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/US03/04866, filed February 21, 2003, set forth in the amendment submitted 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 above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in

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

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 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 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 application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. 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 1618 for appropriate action on the amendment filed April 6, 2005, 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.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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 and Popeo PC
701 Pennsylvania Avenue, N.W.
Washington D.C. 20004

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Aiman H. Al-Ziyoud	:	
Application No. 10/434,283	:	DECISION ON PETITION
Filed: May 9, 2003	:	TO WITHDRAW
Attorney Docket No. LPM-100US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 1, 2007.

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

A review of the file record indicates that the power of attorney to Mintz Levin Cohn Ferris Glovsky and Popeo PC has been revoked by the applicant of the patent application on January 28, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ratnerprestia**
P.O. Box 980
Valley Forge, PA 19482-0980

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 17 2004

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

MAILED

SEP 17 2004

OFFICE OF THE DIRECTOR
TC 3600

Bradley M Ganz, PC
P.O. Box 10105
Portland, OR 97296

In re application of
Thaddeus Dominick Berry
Application No. 10/434,291 : DECISION ON REQUEST
Filed: May 7, 2003 : FOR WITHDRAWAL OF
For: METHOD FOR DETERMINING A : ATTORNEY
CUSTOMIZED COSMETIC PRODUCT

This is a decision on the request filed on June 14, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect of August 24, 2004.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 09/09/04

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JJGJr: 12-03

Paper No: 4

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

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DEC 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Seiberg, et al. :
Application No. 10/434,309 : DECISION ON PETITION
Filed: 8 May, 2003 (receipt) :
Attorney Docket No. JBP-510 :

This is a decision on the petition filed under 37 C.F.R. §1.183 (and considered under 37 C.F.R. §1.53) on 1 December, 2003, seeking to have accorded a filing date of 8 May, 2003, to this application (rather than no date accorded as presently is the status) because it appears that the specification was omitted at the time of filing, and there was not at least one claim at filing.

For the reasons set forth below the petition is **DISMISSED**,and as authorized the petition fee is charged to Deposit Account 10-0750/JBP510/ALC.

This application was deposited on 8 May, 2003. On 24 July, 2003, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application (Filed Under 37 C.F.R. §1.53(b)), with a statement that "a filing date has not been accorded" to the application because "the specification is missing" and "the specification does not include at least one claim.

In response, the instant petition under 37 C.F.R. §1.53 was filed on 1 December , 2003.

The petition of Andrea L. Colby (Reg. No. 30,194) (Petitioner) contends that, in the transmittal of the instant application Petitioner's Express Mail Certificate (US Postal Service (USPS) Express Mail Label No. EV 065839505US) "included the following: 'Specification pages, claims, informal drawings, Preliminary Amendment, Declaration and Power of Attorney, and Assignment,'" and that the declaration was signed by Ms. Ruth Ann Krieger.

Petitioner is aware that a transmittal form is not a record of documents received by the Office, but merely an indication of documents Petitioner may have intended to submit to the Office, and that proof of filing is evidenced by a date-stamped receipt card. (See: MPEP §503.[1])

Petitioner has submitted no date-stamped receipt card.

While the Office does not doubt that the specification and claims were prepared for submittal on or about 8 May, 2003, the mere fact that they were prepared and ready for mailing at Counsel's office does not necessarily mean that they were included with the application papers filed with the Office on 8 May, 2003.[2]

While Petitioner has failed to so plead, it is noted that the application transmittal letter identified

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[1] **503 Application Number and Filing Receipt**

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclos-ing with the paper a self-addressed postcard specifi-cally identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgo-ing mail. A postcard receipt which itemizes and prop-erly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the applica-tion being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application). The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not ade-quately itemized on the postcard. For example, merely listing on the postcard "a complete applica-tion" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by refer-ence in the postcard receipt, the items listed in a trans-mittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items.

Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO.

[2] MPEP § 513 provides in pertinent part as follows:

* * *

Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 C.F.R. §1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application), an applicant may not rely upon the provisions of 37 C.F.R. §1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. Rather, where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP §503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

this application as a divisional of prior application No. 09/621,565 (filed on 21 July, 2000)[3] and specifically incorporated by reference the disclosure of the prior application.[4] Obviously, in view of the incorporation by reference of the prior application the specification and claims are not new matter if they were a part of the disclosure of the prior application. This incorporation may be proper in practice before the Office. (See: MPEP §201.06(c) (in pertinent part).)[5]

Analysis

A search of the official file reveals that on 8 May, 2003, Applicants submitted, *inter alia*, two pages of preliminary amendment, 18 sheets of drawings, authorization to charge fees to a deposit account.

Accordingly, the "Notice of Omitted Item(s)" mailed on 24 July, 2003, was correct in stating that the specification and at least one claim had been omitted. Therefore, the "Notice of Omitted Item(s)" was properly mailed and will not be withdrawn.

Accordingly, the petition is **dismissed**.

Because the 1 December, 2003, petition was not due to Office error, the petition fee authorized has been charged and will not be refunded.

The previously referenced incorporation by reference may be proper in practice before the Office.

---

[3] It is noted that Petitioner was called by the Office of Petitions on 16 December and again on 17 December, 2003, to address this matter, but as of this writing has not responded to those calls.

[4] MPEP §201.06© provides that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

[5] The commentary at MPEP §201.06(c) provides in pertinent part:

* * *

INCORPORATION BY REFERENCE

* * *

In a continuation or divisional application, the safe-guard (petition and fee under former 37 C.F.R. 1.60(b)) concerning the filing of an application lacking all of the pages of the specification or sheets of drawings of the prior application has not been retained in 37 C.F.R. 1.53(b) since the specification and drawings of a continuation or divisional application are not limited to a reproduction or a "true copy" of the prior application. As a safeguard, however, an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (Emphasis supplied.).

If so, and, in view of such incorporation by reference of the prior application, the specification and claim(s) are not new matter if they were part of the disclosure of the prior application and that application was properly incorporated by reference into the instant application.

The application is being returned to OIPE for further processing without a filing date.

Petitioner is given one (1) month within which to file a copy of the claimed parent Application No. 09/621,565, as filed, as an amendment and request entry of the specification and claims. If Petitioner submits such an amendment, the application will be forwarded to the Technology Center for consideration by the Examiner of the instant petition and copy of the parent, as an amendment requesting entry of the specification and claims.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/434,313	05/07/2003	1732	2082	200205985-1	3	80	6

CONFIRMATION NO. 6149

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

CORRECTED FILING RECEIPT

OC000000013117222

Date Mailed: 06/30/2004

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)

Melissa D. Boyd, Corvallis, OR;
Darrel H. Cummings, Corvallis, OR;
Laura Kramer, Corvallis, OR;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/01/2003

Projected Publication Date: 11/11/2004

Non-Publication Request: No

Early Publication Request: No

Title

Fusible water-soluble films for fabricating three-dimensional objects

Preliminary Class

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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RONALD D. TRICE
6412 BRANDON AVE., # 145
SPRINGFIELD, VA 22150

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AUG 18 2006
OFFICE OF PETITIONS

In re Application of :
John N. Magno, et al. :
Application No. 10/434,326 : ON PETITION
Filed: May 8, 2003 :
Attorney Docket No. 95156159-9 :

This is a decision in response to the "Petition to Accept Delayed Payment of Issue Fee Under 37 CFR 1.316" filed March 31, 2006 in the above-identified application.

The petition is dismissed because it lacks the required petition fee pursuant to 37 CFR 1.17(m). Further, petitioner should note that a Notice of Allowance has **not** been mailed in this application.

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

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

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

The centralized facsimile number is **(703) 872-9306**.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JUL 25 2005

OFFICE OF PETITIONS

Charles Y. Lackey
PO Box 5871
Winston-Salem, NC 27113-5871

In re Application of
James S. Campbell
Application No. 10/434,328
Filed: May 12, 2003
Attorney Docket No. JSB-5

ON PETITION

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

The petition is DISMISSED.

It is noted that the petition was intended to be signed by applicant's registered attorney Charles Y. Lackey, however, the petition is not signed.

37 CFR 1.33(b) states that:

Amendments and other papers filed in the application must be signed by:

(1) An 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) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;

(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or

(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" and include a ratification of the unsigned petition. No further petition fee is required.

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

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

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

The centralized facsimile number is **(571) 273-8300**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 28 2005

OFFICE OF PETITIONS

Charles Y. Lackey
PO Box 5871
Winston-Salem, NC 27113-5871

In re Application of
James S. Campbell
Application No. 10/434,328
Filed: May 12, 2003
Attorney Docket No. JSB-5

ON PETITION

This is a decision on the renewed petition, filed September 6, 2005, to revive the above-identified application under 37 CFR 1.137(b).

The application became abandoned for failure to pay the issue/publication fee on or before January 6, 2005. A partial fee was submitted on December 20, 2004. Accordingly, on May 10, 2005 a Notice of Abandonment was mailed. In response, on May 12, 2005, the balance of the issue/publication fee was filed, along with a petition to revive under 37 CFR 1.137(b). However, the petition was dismissed in a decision mailed July 25, 2005, since the petition was unsigned. On September 6, 2005, a ratification of the unsigned petition was filed.

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

This application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

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

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Gregory Ashton	: DECISION ON REQUEST FOR
Patent Number	: 7572248	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/434,378	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **262** 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. 9

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

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OFFICE OF PETITIONS

In re Application of :
De Luca :
Application No. 10/434,422 : ON PETITION
Filed: May 8, 2003 :
Attorney Docket No. U 014597-3 :

This is a decision on the petition filed August 25, 2003 to accord the above-identified application a filing date of May 8, 2003.

The petition is **granted** to the extent indicated below.

Petitioner has proven that two pages of drawings were present when the application was filed.

On August 12, 2003, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that drawings were deposited with the application. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "2 pages of drawings" with the application.

Upon review of the record, the drawings deposited with the application have not been located. However, the evidence is convincing that the application papers included two sheets of drawings and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date.

The copy of the two sheets of drawings submitted with the petition will be used for examination purposes.

The Notice mailed August 12, 2003, was sent in error and is hereby vacated.

The filing date:

Although petitioner states the filing date should be May 8, 2003, Office records indicate a filing date of May 7, 2003. Therefore, the instant application will be accorded a filing date of May 7, 2003, with the drawings. Petitioner may wish to file a petition under 37 CFR 1.10. A fee is unnecessary for such a petition.

Further correspondence with respect to this matter, such as a petition under 37 CFR 1.10, should be addressed as follows:

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

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 7, 2003, using the application papers filed on May 7, 2003, and the copy of 2 sheets of drawings filed on August 25, 2003.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/434,422	05/08/2003	1743	563	U 014597-3	2	29	4

CONFIRMATION NO. 5667

00140
LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

CORRECTED FILING RECEIPT

OC000000011940313

Date Mailed: 02/20/2004

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)

Kenneth Allan De Luca, Kyabram, AUSTRALIA;

Domestic Priority data as claimed by applicant

This application is a CON of PCT/AU01/01461 11/09/2001

Foreign Applications

AUSTRALIA PR1362 11/09/2000
AUSTRALIA PR6020 07/02/2001
AUSTRALIA PR7542 09/07/2001

If Required, Foreign Filing License Granted: 10/31/2003

Projected Publication Date: 03/25/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Fat extraction

Preliminary Class
436

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ladas & Parry
26 West 61st Street
New York, NY 10023

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MAY 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Kenneth De Luca	:	
Application No. 10/434,422	:	DECISION ON PETITION
Filed: May 8, 2003	:	TO WITHDRAW
Attorney Docket No. U 014597-3	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 24, 2006.

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

A review of the file record indicates that the power of attorney to Ladas & Parry LLP has been revoked by the applicant of the patent application on February 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kenneth De Luca**
231 John Alan Road
Kyabram, Victoria, 3620
Australia

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/434,422	05/08/2003	Kenneth Allan De Luca	U 014597-3

CONFIRMATION NO. 5667

KENNETH DE LUCA
231 JOHN ALLAN ROAD
KYABRAM, VICTORIA, 3620
AUSTRALIA

OC000000023999834

Date Mailed: 05/22/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/07/2007.

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

Jeff Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JJGJR: 07-07

Paper No: __

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JUL 24 2007

OFFICE OF PETITIONS

ARNOLD & FERRERA, L.L.P.
2401 FOUNTAIN VIEW DRIVE
SUITE 630
HOUSTON TX 77057

In re Application of :
Kadaster, et al. : DECISION
Application No.: 10/434,436 :
Filing Date: 8 May, 2003 :
Attorney Docket No. A30929CIP :

This is a decision on the petition filed on 2 March, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 January, 2005, with reply due absent extension of time on or before 30 April, 2005;
- the application went abandoned by operation of law after midnight 30 April, 2005;
- the Office mailed the Notice of Abandonment on 8 September, 2005;
- with the original petition (with fee), Petitioner made the statement of unintentional delay and indicates that he filed a reply, however, no reply appears of record herein, and (due to the extended period of time between date of abandonment and the date of the instant petition) Petitioner further is cautioned that the use of the former one- (1-) limitation on the filing of a petition to revive as an informal extension of time may be construed, when not otherwise evidenced, as an intentional delay.

Thus, 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]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

Moreover, Petitioner is reminded to review the requirements for a petition as described in detail at MPEP §711.03(c).

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.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] 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]

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[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 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.

[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).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

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
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Moreover, Petitioner is reminded that a proper and sufficient reply is required and Petitioners always are required to attend to these matters as one's most important business affairs.

Therefore, it appears as of this writing that Petitioner has yet to satisfy the requirement under the regulation.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[8]

By mail: Commissioner for Patents[9]
P.O. Box 1450
Alexandria, VA 22313-1450

---

[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] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[10] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES 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.
10/434,436	05/08/2003	Ali G. Kadaster	A30929CIP	5915

28805 7590 01/31/2005

ARNOLD & FERRERA, L.L.P.
2401 FOUNTAIN VIEW DRIVE
SUITE 630
HOUSTON, TX 77057

EXAMINER	
BEACH, THOMAS A	

ART UNIT	PAPER NUMBER
3671	

DATE MAILED: 01/31/2005

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

Office Action Summary	Application No.	Applicant(s)	
	10/434,436	KADASTER ET AL.	
	Examiner	Art Unit	
	Thomas A Beach	3671	

-- 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 _____.

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) *21-40* 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) *21-40* 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 *05/08/03 & 08/15/03* 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 *6/28/03, 6/30/03.* & 08/15/03
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "the," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," ""A Method/Apparatus is disclosed" etc.

Claim Objections

2. Claims 22-40 are objected to because of the following informalities: claims 22-40 depend from 1-18 respectively; however, it is clear they should depend from claims 21-38 and will be examined as such. Appropriate correction is required.

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. Claims 21-31 and 34-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Patout et a 6,499,914. Patout shows the method and the system of drilling wells, wherein the wells are drilled at drilling sites have a water depth of less than about eight feet (col. 1, lines 52-53), the method including constructing a plurality of modular drilling platforms at a plurality of drilling sites; installing a set of drilling equipment on a first of the modular drilling platforms; and drilling a well from the first modular drilling platform.

As concerns claim 22, Patout shows transporting the set of drilling equipment from the first modular drilling platform to a second of the modular drilling platforms; installing the set of drilling equipment on the second modular drilling platform; and drilling a well from the second modular drilling platform.

As concerns claim 23, Patout shows transporting the set of drilling equipment from the second modular drilling platform to a third of the modular drilling platforms; installing the set of drilling equipment on the third modular drilling platform; and drilling a well from the third modular drilling platform.

As concerns claim 24, Patout shows transporting at least one platform module to at least one of the plurality of drilling sites, and elevating the at least one platform module over the at least one of the plurality of drilling sites.

As concerns claim 25, Patout shows transporting at least one platform module further comprises transporting a plurality of mutually interconnectible platform modules (col 7, lines 27-40).

As concerns claim 26, Patout shows transporting at least one platform module further comprises transporting a plurality of multifunctional platform module (col. 2, lines 50-55).s.

As concerns claim 272, Patout shows transporting a plurality of multifunctional platform modules further comprises transporting at least one waste retention platform module (col. 2, lines 50-55).

As concerns claim 28, Patout shows elevating the at least one platform module includes transporting at least one leg to the at least one of the drilling sites; and raising the at least one platform module on the at least one leg.

As concerns claim 29, Patout shows the elevating the at least one platform module further comprises inserting the at least one leg into a surface region disposed beneath the drilling site (figure 9a).

As concerns claim 30, Patout shows the inserting the at least one leg into the surface region further comprises driving the at least one leg into the surface region.

As concerns claim 31, Patout shows the inserting the at least one leg into the surface region further comprises driving the at least one leg into the surface region.

As concerns claim 35 and 36, shows the platform module transportable by aircraft and boat.

As concerns claim 37, shows each of the platform modules is transportable by at least one of a truck, a railcar, a hovercraft, and a helicopter.

As concerns claim 38, shows at least one of the plurality of interconnected platform modules further comprises: a body portion 61; and a leg attachment 51 member coupled to the body portion.

As concerns claim 39, shows the leg attachment member 51 is structurally integral (mechanically integral with one another) with the body portion 61.

As concerns claim 40, shows the leg attachment member is separable from the body portion (figure 9a).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 32-33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patout 6,499,914 in view of Turner 4,784,526. Patout shows the legs having a passageway that is capable of allowing fluid to be injected but does not show the fluid to be cement. However, Turner shows a similar oil drilling and leg platform for use in arctic conditions in which the legs are cemented and cement is inserted through the leg 48 in order to install them. Therefore it would have been obvious to one of ordinary skill in the art to have modified Patout, as taught by Turner, to further include cementing of the leg to ensure a stronger foundation to the platform, thus improving the safety and longevity of the mobile platform.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A Beach whose telephone number is 703.305.4848. The examiner can normally be reached on Monday-Thursday, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703.308.3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9306 or 703.872.9306 for regular communications and 703.872.9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.4198.

Thomas A. Beach

January 23, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

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

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OCT 27 2003

OFFICE OF PETITIONS

In re Application of
Nelson, Proctor & Regnier
Application No. 10/434,437
Filed: May 7, 2003
Attorney Docket No. 2479.2155-001
For: ANTENNA ADAPTATION IN A TIME DIVISION DUPLEXING SYSTEM

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 29, 2003 (certificate of mailing date September 26, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, James A. Proctor, Jr., has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition signed by Attorney Mark B. Solomon and accompanying exhibits establish that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES A. PROCTOR, JR.
258 SEA VIEW STREET
MELBOURNE BEACH FL 32951

COPY MAILED

OCT 2 7 2003

OFFICE OF PETITIONS

In re Application of :
Nelson, Proctor & Regnier :
Application No. 10/434,437 :
Filed: May 7, 2003 : LETTER
Attorney Docket No. 2479.2155-001 :
For: ANTENNA ADAPTATION IN A TIME :
DIVISION DUPLEXING SYSTEM :

Dear Mr. Proctor:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 0 6 2007

OFFICE OF PETITIONS

In re Application of :
NELSON et al. :
Application No. 10/434,437 : DECISION ON PETITION
Filed: May 7, 2003 : TO WITHDRAW
Attorney Docket No. 2479.2155-001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11. 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "assignee has discharged the firm and requested file be transferred" does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VOLPE AND KOENING PC**
30 SOUTH 17TH STREET, SUITE 1600
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

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

In re Application of :
Douglas M. Arm :
Application No. 10/434,442 : ON PETITION
Filed: May 7, 2003 :
Attorney Docket No. 5490-000510 :

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**.

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 25, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 26, 2006. A Notice of Abandonment was mailed February 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1651 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BATTELLE MEMORIAL INSTITUTE
ATTN: IP SERVICES, K1-53
P. O. BOX 999
RICHLAND WA 99352

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MAR 1 1 2009

OFFICE OF PETITIONS

In re Application of :
Jamelyn D. **HOLLADAY, et al.** :
Application No. 10/434,443 : DECISION GRANTING PETITION
Filed: May 7, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **13940G** :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 23, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1797 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NOS. 003797 & 013797
1100 13TH STREET NW
SUITE 1200
WASHINGTON, DC 20005-4051

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Greg Martinez et al :
Application No. 10/434,457 : DECISION GRANTING PETITION
Filed: May 9, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 003797-00562 :

This is a decision on the petition, filed August 6, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 22, 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 4

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

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DEC 0 3 2003

OFFICE OF PETITIONS

In re Application of
Carroll W. Smith, Derek J. Nash, and Ruben Villarreal
Application No. 10/434,477
Filed: May 9, 2003
Attorney Docket No. 44488
Title: AUTOMATED LUMINAIRE WITH LIGHT BEAM POSITION ADJUSTMENT

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed October 21, 2003.

On May 9, 2003, the application was deposited, identifying Carroll W. Smith, Derek J. Nash, and Ruben Villarreal as joint inventors. The application was deposited without a fully executed oath or declaration[2]. On July 21, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that the basic filing fee, an executed oath or declaration, and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors:
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 Joint-inventor Smith did not execute the oath or declaration.

Petitioner has submitted the petition fee, the basic filing fee, a one-month extension of time to make timely this reply, a statement of the last known address of the non-signing joint inventor, proof that a complete copy of the application was received by the non-signing inventor, and an acceptable declaration.

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

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

After this decision is mailed, the application will be forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011.

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

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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Carroll W. Smith
16709 Amber Lake
Weston, FL 33331

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DEC 0 3 2003
OFFICE OF PETITIONS

In re Application of
Carroll W. Smith, Derek J. Nash, and Ruben Villarreal
Application No. 10/434,477
Filed: May 9, 2003
Attorney Docket No. 44488
Title: AUTOMATED LUMINAIRE WITH LIGHT BEAM POSITION ADJUSTMENT

LETTER

Dear Mr. Smith:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

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

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In re Application of :
Srivastava, et al. :
Application No. 10/434,479 : DECISION ON PETITION
Filed: 9 May, 2003 :
Attorney Docket No. 4995.0057-02 :

This is a decision on the petition under 37 C.F.R. 1.78(a)(6), filed 12 May, 2006, 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 **DISMISSED**.

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

(1) the reference required by 35 U.S.C. §119(e) and 37 C.F.R. §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 C.F.R. §1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The regulations at 37 C.F.R. §1.78(a)(4)(i) require that any nonprovisional application claiming the benefit of one or more prior-filed copending provisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and state that this application is claiming the benefit of the provisional application An example of a proper benefit claim is: "This application claims the benefit of Application No. 60/---, filed---." Furthermore, Application No. 09/769,482 does not claim priority to provisional application No. 60/378,949. (*See*: MPEP §201.11(II)(A).)

The amendment fails to comply with the provisions of 37 C.F.R. §1.78(a)(2)(i) and is therefore unacceptable.

Additionally, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. §132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. §119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. §120 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).

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

Application No. 10/434,479

Any inquiries concerning this decision may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LATIMER, MAYBERRY
& MATTHEWS IP LAW, LLP
13873 PARK CENTER ROAD
SUITE 106
HERNDON VA 20171

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OFFICE OF PETITIONS

In re Application of :
Srivastava, et al. :
Application No. 10/434,479 : DECISION ON PETITION
Filed: 9 May, 2003 :
Attorney Docket No. 4995.0057-02 :

This is a decision on the petition filed on 22 October, 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 as follows:

The Examiner mailed a non-final Office action on 15 February, 2006, with reply due absent extension of time on or before 15 May, 2006.

On 12 May, 2006, Petitioner filed a reply in the form of a petition under the provisions of 37 C.F.R. §1.78(a)(3), an amendment—however, the amendment was deficient and thus not a proper reply when considered in context of the petition.

On 15 June, 2006, Petitioner filed a request and fee for extension time, and indicated Petitioner's intent also to file a continuation application.

The Office mailed a Notice of Abandonment on 31 October, 2006.

On 9 September, 2008, he Office dismissed the petition under the provisions of 37 C.F.R. §1.78(a)(3) for failure to satisfy the requirements under the rule.

On 22 October, 2008, Petitioner filed a petition with fee averring unintentional delay pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an amendment and a renewed petition under 37 C.F.R. §1.78(a)(3), 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]))

---

[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.

Application No. 10/434,479

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is held for consideration of another matter (and thereafter will be released to Technology Center/AU (TC/AU) 1642 for further processing in due course).

