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Date Mailed : 06/27/08

Patent No. : 7333817 B2
Patent Issued : 02/19/08
Docket No. : **03107-1/2002-145607**

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.

Respecting the alleged errors in the documents filed on 02/27/08; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : May 27, 2008

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/441252 Patent No.: 7333817 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Claim was cancelled via an Examiner's Amendment mailed on 10/1/2007 as authorized by attorney on 9/21/07.

Vincent P. Harper

SPE

2617

Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

COPY MAILED

AUG 29 2007

OFFICE OF PETITIONS

In re Application of Protopopova et al. :
Application No. 10/441,272 :
Filing Date: May 19, 2003 :
Attorney Docket No. 13665-105072 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed May 10, 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 August 11, 2005. A Notice of Abandonment was mailed on November 25, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to item (1) above, petitioner has not submitted a proper reply to the final Office action mailed May 10, 2005. A proper reply to a final rejection consists only of:

(A) an amendment which *prima facie* placed the case in condition for allowance,
(B) a Notice of Appeal and the required fee,
(C) a RCE, or
(D) a continuation application.

As of this date, none of the above acceptable forms of reply have been filed. On November 14, 2006, a petition under 37 CFR 1.137(b) and a response were filed. The proposed amendment

was sent to the examiner to determine whether it placed the application in condition for allowance. The examiner determined that the proposed amendment raised new issues requiring further search or consideration. A copy of an Advisory Action prepared by the examiner is attached.

Any renewed petition should be accompanied by a proper reply in the form of a Notice of Appeal, RCE, or continuation application. If petitioner fails to reply in the form of a Notice of Appeal (and fee), proper RCE, or continuation application, it may be construed as an intentional delay in presenting a grantable petition, which may adversely affect petitioner's ability to revive the abandoned application.

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)."

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Advisory Action (4 pages)

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/441,272	Applicant(s) PROTOPOPOVA ET AL.	
	Examiner Ardin Marschel	Art Unit 1614	

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

THE REPLY FILED 11/14/06(with Pet.) FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1 and 6*.
   Claim(s) withdrawn from consideration: *2-5 and 7-17*.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

PAGE 2/5 * RCVD AT 8/28/2007 11:20:07 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/9 * DNIS:2733203 * CSID: * DURATION (mm-ss):02-16

Continuation Sheet (PTO-303) **Application No. 10/441,272**

Continuation of 3. NOTE: Proposed claims 21 and 24 include new issues that would require further consideration and/or search due to citing therein many chemical compounds from Figure 11 which were not presented previously for examination..

PAGE 3/5 * RCVD AT 8/28/2007 11:20:07 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/9 * DNIS:2733203 * CSID: * DURATION (mm-ss):02-16

DETAILED ACTION

Further explanation of item # 11 on the enclosed Advisory action:

The rejections of claims 1 and 6 based on 35 USC 112, first paragraph and second paragraph, are maintained and reiterated from the previous office action, mailed 5/10/05. Due to the non-entry of the proposed amendment, filed with the Petition on 11/14/06, the lack of written description of compounds via a lack of defining the "n" parameter in the claims remains in support of these rejections. If the amendment, filed 11/14/06, had been entered, it would have required further consideration and/or search of the new issues of numerous compounds, newly set forth in proposed claims 21 and 24 and not specifically set forth in any previous claims (e.g., compounds 505, 510, 512, etc. in proposed claim 21) beyond the originally elected specie, elected 9/13/04, which also was unclear as noted on page 2 in the Non-final Office Action, mailed 11/19/04.

No claim is allowed.

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the Central PTO Fax Center. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993)(See 37 CFR § 1.6(d)). The Central PTO Fax Center number is (571) 273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ardin Marschel, Ph.D., Supervisory Patent Examiner, whose telephone number is (571) 272-0718. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 28, 2007

ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER

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 S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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JAN 04 2008

OFFICE OF PETITIONS

In re Application of Protopopova et al. :
Application No. 10/441,272 :
Filing Date: May 19, 2003 :
Attorney Docket No. 13665-105072 :

Decision on Petition

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

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed May 10, 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 August 11, 2005. A Notice of Abandonment was mailed on November 25, 2005.

The instant petition requests revival of the application.

Petitioner previously submitted the required petition fee of $750. Petitioner has submitted a reply to the final Office action in the form of a Request for Continued Examination. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Technology Center Art Unit 1614 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

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KING & SPALDING
1180 PEACHTREE STREET , NE
ATLANTA, GA 30309-3521

Mail Date: 04/27/2010

Applicant	: Marina Nikolaevna Protopopova	: DECISION ON REQUEST FOR
Patent Number	: 7652039	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/441,272	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **728** 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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TROUTMAN SANDERS
BANK OF AMERICA PLAZA
SUITE 5200
600 PEACHTREE STREET, NE
ATLANTA, GA 30308-2216

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APR 21 2004

OFFICE OF PETITIONS

In re Application of :
Bruce L. Gibbins et al :
Application No. 10/441,275 : NOTICE
Filed: May 19, 2003 :
Attorney Docket No. ACRY2.CIP.CON :

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This application file is being referred to Technology Center AU 3743.

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

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ALEXANDRIA, VA 22313-1450
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Paper No. 5

BAKER & HOSTETLER LLP
Washington Square
Suite 1100
1050 Connecticut Avenue, N.W.
Washington DC 20036

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NOV 1 0 2003
OFFICE OF PETITIONS

In re Application of
Schneider, et al.
Application No.: 10/441,283
Filed: May 20, 2003
Attorney Docket No.: 87334.5301
For: CENTRIFUGE CONFIGURATION RECALL AND RETRIEVAL SYSTEM AND METHOD

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed September 17, 2003.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on May 20, 2003 without an executed oath or declaration. Accordingly, on July 18, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and filing fees, and a surcharge for their late filing.

In response, on September 17, 2003, a declaration, the surcharge, application filing fees, and the instant petition were filed. The petition, signed by Attorney Sean A. Pryor, and accompanying exhibits show that non-signing joint inventor Harvey Schneider was mailed and received a copy of the application and a declaration and assignment document for his execution, but Mr. Schneider did not respond to the request that he sign and return the declaration and assignment.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The first page of the declaration appears regular in form. However, the second (and final) page appears to be a notarized excerpt from an assignment document.

Petitioner is requested to submit an executed declaration that contains required information for each inventor. Each inventor's name, citizenship, residence, and post office address must be included on the declaration.

Regarding finances, petitioner was erroneously charged a $410 two month extension of time. This fee will be credited to petitioner's deposit account no. 50-2036. The same deposit account will be charged a $130 fee for filing a petition under 37 CFR 1.47(a).

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

BAKER & HOSTETLER LLP
Washington Square
Suite 1100
1050 Connecticut Avenue, N.W.
Washington DC 20036

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DEC 01 2003

OFFICE OF PETITIONS

In re Application of
Schneider & Kregling
Application No.: 10/441,283
Filed: May 20, 2003
Attorney Docket No.: 87334.5301
For: CENTRIFUGE CONFIGURATION RECALL AND RETRIEVAL SYSTEM AND METHOD

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed November 14, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor, Harvey Schneider, 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 Sean A. Pryor, and accompanying exhibits show that non-signing joint inventor Harvey Schneider was mailed and received a copy of the application and a declaration and assignment document for his execution, but Mr. Schneider did not respond to the request that he sign and return the declaration and assignment. 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
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
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HARVEY SCHNEIDER
1872 BUCKS HILL ROAD
SOUTHBURY CT 06488

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DEC 01 2003

OFFICE OF PETITIONS

In re Application of
Schneider & Kregling
Application No.: 10/441,283
Filed: May 20, 2003
Attorney Docket No.: 87334.5301
For: CENTRIFUGE CONFIGURATION RECALL AND RETRIEVAL SYSTEM AND METHOD

LETTER

Dear Mr. Schneider:

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: BAKER & HOSTETLER LLP
Washington Square
Suite 1100
1050 Connecticut Avenue, N.W.
Washington DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

BAKER & HOSTETLER LLP
Washington Square
Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036

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NOV 1 2 2003

OFFICE OF PETITIONS

In re Application of
Schneider et al.
Application No. 10/441,285
Filed: May 20, 2003
Attorney Docket No. 87334.5321
For: AUTOMATIC CALIBRATION OF AN IMBALANCE DETECTOR

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47

This is in response to the petition under 37 CFR 1.47(a) filed September 22, 2003.

The petition is granted.

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

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Paper No. 6

Harvey Schneider
1872 Bucks Hill Road
Southbury, CT 06488

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NOV 12 2003
OFFICE OF PETITIONS
Letter

In re Application of :
Schneider et al. :
Application No. 10/441,285 :
Filed: May 20, 2003 :
Attorney Docket No. 87334.5321 :
For: AUTOMATIC CALIBRATION OF AN :
IMBALANCE DETECTOR :

Dear Mr. Schneider:

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: BAKER & HOSTETLER LLP
Washington Square
Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-11-06

TO SPE OF : ART UNIT 1755

SUBJECT : Request for Certificate of Correction on Patent No.: 6979364 B2

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

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

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:

_____

_____

_____

_____

_____

_____ 1755
SPE **Art Unit**

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ANTHONY EDW. J CAMPBELL
P.O. BOX 160370
AUSTIN, TX 78716

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JUL 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Clark H. Gilley	:	
Application No. 10/441,290	:	ON PETITION
Filed: May 15, 2003	:	
Attorney Docket No. DLL1178	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on May 3, 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 August 23, 2005. A Notice of Abandonment was mailed on January 12, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ANTHONY EDW. J CAMPBELL
PO BOX 160370
AUSTIN, TX 78716-0370

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NOV 01 2007

OFFICE OF PETITIONS

In re Application of :
Kenneth L. Moreland :
Application No. 10/441,295 : DECISION ON PETITION
Filed: May 15, 2003 :
Attorney Docket No. CLC819 :

This is a decision on the petition under 37 CFR 1.137(a), filed February 7, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Restriction Requirement, mailed August 12, 2004, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on March 23, 2005.

Petitioner asserts that the Office action dated August 12, 2004 was not received, which petitioner states is confirmed by the fact that the Office action was returned to the Office as undeliverable. Petitioner states that the Office mailed the correspondence to the incorrect address, despite the fact that a Customer Number was provided for the mailing of correspondence in this file. Therefore, because the Office mailed the Office action to the incorrect address, petitioner requests withdrawal of the holding of abandonment and a refund of the petition fee.