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AUin response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney

---

[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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& MATTHEWS IP LAW, LLP
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HERNDON VA 20171

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OFFICE OF PETITIONS

In re Application of
Srivastava, et al.
Application No. 10/434,479
Filed: 9 May, 2003
Attorney Docket No. 4995.0057-02

SUPPLEMENT TO
DECISION ON PETITION

This is a supplement to the 17 February, 2008, decision on the petition filed on 22 October, 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 grant of revival is exclusively for the purposes of continuity.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

The Examiner mailed a non-final Office action on 15 February, 2006, with reply due absent extension of time on or before 15 May, 2006.

On 12 May, 2006, Petitioner filed a reply in the form of a petition under the provisions of 37 C.F.R. §1.78(a)(3), an amendment—however, the amendment was deficient and thus not a proper reply when considered in context of the petition.

On 15 June, 2006, Petitioner filed a request and fee for extension time, and indicated Petitioner's intent also to file a continuation application.

The Office mailed a Notice of Abandonment on 31 October, 2006.

On 9 September, 2008, he Office dismissed the petition under the provisions of 37 C.F.R. §1.78(a)(3) for failure to satisfy the requirements under the rule.

On 22 October, 2008, Petitioner filed a petition with fee averring unintentional delay pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an amendment and a renewed petition under 37 C.F.R. §1.78(a)(3), 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]))

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[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.

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 C.F.R. §1.53(b).

The instant application is \released to Technology Center/AU (TC/AU) 1642 for further processing in due course consistent with this decision.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AUin response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[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.

[4] The regulations at 37 C.F.R. §1.2 provide:

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OFFICE OF PETITIONS

In re Application of
Srivastava, et al.
Application No. 10/434,479
Filed: 9 May, 2003
Attorney Docket No. 4995.0057-02

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(6), filed on 22 October, 2008, 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 C.F.R. §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 C.F.R. §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 C.F.R. 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 C.F.R. §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 C.F.R. §1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

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

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

The regulations at 37 C.F.R. §1.78 require a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78 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 C.F.R. §1.78. If this is not a correct reading of the statement appearing in the petition, Petitioner must promptly notify the Office.

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

Questions concerning this matter may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center AU 1642 for consideration by the Examiner of the claim under 35 U.S.C. § 119(e) of the prior-filed provisional application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/434,479	05/09/2003	1642	450	HMU-101-02	9	3

CONFIRMATION NO. 6548

59241
LATIMER, MAYBERRY & MATTHEWS IP LAW, LLP
13873 PARK CENTER ROAD
SUITE 106
HERNDON, VA 20171

CORRECTED FILING RECEIPT

Date Mailed: 03/23/2009

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

Applicant(s)

Shiv Srivastava, Potomac, MD;
Judd W. Moul, Bethesda, MD;
Linda L. Xu, Rockville, MD;

Power of Attorney: The patent practitioners associated with Customer Number 59241

Domestic Priority data as claimed by applicant

This application is a CIP of 10/390,045 03/18/2003 ABN
and is a CIP of 10/390,045 03/18/2003 ABN
which is a DIV of 09/769,482 01/26/2001 PAT 6,566,130
which claims benefit of 60/178,772 01/28/2000
and claims benefit of 60/179,045 01/31/2000
This application 10/434,479
is a CIP of 09/769,482 01/26/2001 PAT 6,566,130
which claims benefit of 60/178,772 01/28/2000
and claims benefit of 60/179,045 01/31/2000
This application 10/434,479
claims benefit of 60/378,949 05/10/2002

Foreign Applications

If Required, Foreign Filing License Granted: 06/16/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/434,479**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Androgen-regulated PMEPA1 gene and polypeptides

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.

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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

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

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

In re Application of :
Srivastava, et al. :
Application No. 10/434,479 : DECISION ON PETITION
Filed: 9 May, 2003 :
Attorney Docket No. 4995.0057-02 :

This is a decision on the petition under 37 C.F.R. §1.78(a)(6), filed on 22 October, 2008, 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**.

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Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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CONFIRMATION NO. 6548

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Date Mailed: 03/30/2009

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Applicant(s)

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which claims benefit of 60/179,045 01/31/2000
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Foreign Applications

If Required, Foreign Filing License Granted: 06/16/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/434,479**

Projected Publication Date: 07/09/2009

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Androgen-regulated PMEPA1 gene and polypeptides

Preliminary Class

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Title 35, United States Code, Section 184

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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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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of
Roman Waupotitsch, et al.
Application No. 10/434,481
Filed: May 7, 2003
Attorney Docket No. 14873-003001

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 November 15, 2006, December 18, 2006 and April 13, 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 Scott C. Harris on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROMAN WAUPOTITSCH
1643 CORTE DE ANNO
SAN JOSE, CA 45124

cc: DAVID WEST
GEOMETRIX
1590 THE ALAMEDA
SUITE 200
SAN JOSE, CA 95126

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/434,481	05/07/2003	Roman Waupotitsch	14873-003001/

CONFIRMATION NO. 5644

20985
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000023777138

Date Mailed: 05/09/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/15/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of
Roman Waupotitsch, et al.
Application No. 10/434,481
Filed: May 7, 2003
Attorney Docket No. 14873-003001

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 November 15, 2006, December 18, 2006 and April 13, 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 Scott C. Harris on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROMAN WAUPOTITSCH
1643 CORTE DE ANNO
SAN JOSE, CA 45124

cc: DAVID WEST
GEOMETRIX
1590 THE ALAMEDA
SUITE 200
SAN JOSE, CA 95126

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/434,481	05/07/2003	Roman Waupotitsch	14873-003001/

CONFIRMATION NO. 5644

OC000000023777138

20985
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 05/09/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/15/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

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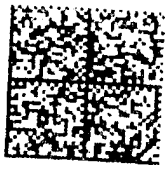

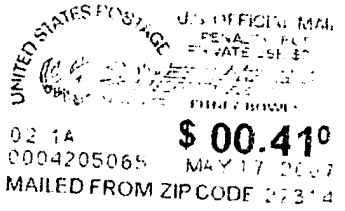

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ROMAN WAUPOTITSCH
1643 CORTE DE ANNO
SAN JOSE, CA 45124

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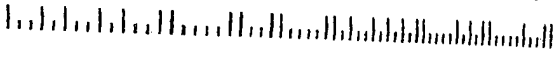

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Paper No. 7

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

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NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of
Smith & Nash
Application No. 10/434,484
Filed: May 9, 2003
Attorney Docket No. 44489
For: REFLECTOR ASSEMBLY FOR AUTOMATED LUMINAIRES

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 21, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor, Carroll W. Smith, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Attorney Tara L. Hoffman and accompanying exhibits establish that the inventor was successfully mailed the application papers, including the specification, claims and drawings, but the inventor failed to respond to the request that he sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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CARROLL W. SMITH
16709 AMBER LAKE
WESTON FL 33331

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NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Smith & Nash :
Application No. 10/434,484 :
Filed: May 9, 2003 : LETTER
Attorney Docket No. 44489 :
For: REFLECTOR ASSEMBLY FOR :
AUTOMATED LUMINAIRES :

Dear Mr. Smith:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

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

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OFFICE OF PETITIONS

In re Application of	:	
Georg Berger, et. al.	:	
Application No. 10/434,486	:	ON PETITION
Filed: May 8, 2003	:	
Attorney Docket No. P/1568-63	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 19, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 12, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight July 12, 2004. A Notice of Abandonment was mailed on November 17, 2004.

In response, petitioner submitted with the instant petition $1,370 for the petition to revive fee, $160 for claim fees, 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. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 3636, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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McDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE
SUITE 700
SAN DIEGO, CA 92122

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OFFICE OF PETITIONS

In re Application of :
Michael S. Hicken et al :
Application No. 10/434,489 : DECISION ON PETITION
Filed: May 7, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 062781-0062 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 16, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/430,487, filed May 5, 2003, as set forth in an 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) and (iii) 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 benefit of 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 above-noted, prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application

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

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

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

This application is being forwarded to Technology Center Art Unit 2289 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed Application No. 10/430,487.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/434,489	05/07/2003	2189	834	062781-0062	12	4

CONFIRMATION NO. 6650

41552
MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122

CORRECTED FILING RECEIPT

OC000000023774366

Date Mailed: 05/09/2007

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)

Michael S. Hicken, Rochester, MN;
James N. Snead, Eyota, MN;

Power of Attorney: The patent practitioners associated with Customer Number **41552**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/379,001 05/08/2002
and is a CIP of 10/430,487 05/05/2003 PAT 7,162,587

Foreign Applications

If Required, Foreign Filing License Granted: 06/30/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/434,489

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method, apparatus, and system for preserving cache data of redundant storage controllers

Preliminary Class

711

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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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

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OFFICE OF PETITIONS

In re Application of :
Scott et al. :
Application No. 10/434,496 : ON PETITION
Filed: May 7, 2003 :
Attorney Docket No. 30-5083-DIV1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on January 19, 2005, to accept an unintentionally delayed claim under 35 USC 120 for the benefit of prior- filed nonprovisional Application 09/702,156 now patent 6,596,131 filed October 30, 2000.

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

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 contained in the instant petition varies from the language required by 37 CFR §1.78 (a)(3), the statement contained in the instant petition is being construed as the required statement.

The petition complies with the requirements for a grantable petition under 37 CFR §1.78(a)(3) in that (1) a reference to the above-noted, prior-filed application has been included in an 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 an adequate statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed application satisfies the conditions of 37 CFR §1.78(a)(3) the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Charlema R. 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 the examiner of Technology Center Art Unit 1753 for consideration of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) to the above-noted, prior filed application.

Frances Hicks
Petitions Examiner
Office of Petition

Attachment: Corrected Filing Receipt

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PEARNE & GORDON LP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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JAN 0 8 2004

OFFICE OF PETITIONS

In re Application of
ONITSUKA et al.
Application No. 10/434,513
Filed: May 8, 2003
Attorney Docket No. 33917US1

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.53

This is a decision on the petition filed September 12, 2003, which is properly treated as a petition under 37 CFR 1.53(e)(2) requesting that the above-identified non provisional application be accorded a filing date of May 8, 2003, with an indication that Figures 20, 21 were present on filing.

The petition is **dismissed.**.

The instant application papers were deposited on May 8, 2003. However, on July 11, 2003, the Office of Initial Patent Examination (OIPE) sent a Notice stating while a filing date had been assigned to the application papers, the papers lacked Figures 20, 21 described in the specification.

In reply, the instant petition was filed on September 12, 2003, preceded by a copy of the missing drawing figures which was filed on August 1, 2003. Petitioners do not challenge the holding of the aforementioned Notice *per se,* but point to a statement contained in the transmittal letter which accompanied the instant application papers, that specifically incorporated by reference the contents of prior application No. 09/956,559, which is asserted to contain the missing figures. As such, petitioners request that the original filing date be retained with an indication that Figures 20, 21 were part of the original application papers that were present on filing.

The petition cannot be granted. As acknowledged by petitioners, Figures 20 and 21 were not among the application papers that were received at the USPTO on May 8, 2003, the incorporation statement notwithstanding. As such, the USPTO cannot continue to accord these application papers a filing date of May 8, 2003, if these papers were indicated to contain on that date Figures 20, 21, since these figures were simply not present in this file on May 8, 2003.

Nevertheless, petitioners are not without a remedy. It should be noted that, per MPEP 201.06(c) (under the caption "Incorporation by Reference" at 200-37,38) an applicant may seek to remedy, by amendment without petition, an inadvertently omitted item(s) in a continuing application that, as here, has been accorded a filing date, by relying on an originally filed incorporation statement. This is a prosecution issue entirely before the examiner for his determination as to new matter *vel non*, and is not an issue pertaining to the filing date *per se*. See Id. Thus, since applicants wish to retain their currently accorded filing date, rather than accept a later filing date corresponding to the date of submission of the missing figures, they simply need to present the omitted drawing figures as an amendment for the examiner's consideration during prosecution.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

Brian Hearn

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PEARNE & GORDON LP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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JAN 0 8 2004

OFFICE OF PETITIONS

In re Application of
ONITSUKA et al.
Application No. 10/434,513
Filed: May 8, 2003
Attorney Docket No. 33917US1

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.53

This is a decision on the petition filed September 12, 2003, which is properly treated as a petition under 37 CFR 1.53(e)(2) requesting that the above-identified non provisional application be accorded a filing date of May 8, 2003, with an indication that Figures 20, 21 were present on filing.

The petition is **dismissed.**.

The instant application papers were deposited on May 8, 2003. However, on July 11, 2003, the Office of Initial Patent Examination (OIPE) sent a Notice stating while a filing date had been assigned to the application papers, the papers lacked Figures 20, 21 described in the specification.

In reply, the instant petition was filed on September 12, 2003, preceded by a copy of the missing drawing figures which was filed on August 1, 2003. Petitioners do not challenge the holding of the aforementioned Notice *per se,* but point to a statement contained in the transmittal letter which accompanied the instant application papers, that specifically incorporated by reference the contents of prior application No. 09/956,559, which is asserted to contain the missing figures. As such, petitioners request that the original filing date be retained with an indication that Figures 20, 21 were part of the original application papers that were present on filing.

The petition cannot be granted. As acknowledged by petitioners, Figures 20 and 21 were not among the application papers that were received at the USPTO on May 8, 2003, the incorporation statement notwithstanding. As such, the USPTO cannot continue to accord these application papers a filing date of May 8, 2003, if these papers were indicated to contain on that date Figures 20, 21, since these figures were simply not present in this file on May 8, 2003.

Nevertheless, petitioners are not without a remedy. It should be noted that, per MPEP 201.06(c) (under the caption "Incorporation by Reference" at 200-37,38) an applicant may seek to remedy, by amendment without petition, an inadvertently omitted item(s) in a continuing application that, as here, has been accorded a filing date, by relying on an originally filed incorporation statement. This is a prosecution issue entirely before the examiner for his determination as to new matter *vel non*, and is not an issue pertaining to the filing date *per se*. See Id. Thus, since applicants wish to retain their currently accorded filing date, rather than accept a later filing date corresponding to the date of submission of the missing figures, they simply need to present the omitted drawing figures as an amendment for the examiner's consideration during prosecution.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

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

IN THE DRAWINGS:

Please insert the attached additional sheet of formal drawings, including FIG. 20 and FIG. 21.

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Alexandria, VA 22313-1450
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PAUL K. TOMITA
DERGOSITS & NOAH LLP
SUITE 1450
FOUR EMBARCADERO CENTER
SAN FRANCISCO CA 94111

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of :
Sean P. Bushart :
Application No. 10/434,521 : DECISION GRANTING PETITION
Filed: May 7, 2003 :
Attorney Docket No. 193.23 :

This is a decision on the petition, filed September 20, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on May 6, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A publication date of December 29, 2005 has already been communicated to the applicant in a notice mailed September 22, 2005.

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

This matter is being referred to the Publishing Division.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JJGJR.: 08-05

Paper No: __

JOAN L. SIMUNIC
4719 GRAND DELL DRIVE
CRESTWOOD KY 40014

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Kleinert :
Application No. 10/434,539 : DECISION
Filing Date: 9 May, 2003 :
Attorney Docket No. 20030509 :

This is a decision on the petition filed on 19 July, 2005, to revive the instant application under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay, and in light of the allegations considered alternatively as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition:

- under 37 C.F.R. §1.137(a) is **DISMISSED**; and
- as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

(It is noted, however, that Petitioner may be unable to present a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 15 July, 2004, with reply due absent extension of time on or before 15 October, 2004;
- the application went abandoned after midnight 15 October, 2004;
- the Office mailed the Notice of Abandonment on 19 April, 2005;
- Petitioner filed the instant petition (with fee), made a statement alleging non-receipt of the non-final Office action (a copy of which is enclosed herewith) but provided no documentation in support of that statement (e.g., mail logs, docket sheets evidencing no response due on or before 15 October, 2004, etc.), and filed no reply to the non-final Office action.

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]

---

[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.

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

As to a Request to Withdraw
the Holding of Abandonment

Petitioner alleges non-receipt–and so prompts consideration as a request withdrawal of the holding of abandonment under 37 C.F.R. §1.181–but provides no documentation in support of the allegation.

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7] (See: the commentary set forth at MPEP §711.03(c)–copy of pages 160 - 165 enclosed.)

Thus, Petitioner also fails to satisfy the showing required under Delgar and thus to be considered under the provisions of 37 C.F.R. §1.181.

As to Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner has failed to satisfy the "showing" and "reply" requirements as to a petition under 37

---

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

C.F.R. §1.137(a).

CONCLUSION

NOTES: **In matters such as these in which Petitioner observes that the Office has not responded to Petitioner's filing(s), Petitioner may find it of particular value (to demonstrate/evidence at a later date Petitioner's diligence in attention to such matters) to calendar the filing of a written Status Inquiry at six- (6-) month intervals**.

Moreover, Petitioner would find that obtaining a Customer Number may be an effective tool in prosecution of applications to obtain online access to Petitioner's applications and so monitor status thereof without awaiting receipt of Office actions via the U.S. Postal Service.

The petition:

- under 37 C.F.R. §1.137(a) is **dismissed**; and
- as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner's inability make a showing to support the instant petition leaves as Petitioner's only alternative to irretrievable abandonment a petition alleging unintentional delay under 37 C.F.R. §1.137(b).[8]

Therefore, Petitioner may wish to consider filing a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay.

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the RCE, fee, and submission), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until

[8] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

the filing of a grantable petition was unintentional."

Further correspondence with respect to this matter should be addressed as follows:[9]

By mail: Commissioner for Patents[10]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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

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

Encl: Non-final Office action (15 July, 2004)
MPEP §711.03(c)–copy of pages 160 - 165 enclosed

[9] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[10] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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JJGJR.: 01-06

Paper No: __

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JAN 2 7 2006

OFFICE OF PETITIONS

JOAN L. SIMUNIC
4719 GRAND DELL DRIVE
CRESTWOOD KY 40014

In re Application of	:	
Kleinert	:	
Application No. 10/434,539	:	DECISION
Filing Date: 9 May, 2003	:	
Attorney Docket No. 20030509	:	

This is a decision on the renewed petition filed on 11 October, 2005, to revive the instant application under 37 C.F.R. §1.137(a) or §1.137(b) as having been abandoned due to unavoidable or unintentional delay, respectively, and in light of the allegations considered alternatively as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**; and the petitions under 37 C.F.R. §1.137(a) and §1.137(b) are **DISMISSED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 15 July, 2004, with reply due absent extension of time on or before 15 October, 2004;
- the application went abandoned after midnight 15 October, 2004;
- the Office mailed the Notice of Abandonment on 19 April, 2005;
- on 19 July, 2005, Petitioner filed the original petition (with fee) under 37 C.F.R. §1.137(a), and also made a statement alleging non-receipt of the non-final Office action

but provided no documentation in support of that statement (e.g., mail logs, docket sheets evidencing no response due on or before 15 October, 2004, etc.), and filed no reply to the non-final Office action, a copy of which was forwarded with the decision dismissing that petition;

- Petitioner has renewed the petition, seeking alternative relief under the provisions of 37 C.F.R. §1.137(a) and §1.137(b), further supplemented her petition on 26 January, 2006, and in the renewal and supplement stated, *inter alia*: (a) her practice as to the handling of papers from the office, (b) the application of that practice in this matter, (c) her review of her file in this matter (as well as the files of other matters to determine if materials might have been misfiled), and she provided copies of her office docket in evidence of methodology and in compliance with the requirements set forth at MPEP §711.03–and, further, Petitioner has filed a reply to the to non-final Office action of 15 July, 2004.

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]

---

[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).

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

As to a Request to Withdraw
the Holding of Abandonment

Petitioner alleges non-receipt–and so prompts consideration as a request withdrawal of the holding of abandonment under 37 C.F.R. §1.181, and provided both the required statement and documentation in support of the allegation.

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner satisfied the showing required under Delgar and thus to be considered under the provisions of 37 C.F.R. §1.181.

As to Allegations of Unavoidable
and Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing/statement of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

However, because Petitioner has satisfied the Delgar showing, these issues are now moot.

---

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted** and the abandonment of 19 April, 2005, having been improvidently entered hereby is **withdrawn**.

The petitions under 37 C.F.R. §1.137(a) and §1.137(b) are **dismissed as moot**.

The request for continued examination (RCE) under 37 C.F.R. §1.114 was improvidently filed (i.e., before a final Office action), and the fee therefor is refunded, as are the petition fees.

The instant application is released to Technology Center 3700 for 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
United States Patent and Trademark Office
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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of
Geraldo Buitron, et al.
Application No. 10/434,551
Filed: May 9, 2003
Attorney Docket No. 3123-484

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 November 29, 2006.

The request is **APPROVED**.

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

The request was signed by Todd P. Blakely on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

There is an outstanding Office action mailed February 6, 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MAXTOR CORPORATION
2452 CLOVER BASIN DRIVE
LONGMONT, CO 80503

cc: SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY -- SHK2LG
1280 DISC DRIVE
SHAKOPEE, MN 55379

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/434,551	05/09/2003	Gerardo Buitron	3123-484

CONFIRMATION NO. 8716

OC000000023179832

OC000000023179832

22442
SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Date Mailed: 03/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/29/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE
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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Pepper Hamilton, LLP
One Mellon Center,
50th Floor,
500 Grant Street
Pittsburgh, PA 15219

MAILED

OCT 05 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Charles O'Connell JR.,
Application No. 10/434,560 : DECISION ON REQUEST
Filed: May 9, 2003 : FOR WITHDRAWAL OF
For: ANIMATED SIGN ASSEMBLY : ATTORNEY

This is a decision on the request filed on August 6, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. There is no fee for this request.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions A) and B) above.

As to condition A), there is a single attorney signing the request on behalf of the attorneys associated with Customer Number 21289. All attorneys must sign or one must clearly sign on behalf of the others of record. It is not clear that the attorneys given power in the original declaration filed in the case are associated with Customer Number 21289. Furthermore, the attorney signing the withdrawal request does not have power of attorney in this application.

As to condition B), the reason "Our firm has been instructed to transfer our files to a new attorney" is not acceptable. Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40(c)(1)-(6).

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

SNM/dcg: 9/22/04

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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 06/01/2010

Applicant	: Kaushik P. Biswas	: DECISION ON REQUEST FOR
Patent Number	: 7624195	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/434,581	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1126** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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DEC 11 2008

In re Application of	:	
Denis R. Beaudoin, et al.	:	
Application No. 10/434,593	:	DECISION ON PETITION
Filed: May 9, 2003	:	
Attorney Docket No. TI-35030	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 4, 2008, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed September 10, 2007, 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 October 11, 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 election, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2194 for appropriate action by the Examiner in the normal course of business on the reply received September 4, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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OFFICE OF PETITIONS

In re Application of :
Cedric Y. Caron et al. :
Application No. 10/434,595 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. PHA 23,751A :

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 21, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 22, 2005.

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

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

The application file is being referred to Technology Center AU 2623 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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DISCUS DENTAL IMPRESSIONS, INC.
8550 HIGUERA STREET
CULVER CITY, CA 90232

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Eric R. Montgomery	:	
Application No. 10/434597	:	ON PETITION
Filing or 371(c) Date: 05/09/2003	:	
Attorney Docket Number:	:	
P1073US06	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), August 25, 2006. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed February 13, 2006. The Office communication set a one (1) 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 August 14, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the instant petition and response to the Office communication. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 1614 for processing of the response.

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

Derek L. Woods
Attorney
Office of Petitions

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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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OFFICE OF PETITIONS

In re Application of	:	
Hansen et al.	:	
Application Number: 10/434611	:	DECISION ON PETITION
Filing Date: 05/09/2003	:	
Attorney Docket Number:	:	
MICR0414	:	

This is a decision on the petition filed on January 14, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on January 7, 2007, for failure to file a timely and proper reply to the final Office action mailed on October 6, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on September 12, 2007.

Petitioner have filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

---

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

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

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

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

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

Receipt of the revocation and power of attorney filed on January 14, 2008, is acknowledged.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center Art Unit 3714 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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[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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BORIS KESIL
MULTIMETRIXS, LLC
1040 DI GIULIO AVENUE, #160
SANTA CLARA CA 95050

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NOV 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Boris Kesil et al. :
Application No. 10/434,625 : ON PETITION
Filed: May 12, 2003 :
Title of Invention: **METHOD AND SYSTEM FOR MEASURING THICKNESS OF THIN FILMS WITH AUTOMATIC STABILIZATION OF MEASUREMENT ACCURACY**

This is a decision on the petition filed July 25, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed December 23, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned March 24, 2005. Accordingly, a Notice of Abandonment was mailed July 13, 2005.

This matter is being referred to Technology Center 2858 for appropriate action on the amendment filed July 25, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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BEN LANE
4239 CAPITOL BLVD.
RALEIGH, NC 27604

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JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Lane, Ben	:	
Application No. 10/434,634	:	ON PETITION
Filed: May 12, 2003	:	
Title: Extractor Tool For Removing A Threaded And Method Of Extracting	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 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. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed May 5, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 6, 2004. A Notice of Abandonment was mailed November 18, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks items (1) and (2).

---

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

[2] See MPEP 711.03(c)(III)(C) and (D).

As to item (1), petitioner failed to submit a response to the Office action issued by the examiner on May 5, 2004. As stated in 37 CFR § 1.111(b),

> The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

A copy of the Office action previously mailed on May 5, 2004, is enclosed with this decision for petitioner's convenience. A copy of 37 CFR § 1.121 from the Manual of Patent Examining Procedure (MPEP), regarding the manner of making amendments in an application, is also enclosed. If any specific questions regarding a proper reply arise, petitioner may wish to speak with the examiner.

As to item (2), the petition fee is $750.00. Petitioner submitted $100.00 with the instant petition. Accordingly, an additional $650.00 is required.

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

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

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

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

Any questions concerning this decision may be directed to the undersigned at (571) 272-3206.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Office action dated May 5, 2004
37 CFR § 1.121 – Manner of making amendments in application

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OFFICE OF PETITIONS

DON W. BULSON (GRCO)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, 19TH FLOOR
CLEVELAND OH 44115

In re Application of
Michael J. GIAMATI
Application No. 10/434,649
Filed: May 9, 2003
Attorney Docket No. GRDSP0316USA

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 April 9, 2010.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no clear indication that the act noted above at item (1) has been performed. An explanation in the Request states "the client instructed us to transfer responsibility to another firm." However, absent a proper power of attorney, the statement cannot be accepted as giving a reasonable notification to the client.

Further, the request cannot be approved because the attorneys of record were not appointed by registration numbers as indicated on the request.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

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APR 23 2008

OFFICE OF PETITIONS

In re Application of :
Mark Steven Squillante et al :
Application No. 10/434,653 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. YOR920030081US1 (8728-614 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 16, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 17, 2006. See MPEP 1215.04.

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

This matter is being referred to Technology Center AU 2623 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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CUMMINS-ALLISON CORP.
C/O JENKENS & GILCHRIST
225 WEST WASHINGTON STREET, SUITE 2600
CHICAGO IL 60606

MAILED

MAR 2 2 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
RATERMAN, et. al.
Application No. 10/434,659
Filed: May 8, 2003
For: METHOD AND APPARATUS FOR CURRENCY DISCRIMINATION AND COUNTING

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed February 17, 2006, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that the eighteen documents (X1-X18) submitted in the Information Disclosure Statement, filed February 17, 2006, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document in question will not be available to the public during prosecution.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/434,659	05/08/2003	Donald E. Raterman	247171-000261USC3	7458

41230 7590 09/09/2009

CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

EXAMINER	
TRAN, PHUOC	

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
09/09/2009	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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
161 N. CLARK ST., 48TH FLOOR
CHICAGO IL 60601

In re application of :
RATERMAN, DONALD E. et al. :
Application Serial No. 10/434,659 :
Filed: May 08, 2003 :
METHOD AND APPARATUS FOR CURRENCY DISCRIMINATION AND COUNTING :

DECISION
ON PETITION

This is a response to the petition under 37 CFR 1.59(b), filed February 17, 2006 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that information submitted in Information Disclosure Statement on February 17, 2006 be expunged from the record. Petitioner states that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public and the information has not otherwise been made public. By reason of Notice of Allowability mailed 3/05/09, the examiner has determined the materials submitted under MPEP § 724.02 not to be important to a reasonable examiner. The petition fee set forth in 37 CFR 1.17(h) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material is returned herewith. It is noted that the subject application has issued as Patent Number 7,536,046.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

Enclosure: 18 documents (X1-X18) submitted in IDS 2/17/06.

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Paper No.

CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. RIVERSIDE PLAZA
16TH FLOOR
CHICAGO IL 60606

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APR 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,536,046	: DECISION ON REQUEST
Raterman et al.	: FOR
Issue Date: 05/19/2009	: RECONSIDERATION OF
Application No. 10/434,659	: PATENT TERM ADJUSTMENT
Filed: 05/08/2003	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
247171-000261USC3	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 28, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred seventy-nine (1679) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred seventy-nine (1679) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand six hundred seventy-nine (1679)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,536,046 B2

DATED : **May 19, 2009** **DRAFT**

INVENTOR(S) : Raterman 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 1390 days.

Delete the phrase "by 1390 days" and insert – by 1679 days--

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/434,665	05/07/2003	1645	1528	PATH03-09		28	9

CONFIRMATION NO. 2730

CORRECTED FILING RECEIPT

OC000000018839253

23856
OSCIENT PHARMACEUTICALS CORPORATION
1000 WINTER STREET
Suite 2200
WALTHAM, MA 02451

Date Mailed: 05/18/2006

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)

Lynn A. Doucette-Stamm, Framingham, MA;
David Bush, Somerville, MA;

Assignment For Published Patent Application

Genome Therapeutics Corp.

Power of Attorney:

Robert Spadafora Jr--46197

Domestic Priority data as claimed by applicant

This application is a DIV of 09/134,000 08/13/1998 PAT 6,617,156
which claims benefit of 60/055,778 08/15/1997

Foreign Applications **Acceptable Request to Retrieve Priority Application Received?**

If Required, Foreign Filing License Granted: 05/17/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/434,665

Projected Publication Date: 02/05/2004

Non-Publication Request: No

Early Publication Request: No

Title

Nucleic acid and amino acid sequences relating to Enterococcus faecalis for diagnostics and therapeutics

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 Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

POLSINELLI SHALTON FLANIGAN SUELTHAUS PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

COPY MAILED

JAN 31 2007

OFFICE OF PETITIONS

In re Application of
Golic et al.
Application No. 10/434,668
Filed: May 9, 2003
Title: Ends-Out Gene Targeting Method

DECISION ON PETITION

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

This petition is hereby **Dismissed**.

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

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of January 3, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on April 3, 2006. An Advisory Action mailed on April 27, 2006 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on April 4, 2006. A Notice of Abandonment was mailed on July 26, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a

statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (1) the required reply. Although petitioner has submitted an RCE, the submission requirement in the form of the previously submitted amendment (July 26, 2006) is not signed as required by 37 CFR §§1.4 and 1.33(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

By delivery service: U.S. Patent and Trademark Office
(FedEx, UPS, DHL, etc.) Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

POLSINELLI SHALTON FLANIGAN SUELTHAUS PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

COPY MAILED

APR 20 2007

OFFICE OF PETITIONS

In re Application of :
Golic et al. :
Application No. 10/434,668 : DECISION ON PETITION
Filed: May 9, 2003 :
Title: Ends-Out Gene Targeting Method :

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of January 3, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on April 3, 2006. An Advisory Action mailed on April 27, 2006 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on April 4, 2006. A Notice of Abandonment was mailed on July 26, 2006. A petition filed under 37 CFR 1.137(b) was dismissed on January 31, 2007.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Request for Continued Examination (RCE), and amendment will be forwarded to Technology Center 1600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/434669	05/09/03	SANTIN, ERNEST	SCA-001.02

FOLEY HOAG. LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

EXAMINER	
NGUYEN, VICTOR	
ART UNIT	PAPER NUMBER
3734	

DATE MAILED: 5/22/08

NOTICE OF RESCINDED ABANDONMENT

☐ In response to your communication filed _____

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

For Kenneth M. Schor

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 66 EAST, SUITE B
TIJERAS, NM 87059

COPY MAILED

DEC 15 2005

OFFICE OF PETITIONS

In re Patent No. 6,923,151	:	
Issue Date: August 2, 2005	:	
Application No. 10/434,674	:	LETTER
Filed: May 9, 2003	:	
Attorney Docket No. 02/07104 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**.

This matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/21/08

TO SPE OF : ART UNIT 2113

SUBJECT : Request for Certificate of Correction for Appl. No.: 10434685 Patent No.: 7120828

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

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

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

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

Comments: _____

/Robert Beausoliel/ — **SPE**

2113 — **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
AMB

Paper No. 5

BROOKS & KUSHMAN P.C. / LEAR CORPORATION
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

COPY MAILED

SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of
Fraser, et al.
Application No. 10/434,690
Filed: May 9, 2003
Atty. Dkt. No.: LEAR 03859 PUS
Title: HIGH STRENGTH FASTENING SYSTEM

: DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 28, 2003.

The petition is **DISMISSED**.

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

The above-identified application was filed May 9, 2003 without a fully executed oath or declaration and naming Derek Fraser, Matthew J. Baekelandt, Iris C. Drew, Gerald O. Morrison, and Robert G. Peterson as joint inventors. Accordingly, on July 9, 2003, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed, requiring an executed oath or declaration and surcharge.

The required surcharge of $130.00 have been charged to Deposit Account No. 02-3978 as authorized in the instant petition.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirement (1) set forth above. Petitioner has failed to sufficiently establish that despite diligent effort, Robert G. Peterson cannot be reached or located. Petitioner indicates that the application papers were sent to the non-signing inventor at the non-signing inventor's last known address and that the package containing the application papers was returned. Petitioner

further indicates that attempts to contact the inventor at the inventor's last known telephone number were unsuccessful.

Petitioner has failed to establish that any efforts were thereafter made to locate the non-signing inventor.

Where inability to reach or locate the legal representative of a deceased inventor is alleged, petitioner is required to establish that diligent effort was made to locate the non-signing inventor, and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration).

Any renewed petition must be supported by evidence which sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. 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 to locate the non-signing inventor. 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. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

Moreover, while the petition alleges the non-signing inventor cannot be located, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database indicates Robert G. Peterson has more recently resided at the following address: **28129 Brookhill Street, Farmington Hills, MI 48334-5119.**

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Application No. 10/307,596

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

BROOKS KUSHMAN P.C. / LEAR CORPORATION
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

COPY MAILED

DEC 19 2003

OFFICE OF PETITIONS

In re Application of	:
Fraser, et al.	: DECISION GRANTING
Application No. 10/434,690	: STATUS UNDER 37 CFR
Filed: May 9, 2003	: 1.47(a)
Docket No.: LEAR 03859 PUS	:
For: HIGH STRENGTH FASTENING SYSTEM	:
	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed November 28, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Robert G. Peterson cannot be reached despite diligent to execute the declaration for 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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT G. PETERSON
32565 CHESTERBROOK
FARMINGTON HILLS, MI 48334

In re Application of :
Fraser, et al. :
Application No.: 10/434,690 : LETTER
Filed: May 9, 2003 :
Atty. Dkt. No.: LEAR 03859 PUS :
For: HIGH STRENGTH FASTENING :
SYSTEM :

COPY MAILED
DEC 19 2003
OFFICE OF PETITIONS

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Kenneth D. Baugh
2413 Blodgett
Houston, TX 77004

COPY MAILED

JUL 26 2005

OFFICE OF PETITIONS

In re Application of :
Richardson et al. :
Application No. 10/434,705 : ON PETITION
Filed: May 9, 20003 :
For: Gardening Chair :

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed on October 23, 2003, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on January 24, 2004. A Notice of Abandonment was mailed on July 26, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment and paid the petition fee. However, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. The statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

The petition is **granted.**

The matter is being referred to Technology Center Art Unit 3636.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

9/24/03

Phynexus Inc
IP Dept.
3670 Charter Park Drive Suite A
San Jose CA 95136

Dear Applicant:

The Box PGPub replacement drawings for application number 10/434,713 received on 8/11/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

DAVID R. RISLEY
THOMAS KAYDEN HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, SUITE 1750
ATLANTA, GA 30339-5948

COPY MAILED

JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Heer Siegfried :
Application No. 10/434,714 : NOTICE
Filed: May 9, 2003 :
Attorney Docket No. 291801-1110

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 3700.

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

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OCT 0 5 2006

OFFICE OF PETITIONS

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of :
Matt Calkins et al :
Application No. 10/434,718 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No.
14917.0246US01/MS300390.0

This is a decision on the petition filed, October 4, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 24, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter 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.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENT A. FISCHMANN, ESQ.
MARSH, FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGHN WAY
SUITE 411
AURORA, CO 80014

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SEP 0 6 2006
OFFICE OF PETITIONS

In re Patent No. 6,915,212	:	
Issued: July 5, 2005	:	
Application No. 10/434,723	:	NOTICE
Filed: May 8, 2003	:	
Patentee: Bill Kamps	:	

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 (571) 272-3282.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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F. Lindsey Scott
Suite B
2329 Coit Road
Plano, TX 75075

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NOV 16 2006

OFFICE OF PETITIONS

In re Application of :
Charles A. Cole :
Application No. 11/434,732 : DECISION ON PETITION
Filed: May 16, 2006 : TO WITHDRAW
Attorney Docket No. COLE-25,831 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 4, 2006.

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

A review of the file record indicates that the power of attorney to F. Lindsey Scott has been revoked by the applicant of the patent application on August 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Michael G. Cameron, Esq.**
2025 Savannah Drive
McKinney, TX 75070

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/434,732	05/16/2006	Charles A. Cole	COLE-25,831

CONFIRMATION NO. 5769

OC000000021235704

OC000000021235704

F. Lindsey Scott
Suite B
2329 Coit Road
Plano, TX 75075

Date Mailed: 11/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/21/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 26, 2007

TO SPE OF : ART UNIT 3643

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/434747 Patent No.: 7118067 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

PETER M. POON
SUPERVISORY PATENT EXAMINER

SPE

3643
Art Unit

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United States Patent and Trademark Office
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Yasuji Hagiwara	: DECISION ON REQUEST FOR
Patent Number	: 7583508	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/434,757	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **777** 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
Eighth Floor
San Francisco, CA 94111-3834

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JUL 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Gregory Marshall Ruddell :
Application No. 10/434,808 : DECISION ON PETITION
Filed: May 8, 2003 : TO WITHDRAW
Attorney Docket No. PTI-001 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 27, 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 Patrick R. Jewik on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is an outstanding Office action mailed February 8, 2007 that requires a reply from the 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: **Gregory Marshall Ruddell**
3063 Ridgeview Drive
El Dorado Hills, CA 95762

cc: **PTI Media Networks**
4949 Windplay Drive
Suite 295
El Dorado Hills, CA 95762

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/434,808	05/08/2003	Gregory Marshall Ruddell	PTI-001

CONFIRMATION NO. 7367

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

OC000000024690899

Date Mailed: 07/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/27/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Jerri Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLTON, TX 75006

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of :
Taylor J. Leaming :
Application No. 10/434,821 : DECISION GRANTING PETITION
Filed: May 9, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 01-AU-100 (52050) :

This is a decision on the petition, filed May 9, 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 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) 272-3218.

This matter is being referred to Technology Center AU 2111 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\may9\434821wpd.wpd

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

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 6,985,346 :
Issue Date: January 10, 2006 :
Application No. 10/434,831 : NOTICE
Filed: May 8, 2003 :
Attorney Docket No. 62678US004 :

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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MAY 21 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

ALVIN S. BLUM
2350 DELMAR PLACE
FORT LAUDERDALE FL 33301

In re application of	:	**DECISION ON PETITION**
James Norman Barber	:	**TO MAKE SPECIAL**
Application No. 10/434,860	:	**(APPLICANT'S AGE)**
Filed: May 9, 2003	:	
For: CANOPY FABRIC TENSIONING APPARATUS		

This is a decision on the petition filed on May 9, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age. The delay in deciding this petition is regretted.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Barber indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/mjz: 5/17/04

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OFFICE OF PETITIONS

DAVID KIEWIT
5901 THIRD STREET SOUTH
ST. PETERSBURG, FL 33705

In re Patent No. 6,814,094 :
Issue Date: November 9, 2004 :
Application No. 10/434,860 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. SLP :

This is a decision on the petition under 37 CFR 1.378(c), filed October 23, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 10, 2008, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

Carl Friedman
Petitions Examiner
Office of Petitions

Copied from 11434860 on 02/26/2010

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JIMMIE R. OAKS
PATENT DEPARTMENT
DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265-8098

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of :
Peter Pirro :
Application No. 10/434,871 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. 09140-US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 27, 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 July 28, 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 a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of April 27, 2004 is accepted as having been unintentionally delay.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3671.

Wan Laymon
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Nicola A. Pisano, Esq.
11988 El Camino Real, Suite 200
San Diego CA 92130

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JUN 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Marvin T. Ling :
Application No. 10/434,886 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. GTX-004 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2007, to revive the above-identified application.

The above application became abandoned for failure to reply to the final Office action mailed June 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 3692, for further consideration of the previously submitted amendment filed on October 11, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES
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TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

7/22/03

Fish and Neave
50th Floor
1251 Avenue of the Americas
New York NY 10020-1105

Dear Applicant:

The Box PGPub replacement drawings for application number 10/434,892 received on 7/11/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
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Signature of Reviewer, Office of Initial Patent Examination

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Paper No.

Cooper & Dunham LLP
30 Rockefeller Plaza
New York NY 10112

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SEP 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,521,593	:	
Regina et al.	:	DECISION DISMISSING
Application No. 10/434,893	:	REQUEST FOR
Issue Date: April 21, 2009	:	RECONSIDERATION OF
Filed: May 9, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: 0070/69425 /JPW/FHB	:	UNDER 37 CFR § 1.705(d)
Title: BARLEY WITH ALTERED BRANCHING ENZYME ACTIVITY AND STARCH AND STARCH CONTAINING PRODUCTS WITH AN INCREASED AMYLOSE CONTENT	:	

This is a decision on the "PETITION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED ION THE NOTICE OF ALLOWANCE," filed on June 23, 2009, which is being treated as a petition pursuant to 37 CFR § 1.705(d), requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred and fifty-eight (258) to eight hundred and forty-two (842) days.

The request for reconsideration of patent term adjustment is **GRANTED to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred forty-seven **(247)** days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On April 21, 2009, the application matured into U.S. Patent No. 7,521,593, with a revised patent term adjustment of 258 days. On June 23, 2009,[1] patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. Patentees request 615 days of additional patent term adjustment in accordance with the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), and the period of adjustment due to examination delays, pursuant to 37 CFR § 1.702(a)(1) do not overlap, as these periods do not occur on the same day. Thus, patentee asserts an entitlement to a patent term adjustment of 585 days under 37 C.F.R. § 1.702(a)(1) and 615 days under 37 C.F.R. § 1.702(b).

In addition, pursuant to their duty of good faith and candor to the Office, Patentees have correctly indicated that the response to the July 24, 2003 "notice to file missing parts of nonprovisional application" was filed on November 28, 2003: the Office assigned a 24-day period of reduction with this submission, as the date of receipt was incorrectly entered as November 17, 2003. The reduction of 24-days has been removed, and a reduction of 35 days has been entered.

However, Patentee's assertion of entitlement to 615 days of adjustment under 37 CR 1.702(b) is incorrect.

The calculation of overlap has been reconsidered and is affirmed. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

---

[1] It is noted that this petition contains a certificate of mailing dated June 19, 2009.

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (June 15, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-

(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A). The period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, there is an excluded period for the filing of a request for continued examination (RCE). Thus, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period beginning on the date of filing of the application, May 9, 2003 and ending on the date of filing of the request for continued examination, January 14, 2008. 585 days of adjustment for Office delay were accorded prior to the filing of the RCE (no days of adjustment for Office delay were accorded subsequent to the filing of the RCE). The 615 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 585 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is neither permitted nor warranted.

Accordingly, at issuance, the Office properly entered 30 (615 - 585) additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office the revised determination of patent term adjustment at the time of the issuance of the patent is 247 days (585 + 30 - 368).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 247 days.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,521,593 B2

DATED : Apr. 21, 2009 **DRAFT**

INVENTOR(S) : Regina 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 258 days

Delete the phrase "by 258" and insert – by 247 days--

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BAKER BOTTS, LLP
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

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NOV 23 2007

OFFICE OF PETITIONS

In re Application of :
Hagan Bayley, et al. :
Application No. 10/434,897 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. 017575.0749 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 3, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 4, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1641 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BAKER BOTTS, LLP
PATENT DEPARTMENT
98 SA JACINTO BLVD.
SUITE 1500
AUSTIN, TX 78701-4039

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ANDREW WILFORD
K.F. ROSS P.C.
5683 RIVERDALE AVENUE
SUITE 203 BOX 900
BRONX NY 10471-0900

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OFFICE OF PETITIONS

In re Patent No. 6,854,719 :
Issue Date: February 15, 2005 :
Application No. 10/434,910 : ON PETITION
Filed: May 5, 2003 :
Attorney Docket No. 22520 :

This is a decision on the petition under 37 CFR 1.378(c), filed April 23, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 16, 2009 for failure to pay the three and half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Newton Edwards at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

The patent file is being forwarded to Files Repository.

David Bucci
Petition Examiner
Office of Petitions

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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Hanumantha Rao Susarla	: DECISION ON REQUEST FOR
Patent Number	: 7571354	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/434,939	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1706** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 020505

Eunhee Park, Esq.
Baker & McKenzie
805 Third Avenue
New York, NY 10022

MAR 0 8 2005

In re Application of:	:	
Eunhee Park, Esq.	:	
Serial No.: 10/434941	:	DECISION ON REQUEST TO WITHDRAW
Filed: May 08, 2003	:	FROM RECORD
Attorney Docket No.: **95156159-5**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed December 09, 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 Eunhee Park, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys of record at this time. It is noted that the application is now abandoned.

All future communications from the Office will be directed to the inventor, Ronald Trice, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Ronald D. Trice
Chief Patent Counsel, ZeoLux Corporation
2101 Crystal Plaza Arcade, PMB 138
Arlington VA 22202-4600

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OFFICE OF PETITIONS

RONALD D. TRICE
6412 BRANDON AVE.
145
SPRINGFIELD VA 22150

In re Application of
Magno et al.
Application No. 10/434,941
Filed: 05-08-2003
Attorney Docket No. 95-156159-5

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 21, 2006, to withdraw the holding of abandonment.

On January 12, 2005, the Office mailed a Restriction Requirement, which set a thirty-day extendable period to respond. In the apparent absence of a timely filed response, the application became abandoned on February 12, 2005. A Notice of Abandonment was mailed on August 29, 2005.

In the present petition, petitioner's practitioner asserted that he filed a timely reply to the Restriction Requirement on January 27, 2005. In support of the assertion, petitioner submitted a copy of the reply, including a certificate of mailing signed by practitioner, Ronald D. Trice, dated January 27, 2005. The Office notes that petitioner indicated the incorrect Application, No. 10/414,567, instead of No. 10/434,941, in the heading of the first page of the reply. Nevertheless, the transmittal and the remaining pages of the reply indicated the correct application number.

Pursuant to 37 CFR 1.8:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and,

(3) Includes a statement, which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

After reviewing the record, the reply submitted on January 27, 2005, has not been located. As previously stated, the first page of the reply indicated an incorrect application number in the heading. Under current Office procedure, if a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the response is considered timely filed on January 27, 2005. The petition to withdraw the holding of abandonment is **granted**.

This matter is being referred to Technology Center Art Unit 2815 for a review of the reply of January 27, 2005, re-submitted with the present petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Alan Wolffe	: DECISION ON REQUEST FOR
Patent Number	: 7097978	: RECALCULATION of PATENT
Issue Date	: 08/29/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/434,947	: OF WYETH
Filed	: 05/08/2003	:
		:

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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INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE CA 95113

MAIL

SEP 12 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Francis Da Costa, et al.
Application No.: 10/434,948
Filed: May 8, 2003
For:

HIGH PERFORMANCE WIRELESS NETWORKS USING DISTRIBUTED CONTROL

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed August 25, 2005 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The specification and claims as originally filed provide no indication of an intention to counter terrorism by contributing to systems for anti-terrorist video surveillance. The reason supporting the petition describes a system that will counter terrorism by enabling wide area video surveillance by way of a unique wireless mesh network architecture. However, the claimed invention fails to indicate countering terrorism. Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering terrorism" is found in the

disclosure. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly, the petition is **DENIED**. 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.