A review of the file record discloses that the Office action of August 12, 2004, as well as the Notice of Abandonment of March 23, 2005, was returned to the Office. A further review of the file record discloses that the transmittal letter and declaration were submitted with two addresses: one of which was associated with a Customer Number; namely, 30245, and the other with a typed address of 6721 Northridge Drive, Dallas, TX 75214-3156, which latter address is the address to which the correspondence was mailed.

The rule at 37 CFR 1.33(a) states that, "[i]f more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address." As the Customer Number was not the address picked up by the Office, the procedure of 37 CFR 1.33(a) was not followed. As a result, there is an irregularity in the mailing of the Office action. Further, where an Office action is returned as undeliverable, the Office must make an attempt to ascertain the correct address and re-mail the Office action, with the period being reset with the date of re-mailing. *Note* In re Gourtoff, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924). There is no evidence in the file record that the Office ever attempted to ascertain the correct address and re-mail the Office action, which is contrary to the Office's own procedures. *See* MPEP 707.13. Additionally, on filing, it is noted that a power of attorney by applicant was given to the practitioners associated with Customer Number 30245, the Customer Number appearing on the transmittal letter and declaration.

In view of the above, it would be appropriate here to withdraw the holding of abandonment. Accordingly, the Notice of Abandonment is **vacated** and the holding of abandonment is hereby **withdrawn**.

In view of the treatment of this petition under 37 CFR 1.181(a), no petition fee is required. Accordingly, the $250 fee submitted with this petition will be refunded by U.S. Treasury Check in due course.

This application is being referred to Technology Center AU 3632 for appropriate action in the normal course of business on the reply received February 12, 2007.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION – WEST BLDG.
WINTON HILL BUSINESS CENTER – BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

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DEC 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Peter Robert Foley et al	:	
Application No. 10/441,340	:	ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. CM-2670M	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 30, 2007, to revive the above-identified application.

The petition is **DISMISSED** as **Moot**.

Petitioner states that: "On February 1, 2007, applicants filed an After Final Amendment to the office action of November 1, 2006. While waiting response to the amendment, the case unintentionally abandoned."

However, Office records indicates that a Final Rejection was mailed on April 9, 2007, in reply to the response received February 1, 2007. Therefore, the above application does not appear to be abandoned.

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

This application is being referred to Technology Center AU 1796 for the mailing of the Nonfinal Rejection of August 6, 2007.

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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CANTOR COLBURN, LLP
IBM ARC DIVISION
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OCT 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Giovanni Cherubini et al	:	
Application No. 10/441,344	:	DECISION ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. CH920020015US1	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to the Nonfinal Rejection mailed September 14, 2005 and to the Notice mailed March 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 $1,500, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2627 for appropriate action by the Examiner in the normal course of business on the reply received May 8, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOWSON AND HOWSON
ONE SPRING HOUSE CORPORATION CENTER
BOX 457
321 NORRISTOWN ROAD
SPRING HOUSE PA 19477

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OCT 0 3 2005

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,770,124 :
Issue Date: August 3, 2004 :
Application No. 10/441,346 :
Filed: May 20, 2003 :
Attorney Docket No. TWA83USA :

This is a decision on the petition filed August 13, 2004, 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

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

[1]See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO, CA 94303

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Tibet Mimar	:	
Application No. 10/441,352	:	ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. 4364P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 16, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 17, 2007.

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

This matter is being referred to Technology Center AU 2111 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SAWYER LAW GROUP LLP
2465 E. BAYSHORE ROAD, SUITE NO. 406
PALO ALTO, CA 94303

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JAN 05 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tibet Mimar :
Application No. 10/441,352 :
Filed: May 20, 2003 :
Attorney Docket No. 4364P :

This is a decision on the petition filed November 26, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed July 24, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 25, 2008.

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

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE, NY 11747-2712

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Scott Suprina :
Application No. 10/441,354 : ON PETITION
Filed: May 20, 2003 :
Attorney Docket No. 247-2 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 6, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 7, 2004.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on May 26, 2005.

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

This matters is being referred to Technology Center AU 3636 for further processing.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/16/09

TO SPE OF : ART UNIT ~~2838 (2800)~~ 2192 (2100)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/441,357 Patent No.: 7,603,663

Attn: Thuy Chan Dao

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)
2900 Randolph Square
Palm Location 7580

*Ok to delete dependent claim 33 as req. in COCIN?

Ernest C. Wilson, III
Certificates of Correction Branch
(703) 756-1590

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: _____

/Tuan Q. Dam/ — **SPE**

2192 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **11/16/09**

TO SPE OF : ART UNIT ~~**2838 (2800)**~~ **2192 (2100)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/441,357** Patent No.: **7,603,663**

Attn: Thuy Chan Dao

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)
2900 Randolph Square
Palm Location 7580

***Ok to delete dependent claim 33 as req. in COCIN?**

Ernest E. White, LIE
Certificates of Correction Branch
(703) 756-1590

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: _____

/Tuan Q. Dam/ — **SPE**

2192 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/441,361	05/12/2003	3745	880	3191/0M808US0	4	7	1

CONFIRMATION NO. 4109

CORRECTED FILING RECEIPT

OC000000012558981

Darby & Darby P.C.
Post Office Box 5257
New York, NY 10150-5257

Date Mailed: 05/07/2004

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

Applicant(s)

Willi Parsch, Seeheim, GERMANY;

Assignment For Published Patent Application

LuK Fahrzeug-Hydraulik GmbH & Co. KG, Bad Homburg, GERMANY;

Domestic Priority data as claimed by applicant

This application is a CON of PCT/DE01/03771 09/26/2001

Foreign Applications

GERMANY 100 55 727.9 11/10/2000

If Required, Foreign Filing License Granted: 07/31/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Wobble plate piston mechanism

Preliminary Class
092

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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Raymond Y. Chan
108 N. Ynez Ave.
Suite 128
Monterey Park, CA 91754

MAILED

JAN 27 2006

TECHNOLOGY CENTER 2100

In re Application of: Ke-Yi Li Application No. 10/441,372 Filed: May 19, 2003 For: NET-TRANSFEROR APPARATUS	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(c) AND MPEP § 708.02 (III): APPLICANT'S HEALTH**

This is a decision on the petition, filed December 12, 2005, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Health, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section III must include a showing, as by a doctor's certificate, that the state of health of the applicant is such that he/she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required for this petition.

The petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution.

Michelle R. Eason for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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EDWARD D. MANZO
COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 WEST ADAMS ST., STE. 2850
CHICAGO IL 60606

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MAR 0 2 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Jun Koyama	:
Application No. 10/441,376	:
Filed: May 20, 2003	:
Attorney Docket No. 0553-0256.01	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 4, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : March 2, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Jun Koyama
Application No. :10/441,376
Filed :May 20, 2003

The above-identified application has been assigned Patent No. 6,867,550 and an issue date of March 15, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 15, 2005:

"All reference to Patent No. 6,867,550 to Jun Koyama of Japan for LIGHT-EMITTING DEVICE, AND ELECTRIC DEVICE USING THE SAME appearing in the Official Gazette of March 15, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

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SHARP LABORATORIES OF AMERICA, INC
5750 NW PACIFIC RIM BLVD
CAMAS WA 98642

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OFFICE OF PETITIONS

In re Application of
Sheng Teng Hsu
Application No. 10/441,378
Filed: May 20, 2003
Attorney Docket No. SLA 0715

ON PETITION

This is a decision on the petition filed December 12, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned November 29, 2005 for failure to timely pay the issue fee on or before November 28, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, petition fee and publication fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6759489
Issue Date: July 6,2004
Application No. 10441379
Filed: May 20,2003
Attorney Docket No. 11153-004-999

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

This is a decision on the electronic petition, filed September 23,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

Approved for use through 04/30/2009. 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)
6759489	2004-07-06	10441379	2003-05-20	308532.000002.001000

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	/Lawrence M. Sung/	Date (YYYY-MM-DD)	2008-09-23
Name	Lawrence M. Sung	Registration Number	38330

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

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OFFICE OF PETITIONS

In re Application of	:	
Robby Darren Benedyk, et al.	:	
Application No. 10/441,395	:	DECISION GRANTING PETITION
Filed: May 20, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1322/102/2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 12, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3693 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

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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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 29, 2006

TO SPE OF : ART UNIT 3644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/441399 Patent No.: 7,025,306 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: NONE

TERI PHAM LUU
SUPERVISORY
PRIMARY EXAMINER

SPE

3644
Art Unit

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BUILDING 104
EAST HANOVER NJ 07936-1080

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OFFICE OF PETITIONS

In re	:
Hauer, et al.	: DECISION REGARDING
Application No. 10/441,406	: PATENT TERM ADJUSTMENT
Filed: May 20, 2003	: AND
Patent No. 6,844,459	: NOTICE OF INTENT TO ISSUE
Issued: January 18, 2005	: CERTIFICATE OF CORRECTION

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)", filed February 24, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **ninety-nine (99) days**.

On January 18, 2005, the above-identified application matured into U.S. Patent No. 6,844,459. The patent issued with a Patent Term Adjustment of two hundred nineteen (219) days.

However, as pointed out in the application for patent term adjustment, there was an error in the determination of the PTA.

A review of the file reveals that the Notice of Allowance was mailed on January 20, 2004. However, on January 21, 2004, applicants filed an Information Disclosure Statement (IDS). The Office did not mail a notice in response to the IDS until September 21, 2004. Accordingly, pursuant to 37 C.F.R. § 1.704(c)(10), applicant delay of one hundred twenty (120) days should have been assessed, not thirty (30) days as suggested by Patentees.

In view thereof, the correct determination of patent term adjustment is **ninety-nine (99) days** (219 days of PTO delay, reduced by 120 days of applicant delay).

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 C.F.R. §1.322 is appropriate.

Give the basis for granting this decision, no fee is required and none has been charged. The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. 254 and 37 C.F.R. §1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **ninety-nine (99) days,** subject to any disclaimers.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A. Fries
for

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

Enclosure: draft Certificate of Correction

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JAMES MICHAEL MORATTO
1515 W. ESTES
CHICAGO, IL 60626

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OFFICE OF PETITIONS

In re Application of

James Michael Moratto

Application No. 10/441,409

Filed: May 20, 2003

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

A final Office action was mailed in the above-cited application April 5, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on July 2, 2005. An Advisory Action mailed October 25, 2005, advised petitioner that the response of July 2, 2005, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on July 5, 2005. A Notice of Abandonment was mailed March 6, 2006.