It is suggested that applicant review M.P.E.P. § 708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

Krista Zele
Special Program Examiner
Technology Center 2600

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of :
Charles A. Green et al :
Application No. 10/434,959 : DECISION ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. :
DAMADIAN 3.0-097 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 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.

This application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 6, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on February 7, 2007. A Notice of Abandonment was mailed on May 15, 2007, subsequent to the filing of the present petition to revive.

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).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $500; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Accordingly,

the failure to timely reply to the final Office action of November 6, 2006 is 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 Technology Center AU 3737 for consideration of the amendment filed with the petition on May 11, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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OFFICE OF PETITIONS

In re Application of :
Alexandru M. Faracasiu :
Application No. 10/434,967 : DECISION ON PETITION
Filed: August 29, 2005 : TO WITHDRAW
Attorney Docket No. 30215.72 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David O'Dell on behalf of all attorneys of record who are associated with customer No. 27683.

David O'Dell and all attorneys/agents associated with the Customer Number 27683 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

/David Bucci/
David Bucci
Petitions Examiner
Office of Petitions

cc: JP Mobile Operating, L.P.
12000 Ford Road, Suite 400
Dallas, Texas 75234

cc: Mark L. Watson, Esq.
Blakely, Sokoloff,, Taylor, & Zafman, LLP
8055 East Tufts Avenue, Suite 1300
Denver, Colorado 80237

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 27, 2007

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/434970 Patent No.: 7129091 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

J. Ward — **SPE**

1743 — **Art Unit**

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Heller Ehrman White and McAuliffe LLP
4350 La Jolla Village Drive Suite 600
San Diego CA 92122-1246

Dear Applicant:

The Box PGPub replacement drawings for application number 10/434,975 received on 6/4/03 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
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Signature of Reviewer, Office of Initial Patent Examination

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GENZYME CORPORATION
LEGAL DEPARTMENT
15 PLEASANT ST CONNECTOR
FRAMINGHAM MA 01701-9322

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OFFICE OF PETITIONS

In re Application of
Charles Nicollete
Application No.10/434,982
Filed: May 10, 2003
Title of Invention: Therapeutic Anti-Cytomegalovirus Compounds

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed July 11, 2006.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of November 3, 2005. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on April 5, 2006 with a request for a two month extension of time. An Advisory Action mailed on May 11, 2006 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on April 4, 2006. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

Pursuant to petitioner's request deposit account will be charged the $790.00 RCE fee to deposit account 07-1074.

The Request for Continued Examination (RCE), and the amendment submitted with the instant petition will be forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

TOWNSEND AND TOWNSEND AND
CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Brice et al. :
Application No. 10/434,983 : ON APPLICATION FOR
Filed: May 8, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. 021756-019200US:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION filed January 21, 2009. Applicants submit that the correct patent term adjustment is one thousand fifty-eight (1058) days not five hundred fifty-two (552) days as stated on the Determination of Patent Term Adjustment mailed October 21, 2008. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent (and as of the filing of an RCE this application was pending three years and 522 days).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent

within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on October 12, 2007.

The determination of the patent term adjustment at the time of the mailing of the notice of allowance remains five hundred fifty-two (552) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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CONNOLLY BOVE LODGE & HUTZ LLP
1220 MARKET STREET
P.O. Box 2207
WILMINGTON DE 19899

Applicant: Weimann
Appl. No.: 10/435,001
Filing Date: May 9, 2003
U.S. Patent No.: 6,764,815
Issue Date: July 20, 2004
Title: COLOR PHOTOGRAPHIC PRINT MATERIAL
Attorney Docket No.: 07244-00133-US
Pub. No.: US 2004/0033450 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 8, 2004 for the above-identified application.

The request is DISMISSED as moot.

The instant request identifies an error in claim 5 in the published patent application publication. Since the application has already issued as U.S. Patent No. 6,764,815 on July 20, 2004, the request is deemed moot.

Inquiries relating to this matter may be directed to Shelby Pittman at (703) 305-8169 (voice) or (703) 305-8568 (facsimile).

Shelby Pittman, for

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111

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FEB 29 2008

In re Application of	:	
Richard Ting et al.	:	
Application No. 10/435,013	:	DECISION ON PETITION
Filed: May 12, 2003	:	TO WITHDRAW
Attorney Docket No. 21077-13	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 2007.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on November 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Patent Docket Administrator**
Lowenstein Sandler PC
65 Livingston Avenue
Roseland, NJ 07068

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FEB - 7 2006

FLESHNER & KIM, LLP
P. O. BOX 221200
CHANTILLY, VA 20153

In re Application of	:
Jacobus M. Lemmens et al	:
Serial No.: 10/435,014	: PETITION DECISION
Filed: May 12, 2003	:
Attorney Docket No.: SYN-0006B	:

This is in response to the petition under 37 CFR 1.144, filed November 14, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 as a Divisional of SN 09/938,818 on May 14, 2003, and, as amended, contained claims 1, 4, 9-13 and 15-22. In a first Office action, mailed September 16, 2004, the examiner set forth a three way restriction requirement, as follows:

Group I – Claim 1, drawn to amine salts;
Group II – Claims 1, 4 and 15-22, drawn to mixtures and compositions containing amlodipene; and
Group III – Claims 9-13, drawn to a process of preparing.

The examiner reasoned that Groups I and II were different since Group II required the presence of an additional active ingredient and they were different form Group III which was drawn to a process of making the product.

Applicants replied on November 15, 2003, electing the compounds of Group II with traverse and questioning the placement of claim 1 in both Groups I and II as illogical and that the method should be examined with the product claims.

The examiner mailed a new Office action to applicants on January 7, 2005, acknowledging the election of Group II and responding to the traversal by referencing *In re Weber* and citing burden on the Office to search all inventions. Claim 22 was rejected under 35 U.S.C. 112, first paragraph, as lacking enablement; claims 15 and 19 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claim 19 was also rejected under 35 U.S.C. 101 as directed to a method

of use without any method steps being present. Claim 1 was objected to as containing non-elected subject matter and all other claims were objected to as depending from a rejected base claim

Applicants replied on May 9, 2005, canceling claims 9-13, amending claim 22 and again traversing the restriction requirement for the same reasons. The examiner mailed a Final Office action to applicants on July 15, 2005, maintaining the restriction requirement and requiring cancellation of non-elected subject matter. Claims 15 and 19 were again rejected under 35 U.S.C. 112, second paragraph, as indefinite for the same reasons as previously and claim 19 was also rejected under 35 U.S.C. 101 as improper. All other claims were objected to as depending from a rejected base claim and claim 1 was objected to as containing non-elected subject matter.

Applicants replied on October 18, 2005, by canceling claim 4 and amending claim 1 and traversing the rejection and objections of record. The examiner mailed an Advisory action to applicants on October 26, 2005, denying entry of the amendment as raising new issues requiring further consideration or search and as not placing the application in better condition for appeal. The examiner explained that claim 15 was now broader than claim 1 in view of the amendment thereof and claims 15 and 19 were substantial duplicates of each other and that it was "clearly improper for a composition claim to depend on another composition claim".

Applicants filed a Notice of Appeal and this petition on November 14, 2005, traversing the finality of the restriction requirement as in error.

DISCUSSION

Applicants' arguments are centered on the restriction requirement including claim 1 in two different Groups as being illogical and that it seeks to divide claim 1 from itself and is therefore improper. Applicants' arguments are well-taken. A review of claim 1 with respect to the other product claims shows that it is directed generally to amine salts of a compound, shown as Formula I (not reproduced herein) and claim 4 is directed to the compound of claim 1 (amine salts) where the amine salt is formed from amlodipene. However, the structure shown as Formula I in claim 1 is amlodipene maleic anhydride adduct. Thus claim 4 is an essential duplicate of claim 1, but fails to show the amlodipene formula. Since claim 1 and claim 4 are of almost identical scope no basis for restriction exists. In fact, the examiner by placing claim 1 in both Groups I and II shows a recognition of closeness of the relationship between the claimed compounds. In view thereof, the restriction requirement between Groups I and II is withdrawn and all product claims will be fully examined on their merits.

It is also noted that the examiner failed to include with the initial restriction requirement a precautionary advisement with respect to rejoinder of method of making/using claims under *In re Ochiai* stating in essence that method claims which have been made subject to a restriction requirement and which encompass all limitations of allowed product claims shall be rejoined and fully examined on their merits upon allowance of the product claims. It is noted that applicants have canceled the method claims of Group III in view of the finality of the restriction requirement. Such claims may be reinstated to the application by amendment, if desired.

Finally, the examiner's statement in the Advisory action regarding composition claims depending from other composition claims makes no sense nor do the reasons for not entering the amendment appear proper, however no request to withdraw the finality of the Office action nor entry of the amendment has been presented.

DECISION

The petition is **GRANTED.** The restriction requirement between Groups I and II is withdrawn and claim 1 will be examined fully on its merits with the other product claims of Group II.

In view of this decision the last Office action is withdrawn as incomplete. In view of the withdrawal of the last Office action the application is being returned to the examiner for reconsideration of the rejoined Groups and claims and preparation of a new Office action not inconsistent with this decision.

The Notice of Appeal is held in abeyance until prosecution is closed by issuance of a new Final Office action at which time it may be reinstated by filing of a new Notice of Appeal, no fee being due.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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Alexandria, VA 22313-1450
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OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Yasuhiro Nihei et al	:	
Application No. 10/435,034	:	DECISION GRANTING PETITION
Filed: May 12, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 237529US2	:	

This is a decision on the petition, filed May 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 15, 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 2861 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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STEVEN I. WEISBURD
41ST FLOOR
1177 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2714

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JUL 22 2005

OFFICE OF PETITIONS

In re Application of :
Masamichi Andoh :
Application No. 10/435,055 : ON PETITION
Filed: May 12, 2003 :
Attorney Docket No. M1071.1837/P1837 :

This is a decision on the petition, filed July 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 February 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2816 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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NEW YORK NY 10036-2714

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OFFICE OF PETITIONS

In re Application of :
Masamichi Andoh :
Application No. 10/435,055 : ON PETITION
Filed: May 12, 2003 :
Attorney Docket No. M1071.1837/P1837 :

This is a decision on the petition, filed January 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2816 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OAKLAND, CA 94612-0250

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OFFICE OF PETITIONS

In re Application of
David Brian Glasco
Application No. 10/435,072
Filed: May 9, 2003
Attorney Docket No. NWISP034

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed July 1, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark 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 **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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This matter is being referred to Technology Center Art Unit 2187.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of
Yoshio Nishida and Wentai Liu
Application No. 10/435,076
Filed: May 9, 2003
Attorney Docket No. 5051-611

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 2, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on May 9, 2003, without a fully executed oath or declaration. Accordingly, on June 30, 2003, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application." This Notice set a shortened statutory period for reply of two months for applicants to submit a fully executed oath or declaration, together with the $65 surcharge for its late filing. In reply, applicants filed the instant petition pursuant to 37 CFR 1.47(a) on January 2, 2004, to have joint inventor Wentai Liu make the application for patent on behalf of himself and nonsigning inventor Yoshio Nishida. The petition was made timely by obtaining a four month extension of time and including a Certificate of Mailing dated December 29, 2003.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an

acceptable oath or declaration in compliance with 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 included a statement of facts from attorney Sandy Mitofsky. According to Mitofsky, a copy of the application papers were forwarded to the last known address of Nishida in December of 2003. However, as of the date of the petition, no executed oath or declaration has been received. In addition, Mitofsky outlined the numerous steps taken to contact Nishida between July and December of 2003.

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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YOSHIO NISHIDA
3945-C MARCOM ST
RALEIGH NC 27606

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FEB 09 2004

OFFICE OF PETITIONS

In re Application of
Yoshio Nishida and Wentai Liu
Application No. 10/435,076
Filed: May 9, 2003
Title: INTERPOLATING SENSE AMPLIFIER CIRCUITS AND METHODS OF OPERATING THE SAME

LETTER

Dear Mr. Nishida:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 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, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff by

Cliff Congo
Petitions Attorney
Office of Petitions

D. Scott Moore
Myers Bigel Sibley & Sajovec, PA.
P.O Box 37428
Raleigh, NC 27627
phone: 919-854-1400

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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JUN 0 3 2004

OFFICE OF PETITIONS

In re Application of
John P. Alsobrook, Enrique Alvarez, David W. Anderson, **Joel S. Bader**, Ferenc L. Boldog, Catherine E. Burgess, Rajeev A. Chillakuru, Lisa Deegler, Shlomit R. Edinger, Elma R. Fernandes, Linda Gorman, William M. Grosse, John L. Herrmann, Michael E. Jeffers, William J. Larochelle, Denise M. Lepley, Henri S. Lichenstein, Kumar Namdev, Muralidhara Padigaru, Carol E. A. Pena, Sudhirdas K. Prayaga, Daniel K. Rieger, Richard A. Shimkets, Pascal Valax, Meijia Yang, Zachary Yim and Mei Zhong
Application No. 10/435,087
Filed: May 9, 2003
Title: COMPOSITIONS AND METHODS OF USE FOR A FIBROBLAST GROWTH FACTOR

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

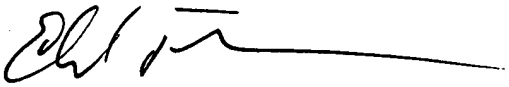
This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 25, 2004, regarding non-signing inventor **Joel Bader.**

The petition is **granted**.

Petitioner has shown that the non-signing inventor **Joel Bader** has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.



Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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P.O. Box 1450
Alexandria, VA 22313-1450
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JOEL BADER
3305 LABYRINTH ROAD
BALTIMORE, MD, 21215

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JUN 0 3 2004

OFFICE OF PETITIONS

In re Application of
John P. Alsobrook, Enrique Alvarez, David W. Anderson, **Joel S. Bader**, Ferenc L. Boldog, Catherine E. Burgess, Rajeev A. Chillakuru, Lisa Deegler, Shlomit R. Edinger, Elma R. Fernandes, Linda Gorman, William M. Grosse, John L. Herrmann, Michael E. Jeffers, William J. Larochelle, Denise M. Lepley, Henri S. Lichenstein, Kumar Namdev, Muralidhara Padigaru, Carol E. A. Pena, Sudhirdas K. Prayaga, Daniel K. Rieger, Richard A. Shimkets, Pascal Valax, Meijia Yang, Zachary Yim and Mei Zhong
Application No. 10/435,087
Filed: May 9, 2003
Title: COMPOSITIONS AND METHODS OF USE FOR A FIBROBLAST GROWTH FACTOR

Dear JOEL BADER:

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
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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BOSTON, MA 02111

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OFFICE OF PETITIONS

In re Application of
John P. Alsobrook, Enrique Alvarez, David W. Anderson, Joel S. Bader, Ferenc L. Boldog, Catherine E. Burgess, Rajeev A. Chillakuru, Lisa Deegler, Shlomit R. Edinger, **Elma R. Fernandes**, Linda Gorman, William M. Grosse, John L. Herrmann, Michael E. Jeffers, William J. Larochelle, Denise M. Lepley, Henri S. Lichenstein, Kumar Namdev, Muralidhara Padigaru, Carol E. A. Pena, Sudhirdas K. Prayaga, Daniel K. Rieger, Richard A. Shimkets, Pascal Valax, Meijia Yang, Zachary Yim and Mei Zhong
Application No. 10/435,087
Filed: May 9, 2003
Title: COMPOSITIONS AND METHODS OF USE FOR A FIBROBLAST GROWTH FACTOR

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 25, 2004, regarding non-signing inventor **Elma R. Fernandes**.

The petition is **granted**.

Petitioner has shown that the non-signing inventor **Elma R. Fernandes** has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ELMA R. FERNANDES
232 McCAULIFFE
SOMERSET, NJ 08873

COPY MAILED

JUN 0 4 2004

OFFICE OF PETITIONS

In re Application of
John P. Alsobrook, Enrique Alvarez, David W. Anderson, Joel S. Bader, Ferenc L. Boldog, Catherine E. Burgess, Rajeev A. Chillakuru, Lisa Deegler, Shlomit R. Edinger, **Elma R. Fernandes**, Linda Gorman, William M. Grosse, John L. Herrmann, Michael E. Jeffers, William J. Larochelle, Denise M. Lepley, Henri S. Lichenstein, Kumar Namdev, Muralidhara Padigaru, Carol E. A. Pena, Sudhirdas K. Prayaga, Daniel K. Rieger, Richard A. Shimkets, Pascal Valax, Meijia Yang, Zachary Yim and Mei Zhong
Application No. 10/435,087
Filed: May 9, 2003
Title: COMPOSITIONS AND METHODS OF USE FOR A FIBROBLAST GROWTH FACTOR

Dear ELMA R. FERNANDES:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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
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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AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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JUN 07 2004

OFFICE OF PETITIONS

In re Application of
John P. Alsobrook, Enrique Alvarez, David W. Anderson, Joel S. Bader, Ferenc L. Boldog, Catherine E. Burgess, Rajeev A. Chillakuru, Lisa Deegler, Shlomit R. Edinger, Elma R. Fernandes, Linda Gorman, William M. Grosse, John L. Herrmann, Michael E. Jeffers, William J. Larochelle, **Denise M. Lepley**, Henri S. Lichenstein, Kumar Namdev, Muralidhara Padigaru, Carol E. A. Pena, Sudhirdas K. Prayaga, Daniel K. Rieger, Richard A. Shimkets, Pascal Valax, Meijia Yang, Zachary Yim and Mei Zhong
Application No. 10/435,087
Filed: May 9, 2003
Title: COMPOSITIONS AND METHODS OF USE FOR A FIBROBLAST GROWTH FACTOR

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 25, 2004, regarding non-signing inventor **Denise M. Lepley**.

The petition is **granted**.

Petitioner has shown that the non-signing inventor **Denise M. Lepley** has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DENISE M. LEPLEY
47 BRIARWOOD ROAD
HARTFORD, CT 06107

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JUN 07 2004

OFFICE OF PETITIONS

In re Application of
John P. Alsobrook, Enrique Alvarez, David W. Anderson, Joel S. Bader, Ferenc L. Boldog, Catherine E. Burgess, Rajeev A. Chillakuru, Lisa Deegler, Shlomit R. Edinger, Elma R. Fernandes, Linda Gorman, William M. Grosse, John L. Herrmann, Michael E. Jeffers, William J. Larochelle, **Denise M. Lepley**, Henri S. Lichenstein, Kumar Namdev, Muralidhara Padigaru, Carol E. A. Pena, Sudhirdas K. Prayaga, Daniel K. Rieger, Richard A. Shimkets, Pascal Valax, Meijia Yang, Zachary Yim and Mei Zhong
Application No. 10/435,087
Filed: May 9, 2003
Title: COMPOSITIONS AND METHODS OF USE FOR A FIBROBLAST GROWTH FACTOR

Dear DENISE M. LEPLEY:

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
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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P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 15 2004

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of	:	
Alsobrook et al.	:	
Serial No.: 10/435,087	:	PETITION TO MAKE SPECIAL
Filed: May 9, 2003	:	
Attorney Docket No.: 15966-557OM (Cura-57OM)	:	

This is in response to applicants' petition filed April 12, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on inventions relating to cancer. The $130.00 petition fee as required by 37 CFR 1.17(h) will be charged to applicant's Deposit Account No. 50-0311, as directed.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, X. 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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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Dinnin & Dunn, P.C.
Suite 500
2701 Cambridge Court
Auburn Hills, MI 48326

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NOV 1 8 2004

OFFICE OF PETITIONS

In re Application of: Ronald Thomas
Application No. 10/435,088
Filed: May 9, 2003
Attorney Docket No. 0114-00205

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is being referred to Technology Center Art Unit 1732, for further processing.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER,
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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FEB 2 4 2006

OFFICE OF PETITIONS

In re Application of :
Michael T. Carley et al :
Application No. 10/435,104 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. 16497.1.1.2 :

This is a decision on the petition, filed February 23, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 21, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3731 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : February 24, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

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FEB 24 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Michael T. Carley et al
Application No. :10/435,104
Filed :May 9, 2003

The above-identified application has been assigned Patent No. 7,008,437 and an issue date of March 7, 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 March 7, 2006:

> "All reference to Patent No. 7,008,437 to Michael T. Carley et al of California for CLOSURE DEVICE AND METHODS FOR MAKING AND USING THEM appearing in the Official Gazette of March 7, 2006 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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SALT LAKE CITY UT 84111

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JUN 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Michael T. Carley et al :
Application No. 10/435,104 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. 16497.1.1.2 :

This is a decision on the petition, filed June 4, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 26, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3733 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

GEORGE YEE
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of: Taninaka, et al.
Application No. 10/435,136
Filed: May 9, 2003
For: STORAGE SYSTEM MANAGEMENT METHOD, STORAGE SYSTEM, SWITCH, AND STORAGE MEDIUM HAVING A PROGRAM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed September 7, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P.
§708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) **Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;**

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

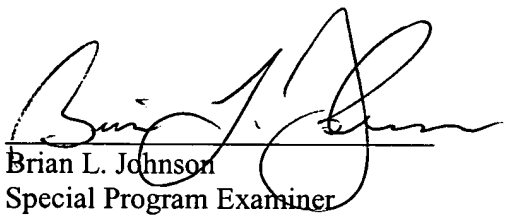
(e) **Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.**

The petition filed September 7, 2004 fails to adequately meet requirements (c) and (e) of the criteria set forth above. With respect to requirement (c), contrary to Petitioner's remarks, a copy of the search report (Exhibit A) has not reached the file. With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Specifically, Petitioner should ensure that the above discussion is directed to how the language of ***each of*** the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above. Reference is made to independent claims 15, 17 and 18 (of the instant application) since these claims vary in scope from the discussion presented in the instant petition with respect to independent claims 1, 14 and 16.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

BLJ: 11/18/04

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HEWLETT PACKARD COMPANY
PO BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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APR 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Theodore C. Briggs	:	
Application No. 10/435,140	:	DECISION GRANTING PETITION
Filed: May 10, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 200300053-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed April 3, 2007, is accepted as having been unintentionally delayed.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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, 3404 E. HARMONOY ROAD
FORT COLLINS, CO 80527-2400

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DEC 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Jay Tsao et al	:	
Application No. 10/435,153	:	ON PETITION
Filed: May 9, 2003	:	
Attorney Docket No. 200300013-1	:	

This is a decision on the petition filed August 10, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed May 4, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 5, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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INTELLECTUAL PROPERTY GROUP
SEAGATE TECHNOLOGY FILES
FREDRIKSON & BYRON, PA
200 SOUTH SIXTH ST, SUITE 4000
MINNEAPOLIS, MN 55402-1425

Mail Date: 04/21/2010

Applicant	: Gerardo Buitron	: DECISION ON REQUEST FOR
Patent Number	: 7628895	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/435,161	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1308** 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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STEVEN CHARLES MURPHY
429 WEST IRON STREET
BUTTE MT 59701

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of :
Steven Charles Murphy :
Application No. 10/435,170 : ON PETITION
Filed: May 10, 2003 :
Title of Invention: CABLE MANAGEMENT :
SYSTEM

This is a decision on the letter filed February 17, 2006 which is treated under 37 CFR 1.181, as a petition to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on August 12, 2005, for failure to timely file a response to the Notice of Non-Compliant Amendment, mailed July 11, 2005. Accordingly, a Notice of Abandonment was mailed February 9, 2006.

Petitioner asserts that a response in the form of an amendment was mailed July 21, 2005 and provides as proof, a copy of the certificate of mail dated July 21, 2005 and a copy of the response filed on that date.

A search of the application file and the USPTO records does not reveal receipt of the response, but in view of the evidence provided, the petition is compliant with 37 CFR 1.8(b) and accordingly, the abandonment is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to Technology Center 3632 for appropriate action on the response originally filed on July 21, 2005 and resubmitted with the instant petition on February 17, 2006.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/435,172	05/08/2003	Joseph E. Geusic	303.382US3	8411

21186 7590 02/13/2007

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER	
WILLE, DOUGLAS A	

ART UNIT	PAPER NUMBER
2814	

MAIL DATE	DELIVERY MODE
02/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/14/06

Paper No.: —

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/435172 Patent No.: 6995441 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.

Comments: _____

_____

_____

_____

_____

SPE

2814

Art Unit

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United States Patent and Trademark Office
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DLA PIPER US LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

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AUG 2 2 2007

OFFICE OF PETITIONS

In re Patent No. 7,155,654 :
Issue Date: December 26, 2006 :
Application No. 10/435,176 : NOTICE
Filed: May 10, 2003 :
Attorney Docket No. 357159-991041 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, STE. 325
SCOTTSDALE, AZ 85251

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FEB 2 2 2007

OFFICE OF PETITIONS

In re Application of McKnight :
Application No. 10/435,179 : Decision on Petition
Filing Date: May 9, 2003 :
Attorney Docket No. 006.0054X1 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 11, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on June 12, 2005. A Notice of Abandonment was mailed on September 20, 2005.

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 change of correspondence address filed August 16, 2006, cannot be accepted because it is not signed by an attorney of record. See MPEP §§ 601.03 and 405. 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.

Technology Center Art Unit 2871 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Paul Katz
Baker Botts LLP
910 Louisiana St.
Houston, TX 77002-4995

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FORD GLOBAL TECHNOLOGIES, LLC.
SUITE 600 - PARKLANE TOWERS EAST
ONE PARKLANE BLVD.
DEARBORN MI 48126

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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of
Grieser et al.
Application No. 10/435,207
Filed: May 9, 2003
Attorney Docket No. 202-0103
Title of Invention: METHOD FOR PREPARING AN INTERNAL COMBUSTION ENGINE FOR STARTING

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed June 16, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office Action of October 8, 2004. The final Office Action set a three (3) month shortened statutory period for reply. . No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 9, 2005. A Notice of Abandonment was mailed on May 16, 2005.

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This Petition is hereby **Granted**.

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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MAR 18 2004

VP
PAPER NO. ___

In re Application of
Gary Wentworth PhD., et al.
Serial Number: 10/435212
Filed: May 9, 2003
For: ADHESION PROMOTER FOR CORD-REINFORCED RUBBER AND METAL OR POLYMER SUBSTRATE/RUBBER COMPOSITES

PETITION UNDER
MPEP 708.02 VIII

This is in response to the Further Supplement to Petition to Make Special filed December 15, 2003, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Marshall, Gerstein & Borum
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606-6357

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ALEXANDRIA, VA 22313-1450
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MAR 31 2004

VP
PAPER NO. ___

In re Application of
Gary Wentworth PhD., et al.
Serial Number: 10/435,212
Filed: May 9, 2003
For: ADHESION PROMOTER FOR CORD-REINFORCED RUBBER AND METAL OR POLYMER SUBSTRATE/RUBBER COMPOSITES

PETITION UNDER
MPEP 708.02 VIII

This is in response to the petition filed June 19, 2003, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII (E) of the MPEP has not been met. Applicant has not submitted 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 has provided a table summarizing references.

The application remains in the status of a new application awaiting action in its regular turn. Applicant has one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

Accordingly the petition is **DENIED.**

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Marshall, Gerstein & Borum
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606-6357

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Dec.

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

JUL 2 8 2004

DCM

In re Application of :
Gary Wentworth, et al. :
Serial Number: 10/435,212 : PETITION UNDER
Filed: May 9, 2003 : MPEP 708.02 VIII
For: ADHESION PROMOTOR FOR CORD-REINFORCED RUBBER AND METAL OR POLYMER SUBSTRATE/RUBBER COMPOSITES :

This is in response to the Petition to Make Special filed December 15, 2003, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO IL 60606

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KOESTNER BERTANI LLP
18662 MACARTHUR BLVD
SUITE 400
IRVINE, CA 92612

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of:
Wilkinson et al.
Application No. 10/435,215
Filed: May 8, 2003
Title of Invention:
AUTOMATIC TAKEOFF THRUST MANAGEMENT SYSTEM

DECISION ON
PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed December 30, 2004, 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.

[1] The filing of a petition under this section will not relieve application of the obligation to reply to any outstanding Office action.

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 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 corrected filing receipt, indicating a projected publication date of May 5, 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/Advisor
Office of Petitions

Enclosure: Corrected Filing Receipt

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JUN 17 2009

OFFICE OF PETITIONS

KOESTNER BERTANI LLP
2192 Martin St.
Suite 150
Irvine, CA 92612

In re Patent No. 6,880,784	:	
Issue Date: April 19, 2005	:	
Application No. 10/435,215	:	NOTICE
Filed: May 8, 2003	:	
Attorney Docket No.: SAI.P014 US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

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OCT 0 2 2007

OFFICE OF PETITIONS

In re Application of :
DALE, Roderic M.K. :
Application No. 10/436,217 : DECISION ON PETITION
Filed: May 12, 2003 : TO WITHDRAW
Attorney Docket No. **20150-72** : 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 PATENT DOCKET ADMINISTRATOR has been revoked by the assignee of the patent application on September 06, 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: **PATENT DOCKET ADMINISTRATOR**
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND NJ 07068

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/27/2007

TO SPE OF : ART UNIT 2800 (2859)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,815,952

Attn: Brij Shrivastav

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 claim 1 as req. in COCIN?

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:

BBS / 3/16/09

3/16/09

DIEGO GUTIERREZ
SUPERVISORY PATENT EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/21/09

TO SPE OF : ART UNIT 3633 (3600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/435,258 Patent No.: 7,510,153

Attn: Phi A

Please respond to this request for a certificate of c orrection 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 (s ee 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.

X Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____ _____

SPE /Brian Glessner/ **Art Unit 3633**

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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CARL I. BRUNDIDGE
ANTONELLI, TERRY, STOUT, & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

MAILED
NOV 19 2004
Technology Center 2100

In re Application of: Achiwa, et al.
Application No. 10/435,260
Filed: May 12, 2003
For: COMPUTER SYSTEM FOR MANAGING DATA TRANSFER BETWEEN STORAGE SUB-SYSTEMS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed August 11, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **petitioner will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, petitioner will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

The petition filed August 11, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Petitioner's submission is deficient in that it merely paraphrases the abstracts provided in each reference accompanied by a single statement that all the references do not include the features of the claimed invention. That is, the submission does not satisfy the requirement, as it does not provide a ***detailed discussion*** of the references and it does not point out how the ***claimed subject matter is patentable over the references***.

Petitioner should ensure that the above discussion is directed to how the language of ***each of*** the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above. Note that at least independent claim 8 differs in scope from the other independent claims.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

HJ: 11/16/04

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APR 04 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: ACHIWA et al.	DECISION ON
Application No. 10/435,260	RECONSIDERATION OF
Filed: MAY 12, 2003	PETITION TO MAKE
For: COMPUTER SYSTEM FOR	SPECIAL (ACCELERATED
MANAGING DATA TRANSFER BETWEEN	EXAMINATION UNDER
STORAGE SUB-SYSTEMS	M.P.E.P 708.02 (VIII))

This is a decision on the Request for Reconsideration filed December 30, 2004 of the petition to make special under 37 C.F.R. 1.102(d) and M.P.E.P 708.02 (VIII): ACCELERATED EXAMINATION, originally filed on August 11, 2004.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson 4/1/05
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

JC

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SENNIGER POWERS
ONE METROPOLITAN SQUARE, 16TH FLOOR
ST. LOUIS, MO 63102

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Ajith Kuttannair Kumar :
Application No. 10/435,261 : DECISION GRANTING PETITION
Filed: May 9, 2003 : UNDER 37 CFR 1.313(c)(2)
Atty Docket No. 122059CIP/GETS 5299.1 :

This is a decision on the petition, filed February 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\435261.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Sheridan Ross PC
1560 Broadway
Suite 1200
Denver, CO 80202

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FEB 13 2007

OFFICE OF PETITIONS

In re Application of
Walter Crofton et al.
Application No. 10/435,293
Filed: May 9, 2003
Attorney Docket No. 3123-522

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 25, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Sheridan Ross PC has been revoked by the assignee of the patent application on November 6, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Seagate Technology LLC**
Intellectual Property—SHK2LG
1280 Disc Drive
Shakopee, MN 55379

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CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN, OK 73536-0440

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MAY 22 2008

In re Application of :
Lance E. Brothers, et al. :
Application No. 10/435,297 : DECISION ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. HES 2003-IP- :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 12, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571)272-1642.

This application is being referred to Technology Center AU 1755 for appropriate action by the Examiner in the normal course of business on the reply received April 23, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 4

GEORGE H GERSTMAN
SEYFARTH SHAW
55 EAST MONROE STREET
SUITE 4200
CHICAGO IL 60603

COPY MAILED

OCT 3 1 2003

OFFICE OF PETITIONS

In re Application of
Paulsen, et al.
Application No. 10/435,298
Filed: May 9, 2003
Attorney Docket No. 406592

DECISION ON PETITION

This is a decision on the paper titled "Petition", filed August 14, 2003 (Certificate of Mailing dated July 30, 2003), which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of May 9, 2003, with Figures 7 and 8 of the drawings as a part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on May 9, 2003. However, on July 1, 2003, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Items(s) in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, Figures 7 and 8 of the drawings described in the specification appeared to have been omitted.

In response, applicant filed the instant petition on August 14, 2003. Accompanying the petition was a complete set of the drawings, including Figures 7 and 8. Applicant maintains that the application as originally filed included Figures 7 and 8 of the drawings. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "six sheets of informal drawings" as enclosed, bearing a United States Patent and Trademark Office date-stamp of May 9, 2003, and lacking any notation of non receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting this petition, the petition fee of $130 will be refunded to petitioner under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of May 9, 2003, using the application papers received in the Office on that date and Figures 7 and 8 of the drawings as resupplied on petition filed August 14, 2003.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

John Gillon
Senior Attorney
Office of Petitions

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Paper No. None

LEVISOHN, BERGER , LLP
61 BROADWAY , 32ND FLOOR
NEW YORK NY 10022

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OCT 0 1 2007
OFFICE OF PETITIONS

In re Application of	:	
Hans Jorg Bauder	:	
Application No.10/435,310	:	DECISION ON PETITION
Filed: May 9, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1549.007	:	
Title: METHOD FOR PRODUCING STRIP-SHAPED INPUT STOCK, ESPECIALLY FROM METAL, WHICH IS PROFILED IN SUBSEQUENT SECTIONS, AND CORRESPONDING DEVICE	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 20, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to the prior-filed international application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 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 international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3725 for consideration by the examiner of applicant's

entitlement to claim benefit of priority under 35 U.S.C. § 365(c) to the prior-filed application.

Nancy Johnson
Senior Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/435,310	05/09/2003	3725	2434	1549.007	74	1

CONFIRMATION NO. 1548

4617
LEVISOHN, BERGER , LLP
61 BROADWAY , 32ND FLOOR
NEW YORK, NY 10022

CORRECTED FILING RECEIPT

OC000000026081044

Date Mailed: 09/28/2007

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)

Hans Jorg Bauder, Muhlacker, GERMANY;

Power of Attorney:

Peter Berger--24570
Andrew Langsam--28556
Barry Negrin--37407
Marilyn Neiman--44966

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP2001/012927 11/08/2001

Foreign Applications

GERMANY 10056804.1 11/11/2000
GERMANY 10134285.3 07/14/2001

If Required, Foreign Filing License Granted: 07/02/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/435,310

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method for producing strip-shaped input stock, especially from metal, which is profiled in subsequent sections, and corresponding device

Preliminary Class

072

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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PASADENA, CA 91101

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JAN 18 2006

OFFICE OF PETITIONS

In re Application of :
Case Loyd, et al. :
Application No. 10/435,328 : ON PETITION
Filed: May 8, 2003 :
Attorney Docket No. 13989-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed December 16, 2004. A Notice of Abandonment was mailed on August 8, 2005. In response on October 20, 2005, the present petition was filed.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

The application file is being forwarded to Technology Center AU 3751, for further processing of the request for continued examination under 37 CFR 1.114 filed October 20, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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August 22, 2006

Patent No. : 6,838,768 B2
Ser. No. : 10/435,335
Inventor(s) : David J. Corisis et al.
Issued : January 4, 2005
Title : **MODULE ASSEMBLY FOR STACKED BGA PACKAGES**
APPLICATIONS
Docket No. : **3726.3US (98-2559.03/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.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Antonio Johnson
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 111** or (703) 308-8309

James R. Duzan
230 South 50 East – Suite 300
Salt Lake City, Utah 84102

AJ

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APR 01 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SMITH-HILL AND BEDELL
12670 N W BARNES ROAD
SUITE 104
PORTLAND OR 97229

In re Application of	:
Kelly C. Crank	:
Application No. 10/435,337	:DECISION ON PETITION
Filed: May 8, 2003	:TO MAKE SPECIAL
For: METHOD AND APPARATUS FOR TRACKING AIRCRAFT AND SECURING AGAINST UNAUTHORIZED ACCESS	:

This is a decision on the petition to make special filed February 4, 2004, under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

M.P.E.P. §708.02 (XI) sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d).

M.P.E.P. §708.02 (XI) INVENTIONS FOR COUNTERING TERRORISM

In view of the importance of developing technologies for countering terrorism and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord "special" status to patent applications relating to counter-terrorism inventions.

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Petitioner's submission meets the criteria set out above with respect to countering terrorism as in M.P.E.P. § 708.02(XI). Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination.

Krista Zele, Special Program Examiner
Technology Center 2600
Communications

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MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Dennis M. O'Connor et al :
Application No. 10/435,347 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. P15393 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 9, 2008, 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 April 10, 2008.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2187 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Schwegman Lundberg & Woessner, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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Paper No.

Norman Friedland
Suite 400
11300 US Highway One
North Palm Beach, FL 33408

MAILED

JUN 0 5 2005

Technology Center 2100

In re Application of:
Vorona
Application No. 10/435,348
Filed: May 09, 2003
For: SYSTEM FOR TRANSMITTING, PROCESSING, AND DISPLAYING TRAFFIC INFORMATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed December 27, 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.

There is no indication that Applicant has been notified of the request for withdrawal. Also, there is no instruction to change address.

Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the 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
(571) 272-3613

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Paper No.

WARD AND OLIVO
382 SPRINGFIELD AVENUE
SUITE 300
SUMMIT, NJ 07901

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JUN 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Dimitri Vorona : DECISION ON PETITION
Application No. 10/435,348 :
Filed: May 9, 2003 :
Atty Docket No. SYSTEM FOR :
TRANSMITTING, PROCESSING, :
RECEIVING, AND DISPLAYING :
TRAFFIC INFORMATION :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed April 25, 2006.

The petition under § 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(a)" or "Renewed Petition under 37 C.F.R. § 1.137(b)," as appropriate. Extensions of time are permitted under § 1.136(a).

The above-identified application became abandoned for failure to file a timely and proper response to the final rejection mailed December 14, 2004. This Office action set a three (3) month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply having been received and no extension of time obtained, the application became abandoned on March 15, 2005. A courtesy Notice of Abandonment was mailed on December 21, 2005.

Petitioner argues that the delay was unavoidable because their amendment timely filed in response to the Office action mailed May 11, 2004 was not entered; notice of the non-entry was mailed to applicant's former attorney; applicant's former attorney then attempted to revoke his power of attorney without applicant's consent; and the former attorney did not notify the current attorneys that the amendment was not entered.

Consideration of Petition under § 1.137(a)

Petitioner's arguments have been considered but not found persuasive to show that the delay in responding to the Office action mailed December 14, 2004, should be considered unavoidable within the meaning of § 1.137(a).

A grantable petition under § 1.137(a) must be accompanied by: (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in § 1.17(l); (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section. The instant petition does not satisfy requirements (1) and (3).

As to the required reply, petitioner has submitted a copy of the reply received in the Office in response to the Office action of May 11, 2004. A response to the Office action mailed December 14, 2004 is required (or an explanation as to how the amendment received should be considered sufficient).

As to the showing of unavoidable delay, decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities,

> there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

Petitioner's arguments have been considered, but have been determined not to meet the burden of showing that the delay was unavoidable within the meaning of § 1.137(a). First, of all, it is well established that an applicant is bound by the actions of his voluntarily chosen representative. As of December 14, 2004, and throughout the period for response to the final rejection, patent agent Friedland was applicant's voluntarily chosen representative of record with the Office. Petitioner states that applicant declined to utilize agent Friedland's services. However, no revocation of power of attorney or change of correspondence address was filed with the Office. Thus, the Office continued to correspond with agent Friedland. It is undisputed that agent Friedland did not respond to the Office action.

Further, a review of the record reveals that a power of attorney and change of address to the correspondence address of applicant's current attorneys was not filed until April 25, 2006. This was despite the fact that, as stated by petitioner, on or about October 1, 2004, Mr. Vorona (the applicant) retained the law firm of Ward & Olivo. The non-receipt of the Office action was the cause of the delay in responding. But this delay is more properly attributed to applicant's failure to change the correspondence address of record, rather than to any action by the former agent. (Even if the former agent were attempting to act, it is noted that the former agent states, of record in his request to withdraw, that the applicant refused his correspondence). It is well established that such a delay is not unavoidable.

As stated in MPEP 711.03(c)IIIC2

[W]here an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:

(A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;

(B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or

(C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

It is noted that the attorneys of Ward & Olivo were permitted to file papers in a representative capacity. However, only applicant or the attorney of record could change the correspondence address of record.

In view thereof, it is concluded that petitioner has not made an adequate showing of unavoidable delay, and the petition cannot be granted under § 1.137(a).

Petitioner is not precluded from requesting consideration under § 1.137(b) on the basis of unintentional delay. 37 CFR 1.137(b) provides that:

If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a

lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Further correspondence with respect to this decision should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By fax:	(571) 273-8300 ATTN: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

WARD AND OLIVO
382 SPRINGFIELD AVENUE
SUITE 300
SUMMIT, NJ 07901

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DEC 19 2006
OFFICE OF PETITIONS

In re Application of :
Dimitri Vorona : DECISION ON PETITION
Application No. 10/435,348 :
Filed: May 9, 2003 :
Atty Docket No. SYSTEM FOR :
TRANSMITTING, PROCESSING, :
RECEIVING, AND DISPLAYING :
TRAFFIC INFORMATION :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 5, 2006.

The petition under § 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)." Extensions of time are permitted under § 1.136(a).

The above-identified application became abandoned effective March 15, 2005 for failure to file a timely and proper response to the final rejection mailed December 14, 2004. A courtesy Notice of Abandonment was mailed on December 21, 2005.

By decision mailed June 8, 2006, the initial petition under § 1.137(a) filed April 25, 2006 was dismissed for failure to make an adequate showing of unavoidable delay within the meaning of § 1.137(a) and for failure to submit the required reply. It was stated that petitioner has submitted a copy of the reply received in the Office in response to the Office action of May

11, 2004. A response to the Office action mailed December 14, 2004 is required (or an explanation as to how the amendment received should be considered sufficient).

In response, applicants filed the instant petition to revive under the less stringent standard of 37 CFR 1.137(b). This section provides that:

> If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:
>
> (1) The reply required to the outstanding Office action or notice, unless previously filed;
>
> (2) The petition fee as set forth in § 1.17(m);
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Petitioner has included the petition fee and the required statement of unintentional delay. No terminal disclaimer is required to revive this application. The petition must be dismissed for failure to include the reply required, pursuant to 37 CFR 1.137(b)(1). On instant petition, petitioner again submitted the reply to the May 11, 2004 Office action. No explanation as to why this response should be considered the required reply to the December 14, 2004 Office action was submitted. Further the examiner confirmed that this reply is not sufficient.

Accordingly, the petition must be dismissed pending submission of the required reply within the meaning of 37 CFR 1.137(b)(1).

Further correspondence with respect to this decision should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By fax:	(571) 273-8300 ATTN: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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Paper No.

WARD AND OLIVO
382 SPRINGFIELD AVENUE
SUITE 300
SUMMIT, NJ 07901

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of :
Dimitri Vorona : DECISION ON PETITION
Application No. 10/435,348 :
Filed: May 9, 2003 :
Atty Docket No. SYSTEM FOR :
TRANSMITTING, PROCESSING, :
RECEIVING, AND DISPLAYING :
TRAFFIC INFORMATION :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed February 22, 2007.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned effective March 15, 2005 for failure to file a timely and proper response to the final rejection mailed December 14, 2004. A courtesy Notice of Abandonment was mailed on December 21, 2005.

By decision mailed June 8, 2006, the initial petition under § 1.137(a) filed April 25, 2006 was dismissed for failure to make an adequate showing of unavoidable delay within the meaning of § 1.137(a) and for failure to submit the required reply.

In response, on September 5, 2006, applicants filed the initial petition for revival based on unintentional delay. By decision mailed December 19, 2006, the petition was dismissed. The response received did not satisfy 37 CFR 1.137(b)(1). It was not the "reply required."

On instant renewed petition, petitioner submitted an amendment and a Notice of Appeal (and Notice of Appeal fee). The amendment did not place the application in condition for allowance. See enclosed Advisory Action. Nonetheless, the Notice of Appeal is a required reply within the meaning of 37 CFR 1.137(b)(1). Petitioner has now met all requirements for revival pursuant to 37 CFR 1.137(b).

Petitioner is given two (2) months from the mailing date of this decision to file the appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)). The time period for filing the appeal brief may be extended under 37 CFR 1.136.

Technology Center AU 3661 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center to await receipt of the Appeal Brief.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action

FAX RECEIVED
MAY 17 2007
OFFICE OF PETITIONS

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/435,348	Applicant(s) VORONA, DIMITRI
	Examiner CUONG H. NGUYEN	Art Unit 3661

-The MAILING DATE of this communication appears on the cover sheet with the correspondence address-

THE REPLY FILED 22 February 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 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 22 February 2007. 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: 8-21.
   Claim(s) withdrawn from consideration: 1-7.

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: See Continuation Sheet.

Cuonghnguyen

CUONG H. NGUYEN
Primary Examiner
Art Unit: 3661

Continuation Sheet (PTO-303) **Application No. 10/435,348**

Continuation of 13. Other: The amendment in the body of claim 8 does not effect the claimed "computer system located in a vehicle" i.e., applicant only explains where the external information come from - clearly this is not part of said claimed system.

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382 SPRINGFIELD AVENUE
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SUMMIT, NJ 07901

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MAY 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Dimitri Vorona : DECISION ON PETITION
Application No. 10/435,348 :
Filed: May 9, 2003 :
Atty Docket No. SYSTEM FOR :
TRANSMITTING, PROCESSING, :
RECEIVING, AND DISPLAYING :
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This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181 filed December 18, 2007.

By Notice of Abandonment mailed October 23, 2007, applicant was advised that the above-identified application had become abandoned for failure to timely file a proper reply to the final Office action mailed December 14, 2004.

A Notice of Abandonment had been mailed in this application on December 21, 2005. Ultimately, by decision mailed June 11, 2007, the (third) petition to revive this application was granted, pursuant to 37 CFR 1.137(b). A Notice of Appeal was accepted as the required reply. Accordingly, the decision set a two-month period from the mailing date of the decision to file the appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)). The decision further stated that the time period for filing the appeal brief may be extended under 37 CFR 1.136. Thus, the maximum period for filing the appeal brief (or other proper response) extended to January 11, 2008.

Prior to the end of the maximum period for filing the appeal brief (or other proper response), on October 23, 2007, the Notice of Abandonment was mailed.

In response, applicant filed the instant petition. By declaration of attorney Joe E. Shallenberger, applicant

maintains that a Request for Continued Examination, an Amendment and Response to the Office Action dated December 14, 2004 were filed together with a Request for a Four Month Extension of time, a Return Receipt Postcard, and a Fee Transmittal, including the Certificate of Mailing under 37 C.F.R. § 1.8(a).

Applicant is correct to the extent that a timely and proper response was filed in light of the decision on petition mailed June 11, 2007. The response, including an extension of time for response within the fourth month, was timely filed on December 18, 2007. The response included a Request for Continued Examination (RCE), an RCE Fee and a submission in the form of an amendment. This was a proper response, in lieu of, an appeal brief. (As stated in MPEP 706.07(h)X, if an applicant files an RCE under 37 CFR 1.114 after the filing of a Notice of Appeal to the Board Of Patent Appeals and Interferences (Board), but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner, regardless of whether the RCE is proper or improper). As a proper and timely response was filed, withdrawal of the holding of abandonment is warranted.