The Request for Continued Examination, filed December 26, 2006, is noted and made of record.

The application is being forwarded to Technology Center 3600, GAU 3654 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FROST BROWN TODD LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202-4182

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OFFICE OF PETITIONS

In re Application of :
Frederick E. Shelton et al :
Application No. 10/441,424 :
Filed: May 20, 2003 :
Attorney Docket No. END887-0511034 :

ON PETITION

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3721 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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CINCINNATI OH 45202-4182

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Frederick E. Shelton et al	:
Application No. 10/441,424	:
Filed: May 20, 2003	:
Attorney Docket No. END887-0511034	:

This is a decision on the petition filed February 24, 2005, under 37 CFR 1.313(c)(2), requesting withdrawal of the above-identified application from issue.

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

A review of the file record discloses that a Notice of Allowance was mailed on February 18, 2005, with the issue fee being due on or before May 18, 2005. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of February 18, 2005, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. ***The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.***

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 3721.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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150 EAST 42ND STREET
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OFFICE OF PETITIONS

In re Application of	:	
Alexander James Bridges et al	:	
Application No. 10/441,450	:	ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. 5409-D2-01-RG	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed October 14, 2004, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 15, 2004.

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

This matter is being referred to Technology Center AU 1624 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
Bridges et al.	:	
Application No. 10/441450	:	DECISION ON APPLICATION
Filing or 371(c) Date: 05/20/2003	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
PC17061	:	

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed March 15, 2010. Applicants request recalculation of the patent term adjustment reducing Applicants' delay by 289 days pursuant to 37 CFR 1.704(c)(3) and (c)(4), and crediting Applicants with an adjustment of 571 days of Office delay. Applicant requests this recalculation (1) based upon an assertion that the Office failed to calculate Applicants' delay by 289 days pursuant to 37 CFR 1.704(c)(3) and (c)(4), and (2) on the basis that the Office miscalculated Office delay of 860 days pursuant to 37 CFR 1.702(a)(2). The result of the adjustment would be 571 days (860 days – 289 days). The Letter Regarding Patent Term Adjustment is properly treated under 37 C.F.R. § 1.705(b).

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), is **GRANTED TO THE EXTENT INDICATED HEREIN**.

BACKGROUND

The application was filed on May 20, 2003. On December 16, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is six hundred forty-eight (648) days.

On March 15, 2010, Applicants timely submitted the present request for reconsideration of patent term adjustment[1]. Applicants do not dispute the reductions to date of 92 days, 28 days and

[1] Office records show that the Issue Fee payment was received in the Office on March 15, 2010.

110 days pursuant to 37 CFR 1.704(b), or an adjustment of 18 days pursuant to 37 CFR 1,702(a)(1). Applicants, however, provide that the Office failed to calculate reductions of 23 days and 289 days pursuant to 37 CFR 1.704(c)(3) and (c)(4), in connection with the abandonment and revival of the present application.

Applicants also provide that the Office miscalculated an adjustment of 860 of Office delay pursuant to 37 CFR 1.702(a)(2) in connection with the Office action mailed after granting a petition to revive the application.

Regarding the reduction of 289 days, Applicants provide that the Office mailed an Ex parte Quayle Action on October 14, 2004, setting a two (2) month period for reply. No reply having been received, the application became abandoned on December 15, 2004. Applicants filed a petition to revive and a reply on August 29, 2005, which was granted in a decision mailed September 28, 2005. The period of reduction pursuant to 37 CFR 1.704(c)(3), is calculated beginning on the date of abandonment, December 15, 2004, and ending on the date of mailing of the decision reviving the application, September 28, 2005.

Regarding the reduction of 23 days, Applicants provide that the Office mailed a Notice of Abandonment on June 6, 2005, and Applicants filed a petition to revive the application on August 6, 2005. The period of reduction of 23 days pursuant to 37 CFR 1.704(c)(4), is calculated beginning on the day after the date two months from the mailing date of a notice of abandonment, August 7, 2005, and ending on the date a petition to revive the application was filed, August 29, 2005.

Regarding the adjustment of 571 days, Applicants assert that the period of adjustment pursuant to 37 CFR 1.702(a)(2) is in connection with the Office's failure to respond to the reply to the Ex Parte Quayle action that was filed with the petition to revive, which is calculated from four months after the mailing date of the decision reviving the application on September 28, 2005.

OPINION

Applicants' arguments have been carefully considered. A review of Office records confirms that the Office mailed an Ex parte Quayle Action on October 14, 2004, setting a two (2) month period for reply. No reply having been received, the application became abandoned on December 15, 2004. Applicants filed a petition to revive and a reply on August 29, 2005, which was granted in a decision mailed September 28, 2005. The period of reduction of 288 days pursuant to 37 CFR 1.704(c)(3), is calculated beginning on the date of abandonment, December 15, 2004, and ending on the date of mailing of the decision reviving the application, September 28, 2005.

With regard to Applicant delay of 23 days, Office records confirm that the Office mailed a Notice of Abandonment on June 6, 2005, and Applicants filed a petition to revive the application on August 6, 2005. The period of reduction of 23 days[2] pursuant to 37 CFR 1.704(c)(4), is calculated beginning on the day after the date two months from the mailing date of a notice of

[2] As Applicants correctly note, the period of reduction of 23 days overlaps with the period of reduction of 288 days. See, 37 CFR 1.704(c).

abandonment, August 7, 2005, and ending on the date a petition to revive the application was filed, August 29, 2005.

Regarding the adjustment in connection with the failure of the Office to respond to the reply to the Ex parte Quayle Action, 37 CFR 1.702(a)(2) provide for an adjustment of the patent term where the Office fails to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed. Here, the reply to the Ex parte Quayle Action was filed August 29, 2009. The adjustment commenced beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, December 30, 2005, and ended on the date of mailing of the non-final office action on August 22, 2007, or 601 days.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is one hundred one (101) days (adjustments totaling 619 days (601 days + 18 days) less reductions totaling 518 days (92 days + 288 days + 28 days + 110 days), subject to any terminal disclaimer.

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

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

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

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Day : Sunday
Date: 7/25/2010

PALM INTRANET

Time: 14:06:34

PTA Calculations for Application: 10/441450			
Application Filing Date:	05/20/2003	PTO Delay (PTO):	878
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	230
Post-Issue Petitions:	0	Total PTA (days):	101
PTO Delay Adjustment:	-547		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
98	07/25/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		547	
78	12/16/2009	MAIL NOTICE OF ALLOWANCE	18		68
77	12/09/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
76	12/09/2009	CASE DOCKETED TO EXAMINER IN GAU			
75	12/07/2009	ISSUE REVISION COMPLETED			
74	12/07/2009	DOCUMENT VERIFICATION			
73	12/07/2009	EXAMINER'S AMENDMENT COMMUNICATION			
72	12/07/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
71	12/07/2009	NOTICE OF ALLOWABILITY			
69	09/08/2009	DATE FORWARDED TO EXAMINER			
68	07/28/2009	RESPONSE AFTER NON-FINAL ACTION			
67	04/28/2009	MAIL NON-FINAL REJECTION			
66	04/27/2009	NON-FINAL REJECTION			
65	03/21/2009	DATE FORWARDED TO EXAMINER			
64	02/23/2009	RESPONSE AFTER NON-FINAL ACTION		110	61
63	01/22/2009	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
62	11/07/2008	DATE FORWARDED TO EXAMINER			
61.1	11/05/2008	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
61	11/05/2008	RESPONSE AFTER NON-FINAL ACTION			
60	08/05/2008	MAIL NON-FINAL REJECTION			
59	08/04/2008	NON-FINAL REJECTION			
58	07/15/2008	DATE FORWARDED TO EXAMINER			
57	06/26/2008	AMENDMENT AFTER FINAL REJECTION			

56	05/12/2008	MAIL FINAL REJECTION (PTOL - 326)			
55	05/09/2008	FINAL REJECTION			
54	04/16/2008	DATE FORWARDED TO EXAMINER			
53	04/08/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
52	04/16/2008	DATE FORWARDED TO EXAMINER			
51	04/08/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		28	47
50	04/16/2008	DISPOSAL FOR A RCE / CPA / R129			
49	04/08/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
48	04/08/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
47	12/11/2007	MAIL FINAL REJECTION (PTOL - 326)			
46	12/10/2007	FINAL REJECTION			
45	11/29/2007	DATE FORWARDED TO EXAMINER			
44	11/21/2007	RESPONSE AFTER NON-FINAL ACTION			
43	08/22/2007	MAIL NON-FINAL REJECTION	860		39
42	08/20/2007	NON-FINAL REJECTION			
41	07/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
40	07/11/2007	DATE FORWARDED TO EXAMINER			
39	12/14/2004	RESPONSE AFTER EX PARTE QUAYLE ACTION			
38	07/11/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
37	07/11/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
36	07/11/2007	CASE DOCKETED TO EXAMINER IN GAU			
35	06/12/2007	CORRESPONDENCE ADDRESS CHANGE			
34	09/28/2005	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
33	09/28/2005	CORRESPONDENCE ADDRESS CHANGE			
32	09/28/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
31	08/29/2005	PETITION ENTERED			
30	06/06/2005	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
29	05/31/2005	ABAND. FOR FAILURE TO RESPOND TO O. A.			
28	05/31/2005	CASE DOCKETED TO EXAMINER IN GAU			
27	10/14/2004	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
26	10/12/2004	EX PARTE QUAYLE ACTION			
25	08/31/2004	DATE FORWARDED TO EXAMINER			

24	08/17/2004	RESPONSE AFTER NON-FINAL ACTION		92	21
23	08/17/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	08/17/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	02/17/2004	MAIL NON-FINAL REJECTION			
20	02/02/2004	NON-FINAL REJECTION			
19	01/30/2004	IFW AMENDED CASE PROCESSING COMPLETE			
18	12/11/2003	DATE FORWARDED TO EXAMINER			
17	12/04/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
16	12/04/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
15	09/04/2003	MAIL RESTRICTION REQUIREMENT			
14	09/04/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
13.7	05/20/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	05/20/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	05/20/2003	PRELIMINARY AMENDMENT			
11	08/15/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	07/28/2003	APPLICATION RETURN FROM OIPE			
9	07/28/2003	APPLICATION IS NOW COMPLETE			
8	07/25/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
7	07/25/2003	APPLICATION RETURN TO OIPE			
6	07/24/2003	APPLICATION DISPATCHED FROM OIPE			
5	07/25/2003	APPLICATION IS NOW COMPLETE			
4	06/06/2003	CLEARED BY L&R (LARS)			
3	06/05/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	06/04/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/20/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of Morgenstern Application No. 10/441,454 Filed: May 20, 2003 Atty. Dkt. No.: MTC 6770.1; 39-21(3696)C	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705," filed March 7, 2006. This matter is being properly treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment.