The notice of abandonment mailed October 23, 2007 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3661 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration of the RCE and submission filed December 18, 2007.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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JUL 2 4 2007

OFFICE OF PETITIONS

In re Application of :
David A. Fine, et al. :
Application No. 10/435,351 : DECISION ON PETITION
Filed: May 9, 2003 : TO WITHDRAW
Attorney Docket No. 163.1752USU1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sarah M. Monfeldt on behalf of herself.

All other attorneys/agents associated with this application remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

McCarthy Law Group
5830 Northwest Expressway, #353
Oklahoma City, OK 73132

Mail Date: 04/21/2010

Applicant	: Gerardo Buitron	: DECISION ON REQUEST FOR
Patent Number	: 7600359	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/435,360	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **745** 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.

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

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DEC 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Grow et al.	:	DECISION ON PETITION
Application No. 10/435,361	:	
Filed: May 9, 2003	:	
Attorney Docket No. 3123-480	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO 37 C.F.R. § 1.181(a)" filed April 27, 2006.

The above-identified application became abandoned for failure to pay the required Issue Fee and Publication fee within three months of the mailing date, September 23, 2005, of the Notice of Allowance and Fee(s) Due. This period for reply is not extendable. No reply considered received, the above-identified application became abandoned on December 24, 2005. A Notice of Abandonment was mailed on April 10, 2006.

In response, applicants timely filed the instant petition. Petitioner states that, on October 31, 2005, applicant timely submitted a completed and executed Fee(s) transmittal form and a check in the amount of $1,730. In support thereof, petitioner submits *inter alia* a copy of the response as filed, a copy of their return postcard receipt, a statement of timely mailing by Lori Brown, the attorney's Administrative Assistant who signed the certificate of mailing under § 1.8, and a statement of Eddie Abeyta, the Site Manager, who personally hand carries the firm's First-Class mail to the Post Office.

37 CFR 1.8(b) provides 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 in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

On instant petition, petitioner has satisfied the requirements of 1.8(b) to have the response considered timely filed by virtue of the certificate of mailing dated October 31, 2005.

Accordingly, the Notice of Abandonment mailed April 10, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Publishing Division for withdrawal of the holding of abandonment and processing of the application into a patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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John P. Costello
Weintraub Genshlea Chediak Sproul
11th Floor
400 Capitol Mall
Sacramento, CA 95814

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OFFICE OF PETITIONS

In re Application of

Orbson, et al.

Application No. 10/435,366

Filed: May 8, 2003

Attorney Docket No. 6369/10566

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed July 21, 2006.

The petition is **granted**.

This application was held abandoned September 4, 2005, after no reply was received to the non-final Office action mailed June 3, 2005. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on September 4, 2005. A Notice of Abandonment was mailed December 15, 2005. The instant petition was filed on July 21, 2006. Petitioner maintains that the non-final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 1700, GAU 1745 for further processing including treatment of the amendment filed July 21, 2006, that is intended to be responsive to the non-final Office action mailed July 21, 2006.

Questions 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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FEB 19 2004

REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA GABRIEL, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE WI 53202

In re Application of :
Peter M. J. Bedding et al :
Serial No.: 10/435,367 : PETITION TO MAKE SPECIAL
Filed: May 9, 2003 :
Attorney Docket No.: 7593 :

This is in response to applicants' petition filed December 10, 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, III, for reasons of applicant's health. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/435,367	05/09/2003	Peter M. J. Bedding	7593	9101

22922 7590 02/23/2009
REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

EXAMINER	
GHALI, ISIS A D	
ART UNIT	**PAPER NUMBER**
1611	

NOTIFICATION DATE	DELIVERY MODE
02/23/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPAdmin@reinhartlaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

In re Application of:
Peter Bedding et al.
Serial No.: 10/435,367
Filed: May 9, 2003
Attorney Docket No.: 7593

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed February 4, 2009, requesting that the finality of the Office action of December 4, 2008 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on May 6, 2008 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-29, 31-33 and 35-72 were pending and examined on their merits. The rejections instituted in this rejection are not reiterated here because they are not pertinent to the outcome of this petition decision.

Applicants filed an Information Disclosure Statement (IDS) on September 10, 2008 with a statement submitted under 37 CFR 1.97(e). Applicants did not pay a fee for this IDS submission due to the 37 CFR 1.97(e) statement: "The undersigned hereby states that each item of information contained in the Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign patent application not more than three months prior to the filing of the Information Disclosure Statement" (see page 3 of the IDS filed September 10, 2008). Harris et al. (WO 01/74173 A1) was a document listed on said IDS, whereby the document was submitted concurrently with the IDS filing.

On November 6, 2008, applicants filed arguments traversing the examiner's rejections instituted in the non-final Office action of May 6, 2008. It is noted that applicants did not submit any claim amendments in the interim between the mailing of the non-final Office action of May 6, 2008 and the final Office action of December 4, 2008.

On December 4, 2008, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1-29, 31-33 and 35-72 were

pending and examined on their merits. *Inter alia*, in this final Office action, the examiner instituted the following art rejections:

A) Claims 1-21,25-29, 31-33, 35-36, 42, 44-51,53-58, 60, and 62-69 were rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/74173 ('173) combined with US 6,410,067 ('067),

B) Claims 22-24, and 52 were rejected under 35 U.S.C. 103(a) as being unpatentable over WO '173 combined with US '067 and further in view of US 2002/0044988 ('988),

C) Claims 37-41, 56 were rejected under 35 U.S.C. 103(a) as being unpatentable over WO '173 combined with US '067 and further in view of US 5,976,579 ('579),

D) Claim 43 was rejected under 35 U.S.C. 103(a) as being unpatentable over WO '173 combined with US '067, and US '579 and further in view of the article AIItech,

E) Claims 53-55, 61,70-72 were rejected under 35 U.S.C. 103(a) as being unpatentable over the teaching of WO '173 combined with US '067, and further in view of the teaching of AIItech and

F) Claim 59 was rejected under 35 U.S.C. 103(a) as being unpatentable over WO '173 combined with US '067 and US '579 and further in view of the article AIItech.

The examiner, on page 10 of the final Office action, indicated that these rejections; A-F above, were necessitated by applicants' IDS submission.

In response thereto, applicants filed this petition under 37 CFR § 1.181 on February 4, 2009, requesting that the finality of the Office action of December 4, 2008 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In this petition filed on February 4, 2009, applicants request the Director to either allow this case, or to direct the examiner to issue a new Office action "...that clearly explains a basis for refusing to allow the claims that is in accordance with the statute and the rules" (p. 2, Petition). Applicants' reason underlying this request is based upon applicants' contention that the examiner has presented piecemeal prosecution throughout the history of this case.

Applicants raise issues with regard to inconsistencies between the examiner's prosecution of this case compared with applicants' related cases (pp. 3-6, Petition). However, issues with regard to any case other than this case are not pertinent to the decision on Petition herein. Applicants are reminded of their right to Petition in other cases if they deem it necessary.

Applicants further argue the merits of the examiner's rejections. In particular, applicants traverse the examiner's rejection of claims 1-29, 31-33 and 35-72 under 35 USC 112, first paragraph. However, it is noted that issues relating to the merits of a case are not a petitionable matter *per se*. Applicants are reminded of their right to Appeal to the Board of Patent Appeals and Interferences (BPAI) to settle such matters on the merits of the case.

Applicants argue that the examiner has presented inconsistent prosecution due to her shift in interpretation with regard to claim 1 which reads, as amended on September 14, 2007:

> 1.(Currently Amended) A dietary supplement for use in treating and/or inhibiting digestive tract ulcers, comprising:
>
> a polar lipid supplement that has been isolated from its natural source which polar lipid supplement strengthens the mucous gut membrane lining the inside wall of the stomach;
> a soluble fiber source that has been fractionated from its natural origin which soluble fiber source is present in an amount that is effective to slow the passage of foodstuffs ingested together with the dietary supplement through the stomach; and a nutricine which increases the integrity of digestive tract membranes.

Applicants correctly note that the examiner initially interpreted 'has been isolated from its natural source' and 'has been fractionated from its natural origin which soluble fiber source is present' as being claim limitations; such interpretation being supported by the non-final Office action of October 17, 2007 whereby the examiner indicated:

> WO '188 teaches equine feed comprises oats and lactobacillus to provide prophylaxis and treatment of equine gastritis (abstract).....
> **The difference between the present claims and WO '188 is that WO '188 does not explicitly teach soluble fiber source fractioned from natural origin or the polar lipid has been isolated from natural source as required by the generic claims.** WO '188 does not explicitly teach that the polar lipid is oat oil as claimed in claims 4-10, and 46.
> **Johansen et al. teach that fractioned soluble fibers from oats increase the viscosity of stomach content and increase the ability of dry matter to retain water, and teach that higher levels of soluble fibers led to higher recoveries of the digesta** (abstract). Johansen et al. teach that feeding diet with higher content of soluble fibers i the form of β-glucan resulted in general trend towards slower emptying of the stomach...(pp. 6-7, emphasis added).

Applicants again correctly indicate that the examiner shifted her interpretation of the claim language 'has been isolated from its natural source' and 'has been fractionated from its natural origin which soluble fiber source is present' in the final Office action to deem this language essentially a non-limitation which is evident by the examiner's following statement in the final Office action:

> Isolation of the polar lipid and fractioning of the fibers are steps in method of making the composition, therefore, do not impart patentability to the claims, absent evidence to the contrary. (p. 12, final Office action).

Applicants further argue that the examiner has presented piecemeal prosecution throughout the history of this case by other means such as by instituting an enablement rejection in the course of prosecution which was not originally instituted by the examiner in the first Office action on the merits.

Applicants' concern with piecemeal prosecution is not without merit. As a whole, the Office strives to avoid piecemeal prosecution in order to fulfill our overall objective of providing applicants with prompt, complete examination as early in prosecution as possible. While piecemeal prosecution is regrettable, it is nonetheless an impossibility to avoid all instances of piecemeal prosecution as each time an examiner is presented with the task of analyzing claims for patentability, interpretations of claim language may shift from the original interpretation. Being that piecemeal prosecution is not entirely avoidable, the MPEP does provide strict provisions with regard to when Office actions can be made final in order to provide applicants ample time to consider and reply to such shifts in examination due in part solely to an examiner changing the thrust of a rejection, wherein said change is not prompted by applicants' reply.

Thus, while applicants argue that the examiner has been inconsistent in her interpretation of the claim language by instituting an enablement rejection which was not set forth in the initial Office action on the merits, such argument is not a petitionable matter absent evidence that the Office action(s) contained an error which precluded finality of said Office action, or evidence demonstrating that the content of the Office action(s) was so unclear as to preclude applicants from discerning the nature of the rejections therein. Although the examiner's interpretation of the claim language changed during the course of prosecution, be it a correct interpretation or not, the examiner was nonetheless clear on the record as to how she was interpreting the claim limitations. It is additionally noted that upon instituting the enablement requirement during prosecution of this case, the examiner properly rendered said Office action non-final in order to provide applicants ample opportunity to respond to the new rejection (see non-final Office action of May 6, 2008).

Notwithstanding the determinations made *supra*, it is deemed that the finality of the Office action mailed December 4, 2008 was indeed improper for a separate reason: To reiterate, the examiner indicated that the new rejections of A-F (recited *supra*) were necessitated by applicants' IDS submitted September 10, 2008 (final Office action, page 10). However, contrary to the examiner's conclusion, finality of Office actions is governed by MPEP § 707.07 which states, in-part:

> 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).** Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, e.g., a printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner.

Thus, it is not permissible to render final an Office action which presents new grounds of rejection based upon an IDS submitted by applicants in which the fee set forth in 37 CFR 1.17(p) *is not paid.* In other words, if applicants' IDS contains a certified statement under 37 CFR 1.97(e) whereby the inclusion of said statement precludes payment of the fee specified by 37 CFR 1.17(p), the examiner may not render final an Office action containing a new rejection based upon a reference submitted in said IDS. In the present instance, applicants' IDS submitted on September 10, 2008 did not include a payment of a fee as set forth by 37 CFR 1.17(p) because applicants alternatively submitted a certified statement under 37 CFR 1.97(e) (see page 3 of the IDS dated September 10, 2008).

Accordingly, the finality of the Office action mailed December 4, 2008 was in error and not in accord with MPEP § 706.07. All of the rejections set forth in the final Office action identified as A-F above were new grounds of rejection not necessitated by an amendment or any IDS submitted with the fee set forth by 37 CFR 1.17(p). Accordingly, applicants have not been provided a fair chance to rebut these new rejections.

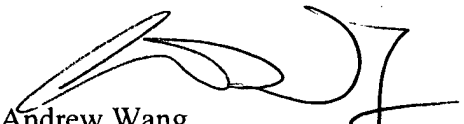
Consequently, the finality of said Office action is hereby WITHDRAWN.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.



Andrew Wang
Acting Director, Technology Center 1600

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YOUNG & THOMPSON
745 SOUTH 23rd STREET
2nd FLOOR
ARLINGTON, VA 22202

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APR 24 2006

OFFICE OF PETITIONS

In re Application of :
Yoshimi Fukagawa :
Application No. 10/435,372 : ON PETITION
Filed: May 12, 2003 :
Attorney Docket No. 8001-1165 :

This is a decision on the petition under 37 CFR 1.181, filed March 24, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed April 4, 2005. Accordingly, this application became abandoned on July 5, 2005.

Petitioner asserts the Office action was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

The petition is granted.

The file is being forwarded to Technology Center 2600 for re-mailing of the April 4, 2005 Office action with a new period for response.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Staas & Halsey, LLP
Suite 700
1201 New York Avenue, NW
Washington, DC 20005

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Sung-Ki Min :
Application No. 10/435,382 : DECISION ON PETITION
Filed: May 12, 2003 :
Attorney Docket No. 1293.1677 :

This is a decision on the petition under 37 CFR 1.181, filed on September 22, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

On February 11, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely and proper response, the Office mailed a Notice of Abandonment on September 15, 2005.

Petitioner asserts that a proper response was filed timely. In support of the petition, petitioner submits a copy of a returned, date-stamped postcard receipt, acknowledging receipt of "Amendment with Fee Transmittal and check ($120.00)" in the USPTO on June 9, 2005. Copies of these documents are included with this petition.

The Office has located the original response in the form of an Amendment, the Fee Transmittal, requesting an extension of time for response within the first month, and the $120.00 extension of time fee. Unfortunately, the Office incorrectly entered these documents as being filed on June 9, 2003, instead of June 9, 2005. Nevertheless, the Office notes that Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was filed timely in the USPTO on June 9, 2005, but was properly entered into the Image File Wrapper for this application.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **granted.**

This matter is being referred to Technology Center Art Unit 3636 for a review of the amendment filed on June 9, 2005.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Yasuyuki Asai	: DECISION ON REQUEST FOR
Patent Number	: 7588851	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/435,388	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **551** 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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CHOATE, HALL & STEWART LLP
SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 04/21/2010

Applicant	: Samuel J. Danishefsky	: DECISION ON REQUEST FOR
Patent Number	: 7649006	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/435,408	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1146** 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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CHOATE, HALL & STEWART LLP/MSKCC
SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 05/17/2010

Applicant	: Samuel J. Danishefsky	: NOTICE CONCERNING IMPROPER
Patent Number	: 7649006	: CALCULATION OF PATENT TERM
Issue Date	: 01/19/2010	: ADJUSTMENT BASED UPON USPTO
Application No	: 10/435,408	: IMPROPERLY MEASURING REDUCTION
Filed	: 05/09/2003	: 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 **1193** 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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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

9/24/03

Fay Sharpe Fagan Minnich and McKee LLP
Seventh Floor
1100 Superior Avenue
Cleveland OH 44114-2579

Dear Applicant:

The Box PGPub replacement drawings for application number 10/435,415 received on 8/7/03 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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4050 Rosemont blvd # 1607
Montreal QC H1X 1M4 CA CANADA

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OFFICE OF PETITIONS

In re Application of :
Blais, et al. :
Application No. 10/435,418 : DECISION ON PETITION
Filed: May 12, 2003 :
For: WALL HUNG AUTOMATED :
PET FEEDING MACHINE :

This is a decision on the petition under 37 CFR 1.137(a), filed November 25, 2005, to revive the above-identified application. This matter is, *supa sponte*, treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The application was held abandoned October 21, 2004 for failure to timely submit a proper response to final Office action mailed July 20, 2005. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed August 23, 2005.

DECISION UNDER 37 CFR 1.181

Petitioners assert that a response to the final Office action as well as a request for a one month extension of time were timely submitted on November 18, 2004 and have submitted as proof of USPTO receipt of same a copy of a return postcard dated stamped November 18, 2004.

In view thereof, the petition to withdarw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

DECISION UNDER 37 CFR 1.137(a)

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).

In view of the withdrawing of the holding of abandonment, the petition under 37 CFR 1.137(a) is hereby **DISMISSED AS MOOT**.

Accordingly, petitioners are entitled to a refund of the previously submitted $250.00 petition fee. Petitioners may request a refund of the petition fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being forwarded to Technology Center 3600 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-16-06

TO SPE OF : ART UNIT 2859

SUBJECT : Request for Certificate of Correction on Patent No.: 6859034 (10/435419

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.

Would these be the correct drawings?

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Changes to drawings are editorial in nature, no new matter is introduced. The changes in no way change the scope of the patent granted.
LMA. 8/20/07

Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

2859
Art Unit

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OFFICE OF PETITIONS

In re Application of	:	
Hudson et al.	:	DECISION ON PETITION
Application No. 10/435,427	:	TO WITHDRAW
Filed: May 9, 2003	:	FROM RECORD
Attorney Docket No. 113970-0004US	:	

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 26, 2006 and additionally on July 14, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on July 18, 2006 the power of attorney to Heller Ehrman 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: Bo-In Lin
13445 Mandoli Drive
Los Altos Hills CA 94022

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ROBERT F. CLARK
OSRAM SYLVANIA INC.
100 ENDICOTT STREET
DANVERS MA 01923

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AUG 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Charles F. Chenot et al	:	
Application No. 10/435,438	:	ON PETITION
Filed: May 9, 2003	:	
Attorney Docket No. 01-2-128	:	

This is a decision on the petition, filed August 29, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application filed August 19, 2005.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Files Repository.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 3

THOMAS KAYDEN HORSTEMEYER & RISLEY
100 GALLERIA PARKWAY, SUITE 1750
ATLANTA, GA 30339-5948

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JUL 22 2003

OFFICE OF PETITIONS

In re Application of :
Siegfried Hear :
Application No. 10/435,443 : NOTICE
Filed: May 9, 2003 :
Attorney Docket No. 291801-1120 :

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 3745.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Fleisler Meyer LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156

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FEB 21 2006

OFFICE OF PETITIONS

In re	:	
Noujeim	:	
Application NO. 10/435,448	:	RECONSIDERATION OF
Filed: September 13, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket NO. ANRI-08056USO	:	

This decision is in response to applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT under 37 CFR 1.705(b)" timely[1] filed on January 23, 2006 ninety-six (96) days to a determination of one hundred and thirty-three (133).

Applicants request for PTA reconsideration is **granted.** The office will adjust the PTA determination at the time of the mailing of the notice of allowance from a determination of 96 days to a determination of one hundred and thirty-three (133)days.

Applicants assert that the Office erred in assessing a thirty-seven (37) day delay for applicant's submission of a non-compliant amendment under 37 CFR 1.704(c)(7)because the amendment was in fact compliant at the time submitted. Applicant asserts that the Office withdrew the notice of non-compliant amendment and accordingly the reduction assessed applicants should not have been assessed.

Applicants' arguments are persuasive. The record does reflects that the Office did send a communication to applicant advising the applicant on August 8, 2005 that the previously submitted notice of non-compliant mailed on July 6, 2005 was in error and was being withdrawn. Accordingly, the Office had one hundred and thirty-seven (137) days of applicant delays pursuant to 37 CFR 1.702(a)(1) and applicant had no days in which it failed to

[1]Issue fee paid on 1/23/06.

engage in reasonable efforts to conclude prosecution of the application. The correct amount of PTA is 133 days (133-0=133).

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuing the application more than 4 months after payment of the issue fee and other requirements being satisfied will be reflected in the issue notification letter mailed approximately three weeks prior to issuance of the application. Any reductions related to submission of a 312 amendment will be reflected in the same issue notification letter.

The Office has assessed the $200.00 fee for the submission of this letter regarding PTA. No additional fees are required in making this determination.

Any questions concerning this application should be directed to Kery Fries at 571-272-7757.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation

Day : Friday
Date: 2/17/2006

PALM INTRANET

Time: 17:21:17

PTA Calculations for Application: 10/435448			
Application Filing Date:	05/09/2003	PTO Delay (PTO):	133
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	37
Post-Issue Petitions:	0	Total PTA (days):	133
PTO Delay Adjustment:	37		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	02/17/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	37		
41	10/20/2005	MAIL NOTICE OF ALLOWANCE			
40	10/20/2005	MAIL EXAMINER'S AMENDMENT			
39	10/18/2005	ISSUE REVISION COMPLETED			
38	10/18/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	10/17/2005	EXAMINER'S AMENDMENT COMMUNICATION			
36	10/17/2005	NOTICE OF ALLOWABILITY			
35	08/11/2005	DATE FORWARDED TO EXAMINER			
34	08/05/2005	RESPONSE AFTER NON-FINAL ACTION		37	28
33	08/05/2005	MISCELLANEOUS INCOMING LETTER			
32	08/08/2005	MAIL OF WITRHDRAW OF INFORMAL AMENDMENT NOTICE			
31	08/05/2005	WITHDRAW OF INFORMAL AMENDMENT NOTICE			
30	07/06/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
29	07/05/2005	DATE FORWARDED TO EXAMINER			
28.1	06/29/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
28	06/29/2005	RESPONSE AFTER NON-FINAL ACTION			
27	05/10/2005	MAIL NON-FINAL REJECTION			
26	05/09/2005	NON-FINAL REJECTION			
25	02/10/2005	REFERENCE CAPTURE ON IDS			
24	02/10/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	02/10/2005	NEW OR ADDITIONAL DRAWING FILED			
22	03/03/2005	DATE FORWARDED TO EXAMINER			

21	02/10/2005	RESPONSE AFTER NON-FINAL ACTION			
20	02/10/2005	WORKFLOW INCOMING AMENDMENT IFW			
19	11/19/2004	MAIL NON-FINAL REJECTION	133		-1
18	11/18/2004	NON-FINAL REJECTION			
17	06/28/2004	MISCELLANEOUS INCOMING LETTER			
16	06/28/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
15	05/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	12/17/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	12/16/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	11/28/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	11/28/2003	REFERENCE CAPTURE ON IDS			
10	08/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	05/09/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	08/15/2003	APPLICATION DISPATCHED FROM OIPE			
7	08/15/2003	APPLICATION IS NOW COMPLETE			
6	08/01/2003	ADDITIONAL APPLICATION FILING FEES			
5	08/01/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	07/21/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	05/21/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/09/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. None

DoTop Technology, Inc.
Junghe
P.O. Box No. 6-57
Taipei 235 TW TAIWAN

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JUL 3 1 2006
OFFICE OF PETITIONS

In re Application of :
Ho-Ming Chiao :
Application No. 10/435,463 : DECISION ON PETITION
Filed: May 12, 2003 : UNDER 37 C.F.R. §1.181(A)
Title: EMBEDDED CONNECTOR :
MODULE :

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on June 30, 2005.

The Office regrets the period of delay in issuing this decision.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 10, 2003, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 11, 2004. A notice of abandonment was mailed on July 9, 2004.

With the present petition, Petitioner has alleged that the non-final Office action of December 10, 2003 was not received. A discussion follows.

RELEVANT PORTION OF THE MPEP

MPEP 711.03(c) sets forth, in 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. 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

Petitioner has asserted that the Office communication was not received. The petition contains a statement from the practitioner stating that the Office communication was not received, as well as attestation to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. Petitioner has further provided a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

However, it does not appear that Petitioner has firsthand knowledge of these facts: in his petition, he states "according to my local agent handling in-coming mail delivery from USPTO for my application, a thorough search of the file jacket and docket records has been done…" As such, it is clear that Petitioner does not have firsthand knowledge of this search.

On renewed petition, Petitioner will need to:

- provide a statement from one who has firsthand knowledge of these facts
- explain the process by which mail is received and delivered to him, as well as the role that is played by this "local agent," and;
- state how many similar petitions he currently has pending before the Office, and how frequently he encounters this problem in his practice.

CONCLUSION

For the reasons discussed above, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

Any renewed petition under 37 C.F.R. §1.181 must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The request for reconsideration should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181," and should only address the deficiencies noted in this decision.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

---

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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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DoTop Technology, Inc.
Junghe
P.O. Box No. 6-57
Taipei 235 TW TAIWAN

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DEC 11 2006

OFFICE OF PETITIONS

In re Application of :
Ho-Ming Chiao :
Application No. 10/435,463 : DECISION ON RENEWED PETITION
Filed: May 12, 2003 : UNDER 37 C.F.R. §1.181(A)
Title: EMBEDDED CONNECTOR :
MODULE :

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on August 28, 2006.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 10, 2003, 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 March 11, 2004. A notice of abandonment was mailed on July 9, 2004.

The original petition was filed on June 30, 2005, and was dismissed via the mailing of a decision on July 31, 2006. Petitioner alleged that the non-final Office action of December 10, 2003 had not been received. A discussion follows.

ANALYSIS

The decision on the original petition set forth the following:

Petitioner has asserted that the Office communication was not received. The petition contains a statement from the practitioner stating that the Office communication was not received, as well as attestation to the fact that a

search of the file jacket and docket records indicates that the Office communication was not received. Petitioner has further provided a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

However, it does not appear that Petitioner has firsthand knowledge of these facts: in his petition, he states "according to my local agent handling incoming mail delivery from USPTO for my application, a thorough search of the file jacket and docket records has been done..." As such, it is clear that Petitioner does not have firsthand knowledge of this search.

On renewed petition, Petitioner will need to:

- provide a statement from one who has firsthand knowledge of these facts
- explain the process by which mail is received and delivered to him, as well as the role that is played by this "local agent," and;
- state how many similar petitions he currently has pending before the Office, and how frequently he encounters this problem in his practice.

The Delgar showing, described in the decision on original petition, 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).

With this renewed petition, Petitioner has submitted a statement from his "local agent," which establishes that he presently has twelve other petitions pending before the Office, where an Office communication was not received.

It is clear that Petitioner has a history of not receiving Office actions, and as such, the establishment of the failure to receive the Office communication is insufficient to justify the holding of abandonment. Consequently, the present petition cannot be granted.

CONCLUSION

For the reasons discussed above, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

Petitioner will not be able to establish that the holding of abandonment should be withdrawn, and as such, Petitioner may wish to consider filing a petition under either 37 C.F.R. §1.137(a) and/or (b).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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Junghe
P.O. Box No. 6-57
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APR 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Ho-Ming Chiao	:	
Application No. 10/435,463	:	DECISION ON SECOND RENEWED
Filed: May 12, 2003	:	PETITION UNDER 37 C.F.R.
Title: EMBEDDED CONNECTOR MODULE	:	§1.181(A)
	:	

This is a decision on the second renewed petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on January 21, 2007.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 10, 2003, 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 March 11, 2004. A notice of abandonment was mailed on July 9, 2004.

The original petition was filed on June 30, 2005, and was dismissed via the mailing of a decision on July 31, 2006. Petitioner alleged that the non-final Office action of December 10, 2003 had not been received.

The renewed petition was filed on August 28, 2006, and was dismissed via the mailing of a decision on December 11, 2006.

With this second renewed petition, Petitioner has established that the non-final Office action of December 10, 2003 was not received.

Consequently, the petition is **GRANTED**. The holding of abandonment is hereby withdrawn.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the non-final Office action of December 10, 2003, and will set a new period for response.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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SEP 25 2007

OFFICE OF PETITIONS

In re Application of :
Richard T. Lee :
Application No. 10/435,482 : DECISION GRANTING PETITION
Filed: May 9, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 80801.70284US00 :

This is a decision on the petition, filed September 24, 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 July 3, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1647 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\Sept10\435482.wpd

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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WOLF GREENFIELD & SACKS, P.C.
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BOSTON MA 02210-2206

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APR 21 2008

OFFICE OF PETITIONS

In re Application of :
Richard T. Lee :
Application No. 10/435,482 : DECISION GRANTING PETITION
Filed: May 9, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. B0801.70284US00 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 18, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 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 the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1647 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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Robert M. Isackson
Orrick, Herrington & Sutcliffe LLP
666 Fifth Avenue
New York NY 10103

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AUG 2 8 2008

OFFICE OF PETITIONS

In re Application of

Ripart, et al.

Application No. 10/435,496

Filed: May 9, 2003

Attorney Docket No. 8707.2157

DECISION DISMISSING

PETITION UNDER 37 CFR 1.55(c)

This is regarding the "Petition under 37 CFR 1.55 (Petition to Accept Priority Document and Claim for Foreign Priority" filed November 28, 2007, which will be treated as a petition under 37 CFR 1.55(c)[1].

The petition is **DISMISSED AS MOOT**.

This application was filed after November 29, 2000, and did include, on filing, a reference to the foreign application for which benefit is sought in the declaration under 37 CFR 1.63 filed May 9, 2003. On November 28, 2007, the instant petition was filed requesting that the claim of priority to French application 0206072, filed May 17, 2002, be recognized and that the previously filed certified copy of the foreign application be acknowledged. A petition under 37 CFR 1.55(c) is only required when the claim of priority to a foreign application is not filed within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Likewise, a petition under 37 CFR 1.55 is not required to file a certified copy of the foreign application before the payment of the issue fee. It is noted that the issue fee has not been paid in this application. A petition under 37 CFR 1.55(c) is not necessary since the claim for priority was submitted during the period specified in 37 CFR 1.55(a)(1)(i); the petition is dismissed as moot, accordingly.

It is noted that petitioner establishes a certified copy of the foreign application was received on June 12, 2003, however, a review of the application file did not reveal the same. Petitioner may wish to file another certified copy of the foreign application while the application is in a pending status.

This decision should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met.

[1] It is noted that priority claim to the French application was entered prior to the mailing of this decision.

Similarly, the fact that a replacement Filing Receipt that includes the prior-filed application accompanied this decision should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed foreign application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

This application is being referred to Technology Center GAU 3762 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

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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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/435,496	05/09/2003	3762	880	8707.2157	1	1

CONFIRMATION NO. 8381

REPLACEMENT FILING RECEIPT

Robert M. Isackson
Orrick, Herrington & Sutcliffe LLP
666 Fifth Avenue
New York, NY 10103

OC000000031791153

Date Mailed: 08/27/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Alain Ripart, Gif-Sur-Yvette, FRANCE;
Richard Poulet, Montrouge, FRANCE;

Power of Attorney:

Charles Bradley--17855
Bradford Breen--30823
Robert Isackson--31110
Francois Nadeau--37570
Patrick Hoeffner--44768
Rodger Sadler--51315
William Tabler III--53668

Domestic Priority data as claimed by applicant

Foreign Applications

FRANCE 02 06072 05/17/2002

If Required, Foreign Filing License Granted: 07/09/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/435,496**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Remote support system for programming active implantable medical devices such as cardiac pacemakers, defibrillators, cardiovertors or multisite devices

Preliminary Class

607

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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NOV 07 2008

OFFICE OF PETITIONS

Robert M. Isackson
Orrick, Herrington & Sutcliffe LLP
666 Fifth Avenue
New York NY 10103

In re Application of :
Ripart, et al. :
Application No.: 10/435,496 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No: 8707.2157 :

This is in response to the petition under 37 CFR 1.137(b) filed October 9, 2008.

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 application became abandoned for failure to respond in a timely and proper manner to the final Office action mailed August 8, 2007. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). The application became abandoned on January 9, 2008. A Notice of Abandonment was mailed on September 8, 2008.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

Examiner George Manuel has reviewed the amendment filed October 9, 2008, and determined that the amendment does not place the application in condition for allowance. The petition must, therefore, be dismissed. Either an amendment that places the application in condition for allowance, a Request for Continued Examination and the fee required, or a Notice of Appeal must accompany the renewed petition.

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

Questions regarding the amendment to be filed with the renewed petition must be addressed to Examiner Manuel. 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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Robert M. Isackson
Orrick, Herrington & Sutcliffe LLP
666 Fifth Avenue
New York NY 10103

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JAN 16 2009

In re Application of :
Ripart, et al. :
Application No.: 10/435,496 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No: 8707.2157 :

This is in response to the renewed petition under 37 CFR 1.137(b) filed December 19, 2008.

The renewed petition is GRANTED.

This application became abandoned for failure to respond in a timely and proper manner to the final Office action mailed August 8, 2007. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). The application became abandoned on January 9, 2008. A Notice of Abandonment was mailed on September 8, 2008.

The Request for Continued Examination filed December 19, 2008, is noted.

The application file is being directed to Technology Center GAU 3762 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

SPE: N. Flynn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/11/06

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/435,502 Patent No.: 6,992,502

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: OK

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2826

SPE — Art Unit 2826

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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JUL 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Norboru Ninomiya, et al. :
Application No. 10/435,509 : ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. 9319S-000489 :

This is a decision on the petition, filed July 14, 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 May 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 (703) 305-9220.

The application is being referred to Technology Center AU 2873 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606-6357

MAILED

MAR 18 2010

OFFICE OF PETITIONS

In re Patent No. 6,944,564 :
Issue Date : September 13, 2005 :
Application No. 10/435,528 : NOTICE
Filed: May 8, 2003 :
Attorney Docket No.: 31486/44296

The above-identified patent has been referred to the Office of Petitions for consideration of a communication filed December 16, 2009 by Dennemeyer & Co LTD. The communication is being treated as a request under 37 CFR 1.128(c), as it includes authorization to charge a maintenance fee deficiency and a letter indicating that patentee is no longer entitled to claim status as a small entity. It is noted that the request is not signed in accordance with 37 CFR 1.33(b).[1]

At present, the request is DISMISSED.

This decision is made without prejudice to reconsideration. However, any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this notice. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Request under 37 CFR 1.28(c)."

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

[1]37 CFR 1.33(b) states:

Amendments and other papers filed in the application must be signed by:

An attorney or agent of record appointed in compliance with §1.34(b);
A registered attorney or agent not of record who acts in a representative capacity under the provisions of §1.34(a);
The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or
All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

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[2]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

[2] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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JUN 11 2008

OFFICE OF PETITIONS

AKA CHAN LLP / CISCO
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA, CA 95050

In re Application of
Marc A. Bennett, et al.
Application No. 10/435,530
Filed: May 9, 2003
Attorney Docket No. CISCP833

CORRECT DECISION
ON PETITION

This is a decision in response to the petition, filed February 15, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed July 11, 2007. A Notice of Abandonment was mailed on February 7, 2008. In response, on February 15, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received February 7, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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FEB 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Benson et al.	:	
Application No. 10/435,533	:	ON PETITION
Filed: May 9, 2003	:	
Attorney Docket No. PC27342 US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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MAR 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Benson et al.	:	
Application No. 10/435,533	:	DECISION ON PETITION
Filed: May 9, 2003	:	
Attorney Docket No. 00950.US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1656 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

Cc: PFIZER, INC.
LEGAL DEPARTMENT, 5TH FLOOR
150 EAST 42ND STREET
NEW YORK, NY 10017-5755

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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RICHARD OUELLETTE
c/o UNIT 33 - 2280 MUNN'S AVENUE
OAKVILLE ON L6H 3L1 CA CANADA

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Ouellette et al.	:	
Application No. 10/435,534	:	ON PETITION
Filed: May 12, 2003	:	
Attorney Docket No. ZW-05-US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 25, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed August 10, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 11, 2004. A Notice of Abandonment was mailed March 14, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

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[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition does not lack any of the above items. However, papers filed in an application must be signed by:

(1) An 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) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) **All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.**

As to (5), the instant petition was only signed by one of the two listed inventors. To revive the instant application, both inventors must sign 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 Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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RICHARD OUELLETTE
c/o UNIT 33 - 2280 MUNN'S AVENUE
OAKVILLE ON L6H 3L1 CA CANADA

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MAR 2 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Ouellette et al.	:	
Application No. 10/435,534	:	ON PETITION
Filed: May 12, 2003	:	
Attorney Docket No. ZW-05-US	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed March 10, 2006, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Bai-Dong WEI
P.O. Box No. 6-57,
Junghe
Taipei 235 TAIWAN
AIRMAIL

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MAY 12 2006

OFFICE OF PETITIONS

In re Application of :
Wei :
Application No. 10/435,542 : ON PETITION
Filed: May 12, 2003 :
Title of Invention: Modularized Multifunctional :
Ironing Board with Fan

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed May 31, 2005 and on April 3, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed May 17, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 18, 2004. A Notice of Abandonment was mailed on December 21, 2004.

Petitioner asserts that the Notice of Allowance and Fee (s) Due mailed on May 17, 2004 was never received. Petitioner states a search of the file jacket and docket records confirms the Notice of Allowance was not received. In support of petitioner's contention, a copy of the docket records has been provided.

This application is being forwarded to Art Unit 3765 for re-mailing of the Notice of Allowance and Fee (s) Due and the Notice of Allowability.

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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JJGJr: 06-06

Paper No: __

GAINWARD CO., LTD.
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TAIPEI 235 TW
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JUN 12 2006

OFFICE OF PETITIONS

In re Patent No. 6,723,917 :
Issue Date: 20 April, 2004 :
Application No. 10/435,544 : ON PETITION
Filed: 12 May, 2003 :
Attorney Docket No.: (None) :

This is a decision on the petition filed on 28 Novembe,r 2005, requesting issuance of duplicate Letters Patent for the above-identified application under 37 C.F.R. §1.182.[1]

The petition is **GRANTED.**

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of duplicate Letters Patent.

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[1] The regulations at 37 C.F.R. §1.182 provide:
§ 1.182 Questions not specifically provided for.
All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h). [47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

The file is being released to the IFW Repository.

Any questions regarding the issuance of the duplicate Letters Patent should be directed to Ms. Krystal Paige, OPPD, South Tower 8C32, Phone (703) 308-9250, ext 139; FAX (571) 270-9937.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc: Ms. Krystal Paige, ST/8C32 FAX: (571) 270-9937

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Commissioner for Patents
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STERNE KESSLER GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005

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AUG 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Joseph H. Lyons :
Application No. 10/435,562 : ON PETITION
Filed: May 12, 2003 :
Attorney Docket No. 1857.0030001

This is a decision on the petition, filed July 30, 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 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Files Repository.

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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Date : August 2, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/435,562

Applicant(s) : Joseph H. Lyons
Application No. : 10/435,562
Filed : May 12, 2003

The above-identified application has been assigned Patent No. 6,774,384 and an issue date of August 10, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of : August 10, 2004.

> "All reference to Patent No. 6,774,384 to Joseph H. Lyons of for SYSTEM AND METHOD FOR MONITORING THE TOPOGRAPHY OF A WAFER SURFACE DURING LITHOGRAPHIC PROCESSING appearing in the Official Gazette of August 10, 2004 should be deleted since no patent was granted."

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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DEC 0 7 2006
OFFICE OF PETITIONS

In re Application of Neville et al. :
Application No. 10/435,567 : Decision Dismissing Petition
Filing Date: May 9, 2003 : Under 37 CFR 1.78(a)(3)
Attorney Docket No. 14028.0287U2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 14, 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 concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The amendment filed by petitioner includes the following language,

> This application is also a continuation of Application No. 08/843,409, filed April 15, 1997, now U.S. Patent No. 6,103,235.

Per 35 U.S.C. 120 requires a continuation application be filed "before the patenting or abandonment of or termination of proceedings on the [prior] application."

Application No. 08/843,409 issued as Patent No. 6,103,235 on August 15, 2000. The instant application was filed May 9, 2003. Therefore, this application lacks copendency with Application No. 08/843,409, and the amendment cannot be accepted.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the priority claim is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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999 PEACHTREE STREET
ATLANTA GA 30309-3915

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APR 2 6 2007

OFFICE OF PETITIONS

In re Application of Neville et al. :
Application No. 10/435,567 : Decision Dismissing Petition
Filing Date: May 9, 2003 : Under 37 CFR 1.78(a)(3)
Attorney Docket No. 14028.0287U2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 3, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition under 37 CFR 1.78(a)(3) must be accompanied by a proper amendment or ADS to add priority claim(s). The amendment filed with the petition is improper.

Facts:

The currently filed amendment states:

(1) the instant application is a divisional of Application No. 09/380,484,
(2) Application No. 09/380,484 is the National Stage entry of PCT/US98/04303,
(3) PCT/US98/04303 is a continuation of Application No. 08/843,409, and
(4) PCT/US98/04303 claims the benefit of Provisional Application No. 60/039,987.

As to (3) above, Office records fail to indicate PCT/US98/04304 was a continuation of Application No. 08/843,409.

The amendment seeks to incorporate by reference Application No. 08/843,409. The petition states support for the incorporation by reference can be found in the application on page 18, lines 11-12. A review of page 18 indicates the application incorporated by reference Application No. 08/739,703, not Application No. 08/843,409.

Discussion:

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. In addition, every intermediate application must also make a reference to the first

(earliest) application and every application after the first application and before such intermediate application.

MPEP 201.11(III)(C) states,

> Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. If applicant wishes that the pending application have the benefit of the filing date of the first filed application, applicant must, besides making reference to the intermediate application, also make reference to the first application. *See* Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 160 USPQ 177 (7th Cir. 1968) and Hovlid v. Asari, 305 F.2d 747, 134 USPQ 162 (9th Cir. 1962). The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

Since PCT/US98/04304 did not claim priority based on Application No. 08/843,409, the amendment filed with the petition is improper.

The amendment seeks to incorporate by reference Application No. 08/843,409. 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)). Since a review of the file fails to indicate the application was incorporated by reference anywhere in the original specification, the amendment is improper.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the priority claim is required.

Further correspondence with respect to this matter should be addressed as follows:

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By fax: (571) 273-8300
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By hand: Customer Service Window
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401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Stephen E. Feldman, P.C.
12 East 41st Street
New York, NY 10017

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MAR 0 7 2007

OFFICE OF PETITIONS

In re Patent of Glickman :
Patent No. 7,022,097 :
Issue Date: April 4, 2006 :
Application No. 10/435,579 :
Filing Date: May 9, 2003 :
For: Method for Treating Glandular Diseases and Malignancies :

Decision on Petition

This is a decision in response to the paper filed November 20, 2006, which is being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the above-identified patent.

The request under 37 CFR 3.81 is **GRANTED**.

37 CFR 3.81(b) reads:

> 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.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Patentee has met the requirements set forth above. Therefore, the request is granted.

The Certificates of Correction Branch will issue the requested certificate of correction in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004

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DEC 0 6 2006

OFFICE OF PETITIONS

In re Application of :
CORY, et al. :
Application No. 10/435,595 : DECISION ON PETITION
Filed: May 12, 2003 : TO WITHDRAW
Attorney Docket No. 26666-001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 7, 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 Carol H. Peters on behalf of all attorneys of record who are associated with customer No. 29315. All attorneys/agents associated with the Customer Number 29315 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor John R. Cory, Sr at the address indicated below. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JOHN R. COREY, SR.**
P.O. BOX 302
DARLINGTON, MD 21034

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/435,595	05/12/2003	John Raborg Cory SR.	26666-001

CONFIRMATION NO. 9985

OC000000021493197

29315
MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
701 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004

Date Mailed: 12/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/07/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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MINNEAPOLIS MN 55440-1022

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OCT 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,569,575	:	
Issue Date: August 4, 2009	:	
Application No. 10/435,607	:	ON PETITION
Filed: May 8, 2003	:	
Attorney Docket No. 22460-004001	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/14/09

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10435607 Patent No.: 7569575

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 9C62-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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: _____

_____

_____

_____

_____

/James O. Wilson/ — 1624

SPE — **Art Unit**

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Mads Detlef Sorensen	: DECISION ON REQUEST FOR
Patent Number	: 7569575	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/435,607	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1472** 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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865 SOUTH FIGUEROA STREET
LOS ANGELES, CA 90017-2576

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FEB 2 4 2005

OFFICE OF PETITIONS

In re Application of:	:	
Marano-Ford et al.	:	
Application No. 10/435,620	:	DECISION ON
Filed: September 9, 2003	:	PETITION UNDER
Attorney Docket Number: 7263-104	:	37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 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 by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

[1] The filing of a petition under this section will not relieve application of the obligation to reply to any outstanding Office action.

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 June 2, 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/Advisor
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Dec.

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUL - 1 2004

DCM

In re Application of	:	
Stewart D. McClure and Evan R. Fox	:	
Serial Number: 10/435,623	:	PETITION UNDER
Filed: May 12, 2003	:	M.P.E.P.708.02 V
For: STORMDRAIN CURB-INLET	:	
MULTI-STAGE FILTRATION-UNIT	:	

This is in response to the petition filed May 12, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 V of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 V is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

STEWART D. McCLURE
2259 LONE OAK LANE
VISTA, CA 92084

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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
10/435,630	05/09/2003	3728	1122	C47023/138371	6	24	2

CONFIRMATION NO. 9042

BRYAN CAVE LLP
33RD FLOOR
1290 AVENUE OF THE AMERICAS
NEW YORK, NY 10104

CORRECTED FILING RECEIPT

OC000000014412783

Date Mailed: 11/19/2004

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)

Flavio Bacchiega, Montebelluna, ITALY;
Romano Calvani, Civitanova Marche, ITALY;

Power of Attorney:

Maurice Stiefel–18479
Lawrence Kurland–24895
Stephen Gilbert–27893
Stephen Haracz–33397
David Roodman–35663
Warren MacRae–37876
N Wilson–38661
Daniel Crowe–39644
George Chen–39935
Kevin Hooper–40402

Domestic Priority data as claimed by applicant

Foreign Applications

ITALY BG2002A000039 11/27/2002

If Required, Foreign Filing License Granted: 07/08/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/435,630

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SHOE STRUCTURE

Preliminary Class

036

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 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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DONALD W. MEEKER
PATENT AGENT
924 EAST OCEAN FRONT #e
NEWPORT BEACH CA 92661

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JUL 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Diana L. Simmons :
Application No. 10/435,644 : DECISION GRANTING PETITION
Filed: May 9, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. SIMMONS :

This is a decision on the petition under 37 CFR 1.137(b), filed October 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 (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Non-final Office action of February 10, 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 3677

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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 :
Diana L. Simmons :
Application No. 10/435,644 : DECISION ON PETITION
Filed: May 9, 2003 :
Attorney Docket No. SIMMONS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 2, 2007. A Notice of Abandonment was mailed June 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $770.00, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3677 for appropriate action by the Examiner in the normal course of business on the reply received.

Liana Walsh
Petitions Examiner
Office of Petitions

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JUL 26 2005

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TRASKBRITT, PC
P.O. Box 2550
Salt Lake City, Utah 84110-2550

In re Application of
Hilda Elizabeth Smith
Serial No. : 10/435,654
Filed : May 9, 2003
Attorney Dkt No. : 2183-5993US

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.144, filed on December 20, 2004, to request reconsideration of the restriction requirement, requiring the applicant to elect one single nucleic acid sequence.

BACKGROUND

A review of the file history shows that the application was filed under 35 USC 111(a) on May 9, 2003 with 20 claims.

A requirement for restriction was mailed to applicants on May 26, 2004, requiring the restriction of the 20 claims to one of eight groups, further divided into an invention directed to a single DNA or polypeptide molecule under 35 U.S.C. 121.

In the response dated August 23, 2004, applicants elected without traverse the claims of Group I, claims 1-3, directed to a method for modulating virulence of a *Streptococcus* comprising modifying a means that imparts virulence and applicants elected with traverse the sequence of SEQ ID NO: 14.

On September 17, 2004, the election and traversal was acknowledged and found non-persuasive and a first office action on the merits was mailed to applicants in which claims 1-3 (all of the claims at issue) were rejected under 35 USC 112 first and second paragraphs and 35 USC 102(b). In response to this action, applicants amended claims 1-3, and added new claims 21-25, argued the previous rejections and filed the petition at issue on December 20, 2004. In response to applicants amendments, a final rejection was mailed on March 23, 2005, in which claims 1-3 and 21-25 were rejected under 35 USC 112 first and second paragraphs and 35 USC 102(b).