The application for patent term adjustment under 37 CFR 1.705(b) is hereby **GRANTED**.

The correct patent term adjustment ("PTA") at the time of allowance is 350 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of allowance reflects an adjustment of 350 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed December 14, 2005, indicated that the PTA to date is 142 days. The instant application for patent term adjustment along with issue fee payment were timely filed March 7, 2006.

An adjustment of 350 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed.

The adjustment of 350 days was errantly reduced 208 days in connection with applicant's reply to the Notice of Omitted Items in a Nonprovisional Application (Notice) mailed June 11, 2003. A review of the application history reveals that a proper reply to the Notice was timely submitted July 2, 2003 and not April 6, 2004. Thus, at the time of allowance, applicant did not fail to

engage in reasonable efforts to conclude prosecution (or processing).

In view thereof, at the time of allowance, the application is entitled to an adjustment of 350 days, as argued by applicant.

Applicant is further advised that should a patent issue, the patent term adjustment indicated therein will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

Receipt is hereby acknowledged of the required Patent Term Adjustment application fee of $200.00.

This application is being forwarded to the Office of Patent Publication for further processing.

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

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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Monday
Date: 5/22/2006

PALM INTRANET

Time: 11:46:37

PTA Calculations for Application: 10/441454

Application Filing Date:	05/20/2003	PTO Delay (PTO):	350
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	208
Post-Issue Petitions:	0	Total PTA (days):	350
PTO Delay Adjustment:	208		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
38	05/22/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	416		
37	05/22/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		208	
30	12/14/2005	MAIL NOTICE OF ALLOWANCE			
29	12/12/2005	ISSUE REVISION COMPLETED			
28	12/12/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
27	12/12/2005	CASE DOCKETED TO EXAMINER IN GAU			
26	12/12/2005	NOTICE OF ALLOWABILITY			
25	10/26/2005	DATE FORWARDED TO EXAMINER			
24	10/05/2005	RESPONSE AFTER NON-FINAL ACTION			
23	07/05/2005	MAIL NON-FINAL REJECTION	350		-1
22	06/27/2005	NON-FINAL REJECTION			
21	05/23/2005	MISCELLANEOUS INCOMING LETTER			
20	11/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
19	05/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	08/20/2003	REFERENCE CAPTURE ON IDS			
17	08/20/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	07/02/2003	PRELIMINARY AMENDMENT			
15	05/20/2003	PRELIMINARY AMENDMENT			
14	05/07/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	04/06/2004	APPLICATION RETURN FROM OIPE			
12	04/06/2004	APPLICATION IS NOW COMPLETE			
11	04/06/2004	APPLICATION RETURN TO OIPE			
10	04/06/2004	APPLICATION RETURN FROM OIPE			
9	04/06/2004	APPLICATION RETURN TO OIPE			

8	04/06/2004	APPLICATION DISPATCHED FROM OIPE			
7	04/06/2004	APPLICATION IS NOW COMPLETE			
6	04/06/2004	ADDITIONAL APPLICATION FILING FEES		208	5
5	06/11/2003	NOTICE OF OMITTED ITEMS			
3	06/03/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	05/29/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/20/2003	INITIAL EXAM TEAM NN			

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In re Application of	:	
David A. Morgenstern	:	
Application No. 10/441,454	:	ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. MTC 6770.1; 39-21(3696)C	:	

This is a decision on the petition, filed October 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 March 7, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1626 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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ON PETITION

In re Application of	:
Kayser et al.	:
Application No. 10/441,459	:
Filed: May 19, 2003	:
Attorney Dkt. No. 024.0010	:

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

This above-identified application became abandoned for failure to timely file a proper response to a non-final Office Action which was mailed on October 27, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 28, 2007. A Notice of Abandonment was mailed on May 16, 2007.

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

As to item (1), an improper Request for Continued Examination (RCE) has been submitted with the petition to revive. It is noted an RCE is not a proper reply to a non-final Office Action because prosecution in the application was not closed. Further review confirms that an amendment was not included with the RCE. On renewed petition a reply to the October 27, 2006 non-final Office action should be submitted.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

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

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

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this 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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SUITE 350
BIRMINGHAM MI 48009

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In re Application of Kayser et al. Application No. 10/441,459 Filed: May 19, 2003 Attorney Dkt. No. U07886US;67397-086PUS1	: : : : :	ON PETITION

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

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a proper response to a non-final Office Action which was mailed on October 27, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 28, 2007. A Notice of Abandonment was mailed on May 16, 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 n amendment, (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103

(October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition indicates that a terminal disclaimer has been submitted. However a review of the record does not show that a terminal disclaimer was submitted. Nonetheless, a terminal disclaimer is not required as this application was filed after June 8, 1995 and is not a design application.

This application is being referred to Technology Center AU 3726 for appropriate action by the Examiner in the normal course of business on the reply received

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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In re Application of
Allan H. Hansen
Application No. 10/441,483
Filed: May 20, 2003
Title of Invention: 127/10

ON PETITION

This is a decision on the petition filed January 3, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned July 14, 2005 for failure to timely pay the issue fee on or before July 13, 2005. Accordingly, a Notice of Abandonment was mailed October 25, 2005.

The issue fee, petition fee and publication fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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In re Application of :
Alexander Macinnis, et al. :
Application No. 10/441,491 : DECISION ON PETITION
Filed: May 20, 2003 :
Attorney Docket No. 13733US02 :

This is a decision on the petition, filed May 14 2007, requesting withdrawal of the holding of abandonment in the above-identified application under 37 CFR 1.181.

A review of the record discloses that the application was held abandoned for failure to reply to the non-final Office action mailed July 7, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on March 30, 2007.

On May 14, 2007, the present petition was filed wherein petitioner states that the Office action dated July 7, 2006 was not received, even though steps were repeatedly taken to ensure that the correct correspondence address was provided to the Office.

For the reasons detailed in the petition, the Office concedes that there was an irregularity in the mailing of the Office action. Accordingly, the petition is **GRANTED**.

The correspondence address has been changed to the address noted in the petition.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

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

This application is being referred to the Technology Center technical support staff of Art Unit 2621 for (1) withdrawing the holding of abandonment, (2) re-mailing the Office action of July 7, 2006 and (3) restarting the period for reply.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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In re Application of :
Alexander K. Khairkhahan, et al. :
Application No. 10/441,492 :
Filed: May 19, 2003 :
Attorney Docket No. MVMDINC.1CP2D1 :

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(d) filed September 22, 2003, requesting that the above-identified application be accorded a filing date of May 19, 2003, instead of the presently accorded date of May 16, 2003.

Petitioners request the later filing date on the basis that the application was purportedly deposited in Express Mail service with the U. S. Postal Service (USPS) on May 19, 2003. In support, petitioners provided, inter alia, a copy of the Express Mail label, receipt No. EV323732884US, as well as a copy of the USPS Track & Confirm record showing acceptance of the package in question on May 19, 2003. The same Express Mail receipt number is on the original transmittal letter found in the file. Further, it is noted that while hand written "date-in" on the Express Mail mailing label is "5-16-03", the label includes a USPS receipt stamp date of May 19, 2003.

Paragraph (d) of 37 CFR 1.10 states that:

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

> service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in ' 10.1(r) of this chapter.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS."

Petitioners' evidence shows that the package in question was accepted on May 19, 2003, not May 16, 2003. Since the evidence from the USPS, namely the USPS Track & Confirm record, corroborates a "date in" of May 19, 2003, the petition is GRANTED.

The application is being referred to Initial Patent Examination Division (OIPE) to correct the filing date to **May 19, 2003** and to issue a corrected filing receipt.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LLP/EVALVE INC. (020489)
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111

Mail Date: 04/28/2010

Applicant	: Troy L. Thornton	: DECISION ON REQUEST FOR
Patent Number	: 7666204	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/441,508	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1939** 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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SAN FRANCISCO, CA 94111-3834

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Richard J. Gregory, et al. :
Application No. 10/441,510 : ON PETITION
Filed: May 19, 2003 :
Attorney Docket No. 016930-000925US :

This is a decision on the petition, filed May 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(3), filed May 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment and Application Data Sheet (ADS).

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.313(c)(2):

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

Petitioner is advised that the issue fee paid on December 20, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

As to the petition under 37 CFR 1.78(a)(3):

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

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

[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).

(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition satisfies all of the above requirements.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application 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.

This application is being forwarded to Technology Center Art Unit 1636 for consideration by the Examiner of the amendment filed May 12, 2005, including applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional application.

Telephone inquiries related to either decision should be directed to Sherry D. Brinkley at (571) 272-3204.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

SPE T. Thomas

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/441,511

Paper No.: _____

DATE : 6/27/05

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction on Patent No.: 6753607

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

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

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

Claim 5 has been deleted, and claims 6-8 have been changed to claims 5-7.

Tom Thomas — **SPE**

2815 — **Art Unit**

US006753607B1

(12) **United States Patent**
Wu et al.

(10) **Patent No.: US 6,753,607 B1**
(45) **Date of Patent: Jun. 22, 2004**

(54) **STRUCTURE FOR IMPROVING INTERLEVEL CONDUCTOR CONNECTIONS**

(75) Inventors: **Zhen-Cheng Wu**, Hsinchu (TW); **Yung-Cheng Lu**, Taipei (TW); **Syun-Ming Jang**, Hsin-Chu (TW)

(73) Assignee: **Taiwan Semiconductor Manufacturing Co., Ltd.**, Hsin-Chu (TW)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **10/441,511**

(22) Filed: **May 19, 2003**

(51) **Int. Cl.**[7] **H01L 23/48**
(52) **U.S. Cl.** **257/750**; 257/758; 257/774
(58) **Field of Search** 257/750, 758, 257/774

(56) **References Cited**

U.S. PATENT DOCUMENTS

6,287,990 B1 * 9/2001 Cheung et al. 438/780
6,316,351 B1 * 11/2001 Chen et al. 438/638
6,465,341 B1 * 10/2002 Pramanick 438/622
6,465,345 B1 * 10/2002 Nogami et al. 438/631
6,498,112 B1 * 12/2002 Martin et al. 438/763

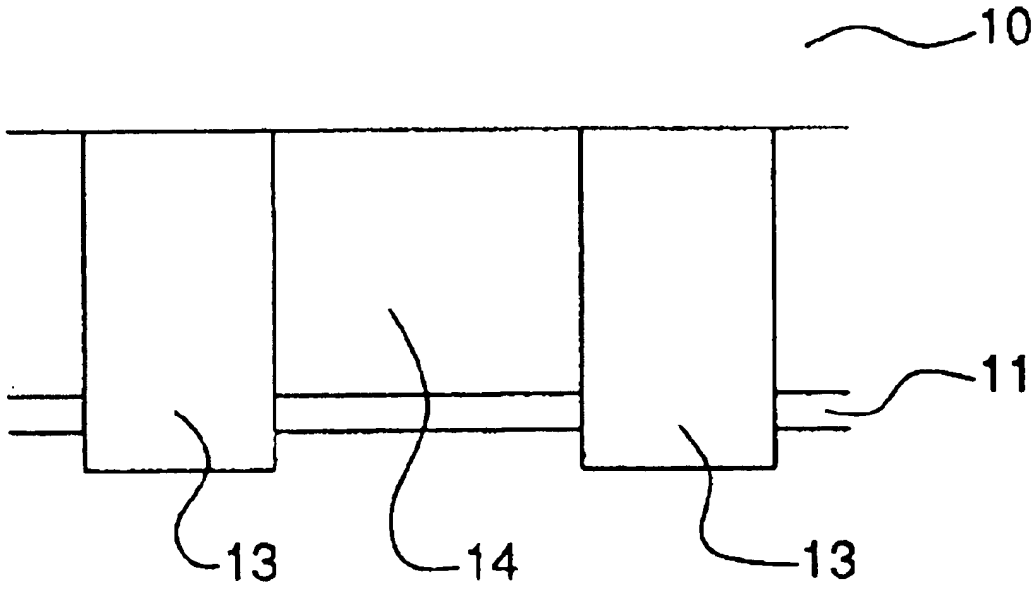
* cited by examiner

Primary Examiner—Jasmine Clark
(74) *Attorney, Agent, or Firm*—Duane Morris LLP

(57) **ABSTRACT**

The present invention relates to an improved integrated circuit structure including adjacent conductive and dielectric layers having a continuous, planar top surface, produced by a process which includes treating the surface with a silane compound, followed by depositing an etch stop layer over the surface, wherein a glue layer is not applied to the surface.

8 Claims, 1 Drawing Sheet



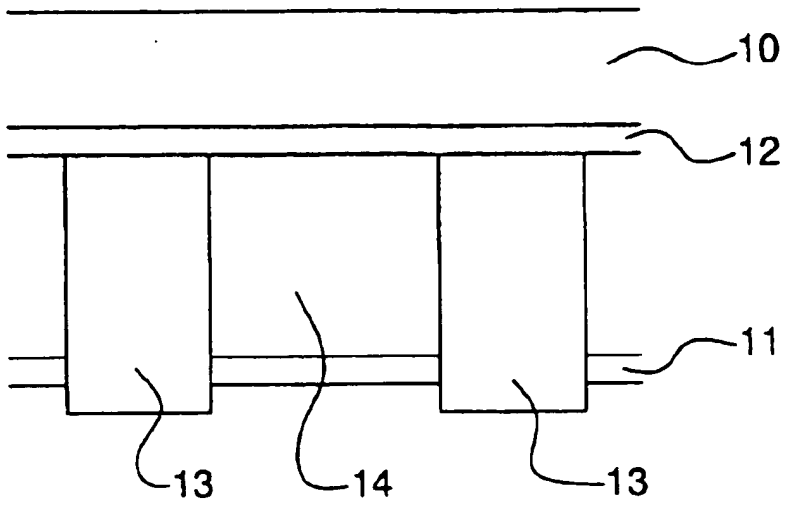


FIG. 1

PRIOR ART

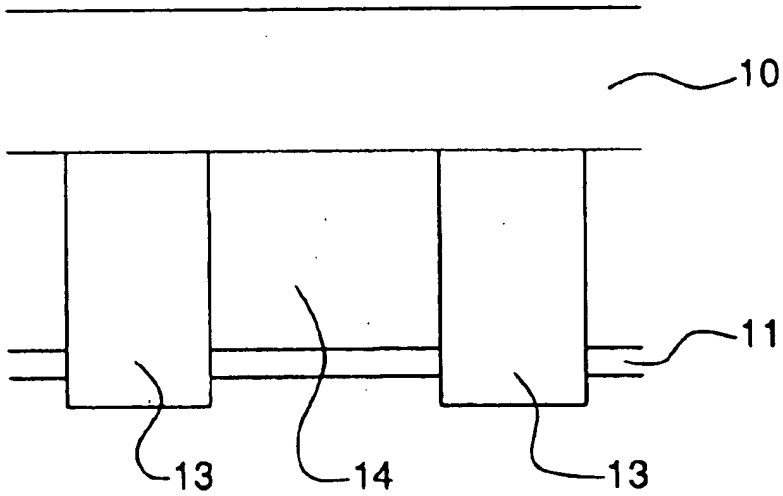


FIG. 2

STRUCTURE FOR IMPROVING INTERLEVEL CONDUCTOR CONNECTIONS

BACKGROUND OF THE INVENTION

1. Field of the Invention

The present invention relates to an interconnection structure and process used in semiconductor manufacturing and, more particularly, to a structure and method for improving the reliability of connections between different layers of metal or conducting material in the fabrication of integrated circuits.

2. Description of Prior Art

In order to improve the device speed of logic on sub-quarter micron semiconductor circuits, copper has gained popularity as an interconnect material. This takes advantage of copper's low electrical resistivity and superior resistance to electromigration. As the device dimensions shrink, the resistance-capacitance (RC) time delay of the interconnect system becomes one of the most important limitation factors to the performance of the integrated circuit. In order to minimize the signal propagation delay, it is inevitable to use low dielectric constant materials, such as inter-layer and intra-layer dielectrics (ILDs). While many low-k materials have been used as ILDs, silicon nitride with a high dielectric constant is a likely candidate for the etch-stop layer required in copper damascene structures. Therefore, it would be desirable to replace silicon nitride by new materials with lower dielectric constants, in order to further reduce the effective dielectric constants to further reduce the effective dielectric constant of the Cu interconnect system. A continuing interest relates to low stress and thermally stable low-k amorphous silicon carbide-based films deposited by plasma-enhanced chemical vapor deposition using organo-silicon gases.

At present, a glue layer is used to prevent Cu from oxidation during deposition of the etch stop layer. A prototypical structure, in ascending order, includes: Cu/glue layer/etch stop layer. In certain instances, the glue layer may hinder throughput, as well as result in process instability due to thickness variations. In accordance with the present invention, a structure and method for improving the reliability of connections between different layers of metal or conducting material in the fabrication of integrated circuits is disclosed.

SUMMARY OF THE INVENTION

The present invention relates to an improved integrated circuit structure including adjacent conductive and dielectric layers having a continuous, planar top surface, produced by a process which comprises treating the surface with a silane compound, followed by depositing an etch stop layer over the surface, wherein a glue layer is not applied to the surface.

BRIEF DESCRIPTION OF THE DRAWINGS

In the accompanying drawings forming a material part of this description, there is shown:

FIG. 1 schematically illustrating in cross-sectional representation the prior art and

FIG. 2 an embodiment of the present invention.

DESCRIPTION OF THE PREFERRED EMBODIMENTS

In accordance with the present invention, SiC is not used as a glue layer. Instead, before the deposition (main deposition process) of SiOC, the Cu and low-k surface is subjected to a particular treatment, e.g., 4MS(tetramethylsilane) at a temperature of e.g., 400° C. Then, a SiOC layer is deposited thereon. The 4MS used in the treatment of the present invention can be replaced by e.g., trimethylsilane, dimethylsilane or methylsilane. The temperature of treatment may be in the range of from about 350–450° C., while the duration of treatment may be from about 5–30 seconds.

Referring now to FIG. 1, present in the prior art are SiOC etch stop layers **10** and **11**, SiC glue layer **12**, Cu or e.g., Al metal electrodes **13** and intermetal dielectric layer **14**. Thicknesses of layers may be about 550 Angstroms for etch stop layer **10** and 20–50 Angstroms for glue layer **12**. Further details relative to the state of the art maybe found in U.S. Pat. No. 6,383,947, herein incorporated by reference.

Referring now to FIG. 2, note the absence of glue layer **12** in the present invention. The following criteria are present for implementation: Prior to etch stop deposition, tetramethylsilane or other suitable material is applied by e.g., in-situ annealing, to form an etch stop without a glue layer. The following deposition conditions are present: A flow rate of 1000–1500 sccm, a pressure of 1.7 mTorr, elapsed time of 5–100 sec., and a temperature of 350–450° C.

The present invention provides a structure and process that results in enhanced throughput and reliability performance as compared to prior structures. In the testing of representative structures, as depicted in FIGS. 1 and 2 and described above, by removing the glue layer in accordance with the present invention, enhanced throughput was achieved, e.g., from 22–23 to 25–26 wafers per hour in 8 inch diameter, and Jmax (A/cm^2) values related to electromigration performance were improved from 4.74E+05 (with glue layer) to 1.30E+06 (without glue layer) and from 1.05E+05 (with glue layer) to 1.21E+06 (without glue layer) in standard, comparison electromigration runs.

While the invention has been particularly shown and described with reference to the preferred embodiments thereof, it will be understood by those skilled in the art that various changes in form and details may be made without departing from the spirit and scope of the invention.

What is claimed is:

1. An improved integrated circuit structure including adjacent conductive and dielectric layers having a continuous, planar top surface, produced by a process which comprises:

treating the surface with a silane compound, followed by;

depositing an etch stop layer over the surface;

wherein a glue layer is not applied to the surface, wherein the silane compound is selected from the group consisting of tetramethylsilane, trimethylsilane, dimethylsilane and methylsilane.

2. The structure as recited in claim 1, wherein the temperature of treatment is from about 350–450° C.

3. The structure as recited in claim 2, wherein the temperature of treatment is about 400° C.

4. The structure as recited in claim 1, wherein the duration of treatment is from about 5–100 seconds.

5. The structure as recited in claim 1 wherein the duration of treatment is from about 5–100 seconds.

5 6. A method of fabricating an integrated circuit including adjacent conductive and dielectric layers having a continuous, planar top surface, produced by a process which comprises:

treating the surface with a silane compound, followed by;

depositing an etch stop layer over the surface;

wherein a glue layer is not applied to the surface, wherein the silane compound is selected from the group con-

sisting of tetramethylsilane, trimethylsilane, dimethylsilane and methylsilane.