DISCUSSION

Applicants petition under 37 C.F.R. 1.144 to request reconsideration of the restriction requirement, requiring the applicant to elect one single nucleic acid sequence.

It is noted that claims 1, 21 and 22 link the inventions corresponding to the different methods of using the nucleic acid sequences described by different SEQ ID NOs: listed in the claims. The restriction requirement among the linked inventions is subject to the nonallowance of the linking claim(s), claims 1, 21 and 22. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

The petition requests reconsideration of the restriction requirement, requiring the applicant to elect one single nucleic acid sequence for use in the elected method.

Applicants petition that no statutory or regulatory basis exists to allow the Examiner to require the applicant to elect a single a patentably distinct sequence. And that the examination of more than one nucleic acid sequence would not be an undue burden on the examiner.

Applicants assert that the Examiner is not following the procedures set out in the M.P.E.P. 803.04 regarding that "...normally ten sequences constitute a reasonable number for examination purposes..." Applicants submit that regarding the instant restriction requirement, since SEQ ID NOs: 10-15 are related, it should not be an undue burden for the Examiner, at the very least, to examine six sequences. In support of applicants position applicants submit that SEQ ID NOs: 10-15 are related in that each sequence is associated with virulence factors is *Streptococcus suis*.

Applicants further submit that since applicants has paid additional fees for an international search and provided the International Search Report to the Office, the Examiner's burden should be lessened in examining six sequences.

Applicants complete argument is acknowledged, however, found non-persuasive.

The previous restriction required that by statute, under 35 U.S.C. 121, applicants elect a single disclosed sequence, even though this requirement is traversed. These "sequences", while not indicated at the time, are patentably distinct, each from the other, because of their materially different nucleic acid and amino acid sequences. It is noted

that SEQ ID NOs: 10, 11, 12 and 13 are amino acid sequences of 222, 183, 418 and 418 residues in length, respectively, and SEQ ID NOs: 14 and 15 are nucleic acid sequences of 2973 and 3098 residues in length, respectively.

Claims 2, 5-20 recite nucleic acid and amino acid sequences listed in the alternative. The sequences are encompassed by the generic concept in claims 1, 21 and 22, and should the generic claim become allowable, any claim requiring all the features of the generic claim would be rejoined for examination.Claim 1 encompasses other non-claimed virulence factors, ones not listed in claim 2, for example, but claims 2, 5-20 could be written as a series of dependent claims that capture the full scope of the claims without loss or overlap of scope of invention.

Applicants argue that the inventions qualify for Markush practice according to 803.02, but this is not persuasive for the following reasons.

MPEP 803.02 states:

> Since the decisions in In re Weber, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and In re Haas, 580 F.2d 461, 198 USPQ 334 (CCPA 1978), it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. In re Harnish, 631 F.2d 716, 206 USPQ 300 (CCPA 1980); and Ex parte Hozumi, 3 USPQ2d 1059 (Bd. Pat. App. & Int. 1984). Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature disclosed as being essential to that utility.

The six sequences recited in claims 5, 7, 11, 12, 14, 17, 20, 21, 18 and 25 of the instant application share a common the utility of a virulence factor, however they do not share any substantial structural feature disclosed as being essential to that utility. It is thus proper for the Office to set forth a restriction requirement to a single invention. For this reason, election of species practice under 803.02 is not required.

However, should the generic claims, 1, 21 and 22, become allowable, any dependent claims directed to nonelected invention(s), previously withdrawn from consideration, which depends from or includes all the limitations of the allowable linking claim will be rejoined and will be fully examined for patentability (MPEP 809).

The inventions are distinct, each from the other because of the following reasons:

The inventions corresponding to methods of using means comprising SEQ ID NOs: 10-15 are related as methods of using nucleic acid and amino acid sequences associated with virulence factors of *Streptococcus suis*. The inventions as claimed (SEQ ID NOs: 10-15) are independent and distinct. The inventions require that the means imparts virulence, although other means could be associated with virulence factors.

A proper search and examination of more then one of the identified sequences (i.e. SEQ ID NOs: 10-15) would result in a serious burden on the examiner by virtue that each of the different SEQ ID NOs: 10-15 are different nucleic or amino acid sequences which impart virulence through different mechanisms. As such a search of the different

inventions involves different searches of various protein and nucleic acid databases as well as divergent text searches, depending on the elected invention.

Because these inventions are distinct for the reasons given above and the search required for each of the different nucleic acid and amino acid sequences corresponding to SEQ ID NOs: 10-15 are different, restriction for examination purposes as indicated is proper.

Applicants argue that the examination of more than one sequence would not be an undue burden on the examiner on the basis that "...to aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the Commissioner has decided *sua sponte* to partially waive the requirements of 37 CFR 1.141 *et. seq* and permit a reasonable number of sequences to be claimed in a single application...normally ten sequences..."

Applicants reference to the U.S. Patent and Trademark Office policy regarding the examination of patent applications that claim large numbers of nucleotide sequences in the Official Gazette, 1192 O.G. 68 (November 19, 1996) is acknowledged, however, not found persuasive on the basis that this policy regarding the partial waiving of the requirements of 37 CFR 1.141 is such that it will permit a reasonable number of nucleotide sequences to be claimed in a single application. Under the policy, in most cases, up to 10 independent and distinct nucleotide sequences will be examined in a single application without restriction. The present restriction requirement conforms with this policy as it has required that the application be restricted to a single sequence (either nucleic acid or amino acid). Applicants are reminded that one is within the range of up to ten and the referred to policy concerns nucleotide not amino acid sequences. Further the above O.G. notice applies to nucleotide products, not amino acid products and not methods of using nucleotide or amino acid products. Applicants elected methods.

Finally, with respect to applicants argument that Applicants have paid additional fees for an international search and provided the International Search Report to the Office, and this should therefore lesson the Examiner's burden, applicants are reminded the referred to additional fees were for a search of the international application.

DECISION

For these reasons, the petition under 37 C.F.R. 1.144 to request reconsideration of the requirement that applicant elect a method of using one sequence and to request examination of the methods of using one of 4 amino acid and two polynucleotide sequences is **DENIED**.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

Applicants are reminded that a final rejection was sent to applicants on 3/23/2005 and that they are obligated to reply to the final rejection within the time period specified.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

George C. Elliott

George Elliott
Director, Technology Center 1600.

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INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET NW
SUITE 1200
WASHINGTON, DC 20006-1109

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OFFICE OF PETITIONS

In re Application of	:	
Francois Clavel et al	:	
Application No. 10/435,659	:	DECISION ON PETITION
Filed: May 12, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 60240.000005	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 21, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 09/817,135, filed March 27, 2001, as set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) 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 benefit of priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the

benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1648 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.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/435,659	05/12/2003	1648	1602	60240.000005	59	1

CONFIRMATION NO. 2992

CORRECTED FILING RECEIPT

OC000000024865670

21967
HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Date Mailed: 07/17/2007

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)

Francois Clavel, Paris, FRANCE;
Fabrizio Mammano, Paris, FRANCE;
Esther Race, Angleterre, FRANCE;
Elisabeth Dam, Paris, FRANCE;
Veronique Obry, La Garenne-Colombes, FRANCE;
Virginie Trouplin, Paris, FRANCE;

Assignment For Published Patent Application

BIOALLIANCE PHARMA INSERM

Power of Attorney: The patent practitioners associated with Customer Number **21967**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/FR01/03512 11/09/2001
which is a CIP of 09/817,135 03/27/2001 ABN

Foreign Applications

FRANCE 00/14495 10/09/2000
FRANCE 01/03970 03/23/2001

If Required, Foreign Filing License Granted: 07/22/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/435,659

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for analysis of the phenoptypic characteristics of the human immunodeficiency virus (HIV)

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).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

In re Application of :
Hans Lindell et al :
Application No. 10/435,672 : DECISION ON PETITION
Filed: May 12, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 024944-169 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on May 12, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/379,765, which was filed on May 14, 2002, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry

> forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office 220 20th Street S Customer Window, Mail Stop Petitions Crystal Plaza Two Lobby, Room 1B03 Arlington, VA 22202
Central Fax:	(703) 872-9306 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Wan Laymon at (703) 306-5685.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* 37 CFR 1.121

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OFFICE OF PETITIONS

In re Application of :
Hans Lindell et al :
Application No. 10/435,672 : DECISION ON PETITION
Filed: May 12, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 024944-169 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed October 4, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on May 12, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/379,765, which was filed on May 14, 2002, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e).

Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/379,765 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220.

The application is being forwarded to Technology Center AU 3723 for processing the request for continuation examination (RCE) filed on August 9, 2004 and consideration of the concurrently filed IDS and for appropriate action on the amendment submitted October 4, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/379,765.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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Alexandria, VA 22313-1450
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wk

Mailed: 1-19-07

In re application of
Evans et al.
Serial No. 10/435,677
Filed: May 12, 2003
For: Flavour Of Fermented Beverages

DECISION ON
PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed November 1, 2006.

On November 1, 2006, a final office action was mailed to applicants rejecting various claims and referring to a Brewing Science and Practice document, citing pages 294-295. Applicants never received page 294 of the document. Applicant contacted the Examiner on January 3, 2007 whereby the examiner confirmed that page 294 was not included. The examiner's interview summary record of January 3, 2007 indicates "that pages 294-295 as stated in the office action was a typographical error and that only page 295 was relied upon".

The applicants further assert that the previous Office Action of February 13, 2006 cited the same literature and that applicant never received a copy of the reference. On April 12, 2006, applicants requested by letter a copy of the reference. On June 2, 2006 via an interview summary, it was confirmed that applicants were now able to access the document in question (i.e. pages 294-297).

Applicants assert that procedural due process requires that Applicants be given a full, fair opportunity to respond to information being cited and relied upon by the PTO. Applicants request that the prosecution be re-opened and that the Final rejection of November 1, 2006 be rescinded and a Non-final action issued.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

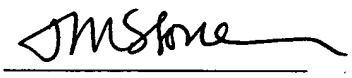
Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the circumstances indicates that the final rejection of November 1, 2006 was proper however applicants have not had the opportunity to respond and clarify about what information cited until the interview of January 3, 2007. The record currently indicates that applicants are now in

possession of pages 295-297 of the reference and that as of January 3, 2007 it was clarified that pages 294-295 of the previously cited reference in the final office action should have to only allude to page 295.

The petition for withdrawal of finality is **DENIED.**

However the period for response to the final rejection will be set to begin from January 3, 2007 rather than the original mail date of November 1, 2006.



Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Kendrew H. Colton
Fithch, Even, Tabin & Flannery
One Lafayette Centre
1120 20th Street, NW Suite 750 South
Washington, DC 20036

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Paper No. 7

LOWRIE, LANDO & ANASTASI
RIVERFRONT OFFICE
ONE MAIN STREET
ELEVENTH FLOOR
CAMBRIDGE, MA 02142

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MAY 26 2004

OFFICE OF PETITIONS

In re Application of :
Lys et al. :
Application No. 10/435,687 : DECISION ON PETITION
Filed: May 9, 2003 :
Attorney Docket Number: :
C01104.70124.US (JT) :

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.78(a)(3) FOR ACCEPTANCE OF UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. §120," filed November 3, 2003.

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;
>
> **(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 on May 9, 2003, and was pending at the time of the filing of the instant petition. A reference to the prior-filed nonprovisional

applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii). This amendment was filed with this petition on November 3, 2003. The petition includes payment of the surcharge under § 1.17(t). Petitioner has included a statement that the entire delay between the date the claim was due and the date the claim was filed was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications 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.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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.

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 applications will be considered by the Examiner in due course.

The application file is being returned to the Office of Initial Patent Examination (OIPE) for consideration of the response to Notice to File Missing Parts filed November 24, 2003.

Telephone inquiries concerning this decision should be directed to Senior Petitions Attorney Nancy Johnson at (703) 305-0309.

Charles A. Pearson
Director
Office of Petitions

Enclosure: Corrected Filing Receipt

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Paper No. 081704

WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, NW
WASHINGTON, DC 20005-3502

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TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

In re Application of:
MLADEN IVANKOVIC
Serial No.: 10/435,694
Filed: December 03, 2002
Attorney Docket No.: **104427-500**

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 February 20, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Sand & Sebolt was filed on May 25, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

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DEC 1 2 2006

OFFICE OF PETITIONS

In re Application of

IVANKOVIC
Application No. 10/435,694
Filed: May 9, 2003
Attorney Docket No. 104427-500

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 19, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JEFFREY A. WOLFSON**
WINSTON & STRAWN
1400 L. STREET NW
WASHINGTON, DC 20005

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HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas TX 75202

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FEB 21 2008

In re Application of	:	
Mladen Ivankovic	:	
Application No. 10/435,694	:	ON PETITION
Filed: May 9, 2003	:	
Attorney Docket No. 104427-500	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 6, 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) was obtained. Accordingly, the application became abandoned on January 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2836 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No. 6

Molex Incorporated
2222 Wellington Court
Lisle, IL 60532

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MAR 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Harold K. Lang, et al. :
Application No. 10/435,697 : DECISION GRANTING
Filed: May 6, 2003 : PETITION
Attorney Docket No. A2-124 US :

This is a decision on the petition filed August 15, 2003, requesting that the above-identified application be accorded a filing date of May 6, 2003.

The petition is **GRANTED**.

The application was deposited on May 6, 2003. However, on July 14, 2003, the Office of Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application"(Notice) stating that, "Figure 59 described in the specification papers appears to have been omitted."

In response to the Notice, the present petition was filed. The petition asserts that the Figure 59 stated to have been missing by the Notice was, in fact, received in the USPTO on filing on May 6, 2003. In support of this assertion, petitioner has provided a stamped postcard which acknowledges receipt by the USPTO on May 6, 2003, of "One Set of Formal Drawings Totaling 37 Pages Containing FIGS. 1-59."

MPEP 503 states:

> "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO all the items listed thereon on the date stamped thereon by the PTO."

In view of the above, the evidence supports the fact that Figure 59 described in the specification was, in fact, present on filing.

Accordingly, the petition fee of $130 will be credited to petitioner's deposit account in due course.

This application file is being forwarded to the Office of Initial Patent Examination Division for further processing with an indication that Figure 59 was present on filing on May 6, 2003, and using Figure 59 filed on August 15, 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

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Hanify & King, P.C.
1055 Thomas Jefferson Street, NW
Suite 400
WASHINGTON, DC 20007

Mail Date: 05/04/2010

Applicant	: William D. Norcott	: DECISION ON REQUEST FOR
Patent Number	: 7647354	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/435,703	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **248** 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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215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY UT 84111

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MAY 17 2007

OFFICE OF PETITIONS

In re Patent No. 7,118,413 :
Issued: October 10, 2006 :
Application No. 10/435,716 : DECISION ON PETITION
Filed: May 8, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 3250-2-1-4 :

This is a decision on the petition captioned under 37 CFR 1.78(a)(3), filed December 14, 2006, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional applications.

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.

Petitioner is attempting to claim late benefit of two provisional applications after the application at issue has matured into a patent.

As stated in MPEP 1481.03 Correction of 35 U.S.C. 119 and 35 U.S.C. 120 Benefits: 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.

Section 4503 of the American Inventors Protection Act of 1999 (AIPA) amended 35 U.S.C. 119(e)(1) to state that:

No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section ***during the pendency of the application***. (emphasis added)

A Certificate of Correction is NOT a valid mechanism for adding or correcting a priority claim under 35 U.S.C. 119(e) after a patent has been granted on an application filed on or after November 29, 2000.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON MA 02110

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JUN 16 2008

In re Patent No. 7,266,218 :
Issue Date: September 4, 2007 :
Application No. 10/435,725 : DECISION ON PETITION
Filed: May 8, 2003 :
Attorney Docket No. 12078-180 :

This is a decision on the petition under 37 CFR 1.182, filed April 1, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: Niomi Farmer
Office of Data Management
Office: 703-308-9250x119
Fax: 571-270-9753

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WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, N.W.
WASHINGTON DC 20005-3502

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APR 2 2 2004

OFFICE OF PETITIONS

Applicant: Kalina et al.
Appl. No.: 10/435,731
Filing Date: May 9, 2003
Title: APPARATUS FOR INDUCING AN IMMUNE RESPONSE IN CANCER THERAPY
Attorney Docket No.: 81823-4000
Pub. No.: US 2003/0191499 A1
Pub. Date: October 9, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on November 14, 2003 for the above-identified application.

The request is granted.

The instant request is that the application be republished because the patent application publication contains a mistake on sheet 2 of 2 of the drawings, as "Figure 1" should read -Figure 2-.

The patent application publication will be republished because "Figure 1" was published twice and "Figure 2", which was filed with the application on filing was not published.

The corrected patent application publication will be published 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

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6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Gianluca Iannaccone	: DECISION ON REQUEST FOR
Patent Number	: 7636321	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/435,800	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1742** 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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MAINE & ASMUS
100 MAIN STREET
P O BOX 3445
NASHUA, NH 03061-3445

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APR 14 2006

OFFICE OF PETITIONS

In re Application of Baker et al. :
Application No. 10/435,801 : Decision on Petition
Filing Date: May 12, 2003 :
Attorney Docket No. 81762/111 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed January 12, 2006.

The deficiency payment of $3,937 is hereby accepted.

The change of status to large entity has been entered and made of record.

The instant paper also addresses matters related to application no. 11/016,009. As a result, a copy of the paper has been filed in application no. 11/016,009. A response regarding the matters related to application no. 11/016,009 will be mailed separately in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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FOGG AND ASSOCIATES, LLC
P.O. BOX 581339
MINNEAPOLIS, MN 55458-1339

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OFFICE OF PETITIONS

In re Patent No. 6,816,973 :
Issue Date: March 1, 2005 :
Application No. 10/435,821 : ON PETITION
Filed: May 12, 2003 :
Atty. Docket No. 515.018US01 :

This is a decision on the "PETITION FOR DUPLICATE LETTERS PATENT" filed September 12, 2005. This matter is being properly treated under 37 CFR 1.182 as a petition for duplicate letters patent.

The petition is **GRANTED**.

The file record discloses that the instant application matured into U.S. Patent No. 6,615,132 on March 1, 2005. Petitioner, however, contends that the patent was never received and is thus presumed lost.

In view of the facts set forth in the petition, it is concluded that the patent has been lost.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

The fee required for a petition under 37 CFR 1.182 is currently $400.00. As petition has only submitted $130.00, the remaining fee due of $270.00 has been charged to Deposit Account No. 50-2432 as authorized in the instant petition.

Questions concerning this matter may be directed to the undersigned at 571-232-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Kimberly Terrell
South Tower 8th floor, Room C-41
Fax Number: 703-746-4658

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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

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APR 07 2009

OFFICE OF PETITIONS

In re Application of
Dag Bonnedal et al.
Application No. 10/435,837
Filed: May 12, 2003
Attorney Docket No. CISCP775

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 20, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2613 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/435,837	05/12/2003	Dag Bonnedal	CISCP775

CONFIRMATION NO. 9815

27896
EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

POA ACCEPTANCE LETTER

OC000000035315641

Date Mailed: 04/03/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/25/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/435,837	05/12/2003	Dag Bonnedal	CISCP775

CONFIRMATION NO. 9815

POWER OF ATTORNEY NOTICE

54406
AKA CHAN LLP / CISCO
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA, CA 95050

Date Mailed: 04/03/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/25/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-18-08 **Paper No.:** _____

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction on Patent No.: 7036603 C 10/435845

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 claims be renumber?

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

Robin O. Evans — **SPE**

3752 — **Art Unit**

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FREDRICK OWENS
FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN, MI 48126

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of :
Aaron W. Atkinson et al :
Application No. 10/435,852 : ON PETITION
Filed: May 12, 2003 :
Attorney Docket No. 46107-0066 :

This is a decision on the petition filed March 30, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed December 18, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 19, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P O BOX 5312
PRINCETON, NJ 08543-5312

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Thierry Languedoc et al :
Application No. 10/435,864 : DECISION GRANTING PETITION
Filed: May 12, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. PF020047 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2004, 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 April 16, 2004, which set a shortened statutory period for reply of three (3) months. A two month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 17, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of April 16, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2876 for processing the concurrently filed Request for Continued Examination and for such further action as the nature of the case requires.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P O BOX 5312
PRINCETON, NJ 08543-5312

In re Application of :
Thierry Languedoc et al :
Application No. 10/435,864 : DECISION GRANTING PETITION
Filed: May 12, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. PF020047 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2004, 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 April 16, 2004, which set a shortened statutory period for reply of three (3) months. A two month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 17, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of April 16, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2876 for processing the concurrently filed Request for Continued Examination and for such further action as the nature of the case requires.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

Mail Date: 04/20/2010

Applicant	: Thomas D. Moore	: DECISION ON REQUEST FOR
Patent Number	: 7646724	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/435,882	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1812** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of :
Werner Honegger :
Application No. 10/435,890 : LETTER REGARDING
Filed: May 12, 2003 : PATENT TERM ADJUSTMENT
Attorney Docket No. 3092/124 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed July 21, 2006. Applicants disclose that the patent term adjustment pursuant to 35 U.S.C. 154(b) of 295days indicated on the determination of patent term adjustment may extend the term of the patent by too many days.

The request for review of the initial determination of patent term adjustment (PTA) is **Granted.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is TWO HUNDRED FIFTY-SIX (256) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

A review of the application record reveals that after having filed a response on March 10, 2006, on April 18, 2006, applicants submitted a supplemental amendment. This amendment was not expressly requested by the examiner. Pursuant to 1.704(c)(8), entry of a period of reduction of 39 days, counting the number of days beginning on the day after the date the initial reply was filed, March 11, 2006 and ending on the date that the supplemental reply was filed, April 18, 2006.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is TWO HUNDRED FIFTY-SIX (256) days.

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publication for issuance of the application.

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 adjusted PAIR calculation

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OFFICE OF PETITIONS

MICHAEL E. KLICPERA
PO BOX 573
LA JOLLA, CA 92038-0573

In re Application of
Roucher
Application No. 10/435,903
Filed: May 12, 2003
Docket No.: 70818.01

: DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed April 5, 2006. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. This decision precedes Notice of Abandonment.

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 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 3700 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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Floyd A. Gonzalez
IBM Corporation – MS P386
2455 South Road
Poughkeepsie, NY 12601

MAILED

AUG 2 6 2005

Technology Center 2100

In re Application of:
Ronald M. SMITH, SR., et al.
Application No. 10/435,910
Filed: May 12, 2003
For: SECURITY MESSAGE AUTHENTICATION CONTROL INSTRUCTION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, Section IV: Applicant's Age, filed August 17, 2005 to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c) and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement that the applicant, Ronald M. Smith, Sr., is over sixty-five (65) years of age.

Accordingly, the petition is GRANTED. The application is being forwarded to the examiner for expedite prosecution.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3613

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Paper No. None

Floyd A. Gonzalez
IBM Corporation - MS P386
2455 South Road
Poughkeepsie NY 12601

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of :
Shawn D. Lundvall et al. :
Application No. 10/435,910 : DECISION ON PETITION
Filed: May 12, 2003 : UNDER 37 C.F.R.
Attorney Docket Number: : § 1.137(B)
POU920030110US1 :
Title: SECURITY MESSAGE :
AUTHENTICATION CONTROL :
INSTRUCTION :

This is a decision on the petition filed June 28, 2007, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed November 27, 2006, which set a shortened statutory period for reply of three months. An after-final amendment was received on January 16, 2007, and an advisory action was mailed on June 18, 2007. No extensions of time under

1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

the provisions of 37 C.F.R §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on February 28, 2007. A notice of abandonment was mailed on June 27, 2007.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. No terminal disclaimer is required.

Petitioner has further submitted a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, including a request for consideration of a preveniently submitted amendment and payment of the RCE fee. The RCE has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1). Having made the proper statement of unintentional delay and having submitted the petition fee, petitioner has met all other requirements for a grantable petition under 37 C.F.R. § 1.137(b).

As such, the petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

It is noted that Petitioner has further submitted a terminal disclaimer along with the required fee, which is not required[2]. Should Petitioner wish for this terminal disclaimer to be withdrawn, a petition requesting the same will be required.

The application file is being forwarded to Technology Center 2100 for consideration of the submission under 37 C.F.R. § 1.114, the amendment filed on January 16, 2007.

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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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2 See 37 C.F.R. § 1.137(d)(1).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).