6 ~~7~~. The structure as recited in claim 6, wherein the temperature of treatment is from about 350–450° C.

7 ~~8~~. The structure as recited in claim 7, wherein the temperature of treatment is about 400° C.

* * * * *

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : **6,753,607**

DATED : **June 22, 2004**

INVENTOR(S) : **Wu et al.**

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

Column 2, line 14, delete Pat. No.:6,383,947 and insert Pat. No. 6,383,943;

Column 2, lines 58-59, delete claim No. 5.

MAILING ADDRESS OF SENDER:

Richard A. Paikoff, Reg. No.: 34,892
Duane Morris LLP
One Liberty Place, Philadelphia, PA 19103

PATENT NO. 6,753,607

No. of additional copies

1

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

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

JUN 13 2005

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JUN 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Goldfarb et al.	:	
Application No. 10/441,531	:	ON APPLICATION FOR
Filed: May 19, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 020489-001400US	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION filed March 3, 2009. Applicants submit that the correct patent term adjustment is one thousand seven hundred forty-eight (1748) days not one thousand seventy-nine (1079) days as stated on the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) mailed on February 9, 2009. Referring to Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction on the basis that the Office will take in excess of three years to issue this patent[1]. Applicants argue that pursuant to the interpretation in 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 calendar day or 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

[1] Applicants assert this calculation using a projected patent grant date of July 3, 2009. Applicants also request an additional period of adjustment, pursuant to 37 CFR 1.703(a)(6), equal to the number of days, if any, in the period beginning on the day after the date that is four months after the issue fee was paid and all outstanding requirements were satisfied and ending on the date the patent was issued.

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.

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 revised 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 the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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MAY 19 2010

OFFICE OF PETITIONS

In re Patent No. 7,563,267	:	DECISION ON REQUEST
Goldfarb et al.	:	FOR
Issue Date: July 21, 2009	:	RECONSIDERATION OF
Application No. 10/441,531	:	PATENT TERM ADJUSTMENT
Filed: May 19, 2003	:	and
Atty Docket No.020489-001400US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 8, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand seven hundred sixty-one (1761) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand seven hundred forty-three (1743) days.

Patentee fails to take into account a period of overlap of 18 days for Office delay in issuing the patent after payment of the issue fee and satisfaction of all outstanding requirements. Considering this period, the patent term adjustment is increased by 669 days to 1743 (not 1761) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand seven hundred forty-three (1743) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,563,267 B2

DATED : **July 21, 2009** **DRAFT**

INVENTOR(S) : Goldfarb 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 1074 days

Delete the phrase "by 1074 days" and insert – by 1743 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT LAW GROUP
5 GIRALDA FARMS
MADISON, NJ 07940

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OFFICE OF PETITIONS

In re Application of	:	
Childers et al.	:	
Application No. 10/441,536	:	ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. AM100477 C2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 29, 2004, 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 May 11, 2004. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on November 12, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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THOMAS H. CLOSE
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

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JAN 28 2010

OFFICE OF PETITIONS

In re Application of Parulski et al. Application No. 10/441,548 Filed: May 20, 2003 Attorney Docket No. 69449FPRC	DECISION GRANTING PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 25, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has

been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Further, petitioner's deposit account has been charged the required petition fee of $1,410.00 as authorized on November 25, 2009.

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

This matter is being referred to Technology Center Art Unit 2622 for appropriate action on the amendment filed November 25, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/441,548	05/20/2003	2622	750	69449FPRC	8	1

CONFIRMATION NO. 2906

CORRECTED FILING RECEIPT

OC000000039891067

Thomas H. Close
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

Date Mailed: 01/27/2010

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

Applicant(s)

Kenneth A. Parulski, Rochester, NY;
James R. Schueckler, Leroy, NY;

Power of Attorney:
David Woods--27171
Thomas Close--27428

Domestic Priority data as claimed by applicant

This application is a CON of 09/626,881 07/27/2000 PAT 6,600,510
which is a DIV of 09/232,594 01/19/1999 PAT 6,122,526
which is a CON of 08/842,458 04/24/1997 PAT 5,943,603
which is a DIV of 08/426,993 04/24/1995 PAT 5,666,159

Foreign Applications

If Required, Foreign Filing License Granted: 07/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/441,548**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Transmitting digital images to a plurality of selected receivers over a radio frequency link

Preliminary Class

348

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

ORUM & ROTH
53 WEST JACKSON BOULEVARD
CHICAGO, IL 60604

In re Application of :
Kevin Conwell :
Application No. 10/441,554 :
Filed: May 20, 2003 :
Attorney Docket No. 13492 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 23, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 24, 2005.

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

This matter is being referred to Technology Center AU 2861 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Kevin Conwell	:	
Application No. 10/441,554	:	ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. 13492	:	

This is a decision on the petition filed March 8, 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 October 27, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 28, 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
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
10/441,554	05/20/2003	Kevin Conwell	13492

CONFIRMATION NO. 2914

OC000000025164022

35243
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

Date Mailed: 08/02/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/08/2007.

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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Frost Brown Todd LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, OH 45202

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NOV 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Frederick E. Shelton, et al.	:	
Application No. 10/441,580	:	ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. END906-0511042	:	

This is a decision on the petition under 37 CFR 1.181, filed June 15, 2005, to withdraw the holding of abandonment.

The petition is **GRANTED**.

A Notice of Allowance and Issue Fee Due was mailed to applicant on December 28, 2004, which set a three-month statutory period for submitting the issue fee. As no reply was allegedly received, the application became abandoned on March 29, 2005.

Petitioner avers that a petition to withdraw from issue, along with a Request for Continued Examination (RCE), and Information Disclosure Statement (IDS) were faxed to the Office on February 24, 2005, prior to the due date for the issue fee. In support, petitioner has provided a copy of the aforementioned documents along with a copy of a fax confirmation, which shows that the petition was received in the Office prior to the due date for the issue fee.

In view of the above, the abandonment of the application was improper and it is hereby withdrawn.

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

The application file is being referred to Technology Center 3700 for processing of the RCE.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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JJGJr: 11-03

Paper No: 4

MYERS BIGEL
SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of	:	
Sammarco	:	
Application No. 10/441,582	:	DECISION ON PETITION
Filed: 20 May, 2003	:	
Attorney Docket No.: 9314-29	:	

This is a decision on the petition filed on 6 Ocotber, supplemented on 19 and 20 November, 2003, to correct the Express Mail filing date under 37 C.F.R. §1.10, and seeking for the above-identified application a filing date of 20 May, 2003, instead of the presently accorded filing date of 21 May, 2003.

The petition is **GRANTED**, and the petition fee is waived.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received on 12 May, 2003, and given a filing date of 21 May, 2003; and
- Petitioner David K. Purks (reg. No. 40,133) submits his petition and statement, and supplements his pleadings with a copy of the US Postal Service (USPS) Express Mail Label No. EV353595772US (which number also appears on the second page of the application transmittal);
- while that USPS Express Mail label contains no hand-written "date in," it does carry a USPS date stamp of "May 20 2003."

CONCLUSION

Therefore, as to the instant nonprovisional application, Application No. 10/441,582, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 20 May, 2003; and
- issue a filing receipt specifying the filing date as that of 20 May, 2003.

The instant application is being forwarded to OIPE to be handled as set forth above before being forwarded for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MYERS BIGEL SIBLEY & SAJOVEC, P.A
PO BOX 37428
RALEIGH NC 27627

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OCT 1 4 2008

OFFICE OF PETITIONS

In re Application of:	:	
SAMMARCO, Anthony J.	:	
Application No.: 10/441,582	:	DECISION APPROVING
Filed: May 20, 2003	:	WITHDRAWAL OF ATTORNEY
Attorney Docket No.: 9314-29	:	

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

UNITED STATES PATENT AND TRADEMARK OFFICE

3 0 SEP 2008

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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Patent No. 6,939,024	:DECISION ON PETITION
Issue Date: September 6, 2005	:UNDER 37 CFR 1.78(a)(3)
Application No. 10/441,589	:
Filed: May 19, 2003	:
Attorney Docket No. 2000P16157WOUS	:

This is a decision on the "PETITION FOR UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 37 CFR §1.78(a)(3)," filed 29 May 2007, which is being treated as a petition under 37 CFR 1.78(a)(3) seeking to add a claim for priority on the front page of the Letters Patent by way of a Certificate of Correction to prior-filed international application PCT/EP01/13245, filed November 15, 2001.

The petition is **DISMISSED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed international application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed May 19, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.03.

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);

(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 Supplemental Application Data Sheet (ADS) submitted with the instant petition is not acceptable because it is not signed pursuant to 37 CFR 1.33.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, petitioner must comply with the above-noted requirement. Any request for reconsideration of this decision must be included in a Renewed Petition under 37 CFR 1.78(a)(3).

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

By mail: Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (571) 273-8300
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to the undersigned at (571) 272-3301.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Date Mailed : 10/15/08

Patent No. : 6939024 B2
Patent Issued : 09/06/05
Docket No. : **2000P16157WOUS**

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.

Respecting the alleged errors in the documents filed on 05/29/07; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

LMN

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30 SEP 2008

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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Patent No. 6,939,024	:DECISION ON PETITION
Issue Date: September 6, 2005	:UNDER 37 CFR 1.78(a)(3)
Application No. 10/441,589	:
Filed: May 19, 2003	:
Attorney Docket No. 2000P16157WOUS	:

This is a decision on the "PETITION FOR UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 37 CFR §1.78(a)(3)," filed 29 May 2007, which is being treated as a petition under 37 CFR 1.78(a)(3) seeking to add a claim for priority on the front page of the Letters Patent by way of a Certificate of Correction to prior-filed international application PCT/EP01/13245, filed November 15, 2001.

The petition is **DISMISSED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed international application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed May 19, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.03.

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);
(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 Supplemental Application Data Sheet (ADS) submitted with the instant petition is not acceptable because it is not signed pursuant to 37 CFR 1.33.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, petitioner must comply with the above-noted requirement. Any request for reconsideration of this decision must be included in a Renewed Petition under 37 CFR 1.78(a)(3).

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

By mail: Mail Stop PCT
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Office of PCT Legal Administration
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (571) 273-8300
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to the undersigned at (571) 272-3301.

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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JUL 05 2006

OFFICE OF PETITIONS

PHILLIP L. KENNER
RENNER, KENNER, GREIVE,
BOBAK, TAYLOR & WEBER
FIRST NATIONAL TOWER, FOURTH FLOOR
AKRON, OH 44308-1456

In re Application of
Roger W. Adams
Application No. 10/441,631
Filed: May 20, 2003
Attorney Docket No. ADV.P.0001

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before January 17, 2006. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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NATHANIEL DURRANCE
8937 HERALDRY STREET
SAN DEIGO, CA 92123

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Joseph Barone	:	
Application No. 10/441,634	:	DECISION ON PETITION
Filed: May 19, 2003	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 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 Nathaniel Durrance, the sole attorney of record. Applicant is reminded that there is no attorney of record at this time.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Joseph Barone
555 Cox Rd.
San Marcos, CA 92069

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NATHANIEL DURRANCE
8937 HERALDRY STREET
SAN DIEGO, CA 92123

In re Application of	:	
JOSEPH BARONE	:	OCT 17 2008
Application No.: 10/441,634	:	DECISION ON
Filed: May 19, 2003	:	PETITION
Attorney Docket No.		

This is a decision on the Petition to Withdraw Holding of Abandonment, received in the United States Patent and Trademark Office (USPTO) August 11, 2008.

The petition is **GRANTED**

The application was held abandoned for failure to timely pay the issue fee as required by the Notice of Allowance and Fee (s) Due, mailed March 18, 2005 which set forth a three (3) month statutory period for reply. According, the Notice of Abandonment was mailed on April 24, 2006.

A review of Office records indicates that the issue fee and publication fee were timely received on January 17, 2006. The Notice of Abandonment was mailed in error.

The Office acknowledges receipt of the Credit Card Payment in the amount of $1,000 (700.00 Issue Fee $300.00)for Publication Fee.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application is restored to pending status.

Telephone inquires concerning this decision may be directed to the undersigned at 703-305-9250 x 154.

Anita Greene
Application Assistance Unit
Office of Data Management

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

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NOV 1 8 2005

OFFICE OF PETITIONS

In re Application of
Bodo Urich et al
Application No. 10/441,653
Filed: May 19, 2003
Attorney Docket No. 2000P12050WOUS

DECISION ON PETITION
UNDER 37 CFR 1.313(a)

This is a decision on the petition under 37 CFR 1.313(a), filed November 10, 2005, seeking to withdraw the application from issue (prior to payment of the issue fee).

The petition is **dismissed**.

ISSUE FEE PAYMENT

As an initial matter, the issue and publication fees were due on the date of filing of the above petition to withdraw from issue. While petitioner has not returned the Part B- Fee(s) Transmittal form, the petition contains a clear authorization to charge any fees required to prevent the abandonment of the application. Accordingly, as authorized, the $1,400 issue fee and the $300 publication fee will be charged to petitioner's Deposit Account No. 50-2786. Petitioner should complete and return the Part B - Fee(s) Transmittal form if it is desired to have the information normally found thereon printed on the patent (assuming petitioner does not hereafter petition to withdraw the application from issue under 37 CFR 1.313(c)(2)).

REASONS FOR WITHDRAWAL OF APPLICATION FROM ISSUE

Petitioner requests withdrawal of this application from issue to verify the filing date and priority information in this application. More specifically, petitioner states that this application is a US national stage application of PCT application No. PCT/EP01/13555, which claims priority to German patent application No. DE 10058403.9. Petitioner further states that the initial filing of this application on May 19, 2003 satisfied all the requirements of 35 U.S.C. § 371(c); however, the Filing Receipt and Notice of Allowance do not reflect the previous PCT application.

DISCUSSION OF WHY WITHDRAWAL IS UNNECESSARY

It is unnecessary to withdraw this application from issue to verify the filing date and priority information for this application since this can be accomplished without withdrawing the application from

issue. Therefore, the petition to withdraw from issue under 37 CFR 1.313(a) is dismissed.

DISCUSSION OF PRIORITY INFORMATION

A review of the file record discloses that this application was not filed as a 35 U.S.C. § 371 application, but as a regular 35 U.S.C. § 111(a) application. Therefore, it would have been improper for either the Filing Receipt or the Notice of Allowance to indicate that this application is a U.S. national stage filing of the aforementioned PCT application.

A further review of the latest Supplemental Application Data Sheet (filed on March 21, 2005) sets forth, under the caption "Foreign Priority Information," a claim for priority to both the PCT and German applications. It is also noted that this application has a filing date more than one year from the filing date of both of the above applications claimed under 35 U.S.C. § 119(a)-(d). Accordingly, this application is not entitled to the benefit of either the PCT application or the German application under 35 U.S.C. § 119(a)-(d).

If petitioner desires to claim domestic priority to PCT application No. PCT/EP01/13555, then a petition under 37 CFR 1.78(a)(3) and fee of $1,370 must be submitted. Additionally, petitioner must supply either an amendment to the first line of the specification in compliance with 37 CFR 1.121 or an Application Data Sheet referencing the claim for priority to the PCT application in accordance with 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii). The claim for priority to the German application is more appropriately set forth in either the oath/declaration or an Application Data Sheet.

As the issue fee in this application has now been paid, petitioner must now withdraw the application from issue under 37 CFR 1.313(c) if it is desired to claim priority to the prior-filed PCT application. If petitioner seeks withdrawal under the conditions of 37 CFR 1.313(c)(2), the petition must be accompanied by a request for continued examination and submission under 37 CFR 1.114. The submission may be the petition under 37 CFR 1.78(a)(3) and amendment or Application Data Sheet which references the prior-filed PCT application.

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

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

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

By fax: (571) 273-0025 - Office of Petitions

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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

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JUN 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Bodo Urich et al	:	
Application No. 10/441,653	:	DECISION ON PETITION
Filed: May 19, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2000P12050WOUS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/EP01/13555, filed November 21, 2001, as set forth in the accompanying Application Data Sheet. This is also a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t).

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

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183..

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.

The requirements noted above have been satisfied. However, as noted in the decision mailed November 18, 2005, petitioner must now file a petition to withdraw from issue under 37 CFR 1.313(c)(2) or 1.313(c)(3) as the issue fee has been paid. No amendments to the application will

be considered under 37 CFR 1.312 after payment of the issue fee unless accompanied by a grantable petition to withdraw from issue. If the petition is filed under 37 CFR 1.313(c)(2), the petition must be accompanied by a request for continued examination pursuant to the provisions of 37 CFR 1.114. The Application Data Sheet can be the submission requirement of 37 CFR 1.114. If the petition is filed under 37 CFR 1.313(c)(3), the petition should also be accompanied by a letter of express abandonment in favor of the filing of a continuing applicant pursuant to the provisions of 37 CFR 1.53(b). *Note also* MPEP § 1481.

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/7/06

Paper No.: —

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/441657 Patent No.: 6995124B2

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.

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

Comments: _____

Thomas McKelvie
SPE

1625
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,995,174
DATED: : February 7, 2006
INVENTOR(S) : Xiangdong Alan Wang, Li-Qiang Sun, Sing-Yuen Sit, Ny Sin, Paul Michael Scola, Piyasena Hewawasam, Andrew Charles Good, Yan Chen, Jeffrey Allen Campbell.

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

Column 2, line 42; column 10, line 56, the text "R_2 is H C_{1-6} alkyl," should read --R_2 is H, C_{1-6} alkyl,--.

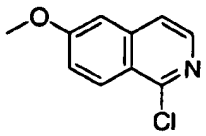
Column 2, line 67; column 11, line 13; claim 1, line 46; claim 11, line 43; claim 21, line 30, "alkylcycloalklyl" should be --alkylcycloalkyl--.

Column 3, line 18; column 11, line 31; claim 1, line 63, the text "SH,) amino," should read --SH, amino,--.

Column 11, line 11; column 11, line 33; "C-6" should be --C_{1-6}--.

Column 11, line 58, "cycloalklyl" should be --cycloalkyl--.

Column 75, lines 40-45, the structure should appear as follows:



MAILING ADDRESS OF SENDER:
Pamela A. Mingo, Ph.D.
Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000
(203) 677-7669

PATENT NO. 6,995,174

FORM PTO/SB/44

OCT 1 6 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,995,174
DATED: : February 7, 2006
INVENTOR(S) : Xiangdong Alan Wang, Li-Qiang Sun, Sing-Yuen Sit, Ny Sin, Paul Michael Scola, Piyasena Hewawasam, Andrew Charles Good, Yan Chen, Jeffrey Allen Campbell.

(Continued)

Column 79, lines 27-33, the text beginning with "^{1}H NMR" and ending with "(d, J=15 Hz, 1H)." should read --^{1}H NMR (500 MHz, DMSO-d_6) δ 0.52 - 0.65 (m, 2H), 0.66 - 0.82 (m, 2H), 0.96 (s, 9H), 1.21 - 1.24 (m, 10H), 1.44 - 1.63 (m, 1H), 1.72 - 1.92 (m, 1H), 2.30 - 2.42 (m, 1H), 2.46 (d, *J*=7.93 Hz, 1H), 2.60 - 2.85 (m, 1H), 3.89 (s, 3H), 3.93 - 4.05 (m, 1H), 4.07 - 4.24 (m, 1H), 4.41 (t, *J*=8.39 Hz, 1H), 4.79 - 4.95 (m, 1H), 4.97 - 5.17 (m, 1H), 5.71 (b, 1H), 5.80 - 6.10 (m, 1H), 6.64 (d, *J*=8.54 Hz, 1H), 7.10 (d, *J*=8.85 Hz, 1H), 7.24 - 7.37 (m, 2H), 7.90 - 7.96 (m, 1H), 7.99 – 8.04 (b, 1H), 8.06 (d, *J*=9.15 Hz, 1H).--.

Column 334, line 35, the text "$(M+H)^+$ 749" should be --$(M+H)^+$ 748--.

Claim 1, line 66, "C_{5-10} aryl" should be --C_{6-10} aryl--.

Claim 9, line 37, "R_{40}(C=O)-," should be --R_4O(C=O)-,--.

Claim 18, line 57, "claim 1" should be --claim 17--.

Claim 21, line 26, "R_{41}-N(R_5)-SO_2--;" should be --R_{41}-N(R_5)-SO_2-;--.

Claim 21, line 40, "X_a-R' is not" should be --X-R' is not--.

Claim 29, line 10, "monoyclic" should be --monocyclic--.

MAILING ADDRESS OF SENDER:
Pamela A. Mingo, Ph.D.
Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000
(203) 677-7669

PATENT NO. 6,995,174

FORM PTO/SB/44

OCT 1 6 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

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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OFFICE OF PETITIONS

In re Application of	:	
Nurith Kurn et al.	:	
Application No. 10/441,663	:	DECISION ON PETITION
Filed: May 19, 2003	:	TO WITHDRAW
Attorney Docket No. 492692001200	:	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 11, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster has been revoked by the assignee of the patent application on July 31, 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: **Wilson Sonsini Goodrich & Rosati**
650 Page Mill Road
Palo Alto, CA 94304-1050

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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Paper No. 7

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

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OFFICE OF PETITIONS

In re Application of
Toshifumi Yoneda et al.
Application No. 10/441,671
Filed: May 19, 2003
Attorney Docket No. MES1P062D1

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed October 20, 2003, for a corrected filing receipt.

The petition is **DISMISSED**.

Petitioner claims that due to a typographical error, upon filing of the above-identified application, priority was claimed to an incorrect application. The instant application is a divisional and upon filing, incorrectly referred to the parent application on page 1 of the transmittal and in the first paragraph of the specification as 10/111,125. Petitioner claims that the correct parent application no. Is 10/111,025 and that the Claim for Foreign Priority section of the transmittal (page 2 of 3), accurately refers to parent as 10/111.025 by indicating that the certified copy of the Japanese applications had previously been filed in 10/111,025.

While the error in citing the application number of the Parent Application may have been inadvertent, a request for a corrected filing receipt cannot be granted. Petitioners will have to file a petition under 37 CFR 1.78 to accept an unintentionally delayed claim for priority citing the correct application number of the parent application.

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

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

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 10

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

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OFFICE OF PETITIONS

In re Application of
Toshifumi Yoneda et al.
Application No. 10/441,671
Filed: May 19, 2003
Attorney Docket No. MES1P062D1

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 14, 2004, by facsimile transmission, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 10/111,025, April 18, 2002.

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). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, 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) 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 present pending application was filed on May 19, 2003, and was copending with the above-noted, prior-filed nonprovisional application, at the time of filing, for which priority is claimed. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following

[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 and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

the title, which was filed January 14, 2004, by facsimile transmission, under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. 10/111,025 is granted as of the date of filing the petition.

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

As authorized, the $1,330.00 fee required by 37 CFR 1.78(a)(3) has been charged to counsel's deposit account no 50-0388.

The application is being forwarded to Technology Center Art Unit 3751 for processing the amendment filed on January 14, 2004, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior filed nonprovisional application.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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
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MR. PETER F. CORLESS
EDWARDS & ANGELL, LLP
101 FEDERAL STREET
BOSTON, MA 02110

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AUG 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Tsai, et al. :
Application No. 10/441,677 : ON PETITION
Filed: May 19, 2003 :
Attorney Docket No. 59249 (71987) :

This is a decision on the petition under 37 CFR 1.181, filed October 25, 2004, to withdraw the holding of abandonment. The petition was recently forwarded to this office for consideration.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed December 17, 2003. Accordingly, this application became abandoned on March 18, 2004. A Notice of Abandonment was mailed on August 24, 2004.

Petitioner asserts that a response to the December 17, 2003 Office action was submitted by facsimile on March 16, 2004. In support, petitioner has submitted a copy of the originally filed response. The response includes an executed Certificate of Facsimile Transmission under 37 CFR 1.8 dated March 16, 2004. Additionally, petitioner has submitted a copy of the "Transmission Report" that indicates transmission and receipt of the document on March 16, 2004. Furthermore, petitioner has submitted a statement under 37 CFR 1.8(b)(3) by Steven M. Jensen, the individual who signed the Certificate of Facsimile Transmission.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

This application is being forwarded to Technology Center 2800, for review of the amendment, filed October 25, 2004 (Certificate of Facsimile Transmission date: March 16, 2004), *in due course*.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Pruitt et al.	:	
Application No. 10/441686	:	DECISION ON
Filing or 371(c) Date: 05/20/2003	:	PETITION
Attorney Docket Number: ACSC 63654 (4015P)	:	

This is a decision in response to the petition under 37 CFR 1.137(a), filed September 29, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action mailed February 13, 2006. The Office action set three (3) month period for reply. No response having been received, the application became abandoned on May 14, 2006. A Notice of Abandonment was mailed August 25, 2006.

Applicant files the instant petition and asserts that a timely reply to the Office action, a Request for Continued Examination ("RCE") and submission in the form of an amendment, was filed on April 11, 2006. In support of this assertion, Applicant files a copy of the Reply, which includes a Certificate of Mailing under 37 CFR 1.8. The Certificate of Mailing was executed by petitioner herein.

In view of the above, the petition is granted. The application will be referred to Technology Center Art Unit 3763 for processing of the Response, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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R KEITH HARRISON
2139 E. BERT KOUNS
SHREVEPORT LA 71105

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OFFICE OF PETITIONS

In re Application of :
Scott D. COSTELLO :
Application No. 10/441,690 :
Filed: May 20, 2003 :
Attorney Docket No. 1061 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 2006, and resubmitted February 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 11, 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 above-identified application became abandoned on October 12, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination; (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 July 11, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

The application file is being referred to Technology Center AU 3682 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 6

Jansson, Shupe & Munger, Ltd.
245 Main Street
Racine WI 53403

COPY MAILED

APR 30 2004

OFFICE OF PETITIONS

In re Application of
Harvey DeFord and John Slagter
Application No. 10/441,712
Filed: May 20, 2003
Attorney Docket No. STC-101CON
Title: POLYMER-CEMENT COMPOSITES
AND METHODS OF MAKING SAME

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the "PETITION UNDER 37 CFR § 1.47," filed February 13, 2004. The instant petition was recently forwarded to the undersigned for consideration.

The petition is **GRANTED**.

The above-identified application was filed on May 20, 2003, with an unexecuted declaration. Harvey DeFord and John Slagter were named as joint inventors. Accordingly, on July 15, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, rule 47 applicant filed the instant petition (and fee); the late surcharge; and a declaration executed by inventor DeFord on behalf of himself and on behalf of non-signing joint inventor Slagter. This response was made timely by an accompanying petition and fee for an extension of time for response within the fifth month. Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Slagter's conduct demonstrates that he is uncooperative and is unwilling to sign the declaration despite diligent efforts to have him do so.

On petition and by declaration of facts of CFO/GM Jameson Goorman, with supporting documentary evidence, petitioner has shown that the application papers were presented to inventor Slagter (and his attorney) by Federal Express delivery, by US Postal Service 1st Class Mail, and by US Postal Service certified mail. However, by his conduct in not responding to the presentation of the application papers and request to sign the declaration, inventor Slagter has refused to join in the application. The petition includes the last known address of inventor Slagter.

The declaration filed February 13, 2004, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CST

8-16-06

Jansson, Shupe, Munger & Antaramian, Ltd.
245 Main Street
Racine, Wisconsin 53403-1034

In re DeFord et al
Serial No. 10/441,712
Filed: May 20, 2003
For: POLYMER-CEMENT COMPOSITES AND METHODS OF MAKING SAME

DECISION ON PETITION

Pursuant to applicant's request filed on June 15, 2005, action by the Office is suspended on this application under 37 CFR 1.103(a) for a period of 6 months. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

The petition is **GRANTED**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CST

4-9-07

Jansson, Shupe & Munger
245 Main Street
Racine, Wisconsin 53403-1034

In re DeFord et al
Serial No. 10/441,712
Filed: May 20, 2003
For: POLYMER-CEMENT COMPOSITES AND METHODS OF MAKING SAME

DECISION ON PETITION

Pursuant to applicant's request filed on February 15, 2007, action by the Office is suspended on this application under 37 CFR 1.103(a) for a period of 6 months. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

The petition is **GRANTED**.

Christine Tierney

Christine Tierney
Quality Assurance Specialist, Technology Center 1700
571-272-1055

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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.
10/441,712	05/20/2003	Harvey Dale DeFord	STC-101CON	3400

7590 10/18/2007
Jansson, Shupe & Munger, Ltd.
245 Main Street
Racine, WI 53403

EXAMINER
SZEKELY, PETER A

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
10/18/2007	PAPER

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

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

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CST

10-18-07

Jansson, Shupe & Munger
245 Main Street
Racine, Wisconsin 53403-1034

In re DeFord et al
Serial No. 10/441,712
Filed: May 20, 2003
For: POLYMER-CEMENT COMPOSITES AND METHODS OF MAKING SAME

DECISION ON PETITION

Pursuant to applicant's request filed on October 2, 2007, action by the Office is suspended on this application under 37 CFR 1.103(a) for a period of 6 months. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

The petition is **GRANTED**.

Christine Tierney
Quality Assurance Specialist, Technology Center 1700
571-272-1055

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/441,712	05/20/2003	Harvey Dale DeFord	STC-101CON	3400

7590 06/03/2008
Jansson, Shupe & Munger, Ltd.
245 Main Street
Racine, WI 53403

EXAMINER
SZEKELY, PETER A

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
06/03/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CST

6-3-08

Jansson, Shupe & Munger
245 Main Street
Racine, Wisconsin 53403-1034

In re DeFord et al
Serial No. 10/441,712
Filed: May 20, 2003
For: POLYMER-CEMENT COMPOSITES AND METHODS OF MAKING SAME

DECISION ON PETITION

Pursuant to applicant's request filed on April 15, 2008, action by the Office is suspended on this application under 37 CFR 1.103(a) for a period of 6 months. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

The petition is **GRANTED**.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist, Technology Center 1700
571-272-1055

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.
10/441,712	05/20/2003	Harvey Dale DeFord	STC-101CON	3400

7590 02/19/2009
Jansson, Shupe & Munger, Ltd.
245 Main Street
Racine, WI 53403

EXAMINER
SZEKELY, PETER A

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
02/19/2009	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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CST

2-19-09

Jansson, Shupe & Munger
245 Main Street
Racine, Wisconsin 53403-1034

In re DeFord et al
Serial No. 10/441,712
Filed: May 20, 2003
For: POLYMER-CEMENT COMPOSITES AND METHODS OF MAKING SAME

DECISION ON PETITION

Pursuant to applicant's request filed on December 3, 2008, action by the Office is suspended on this application under 37 CFR 1.103(a) for a period of 6 months. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

The petition is **GRANTED**.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist, Technology Center 1700
571-272-1055

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/441,712	05/20/2003	Harvey Dale DeFord	STC-101CON	3400

7590 11/06/2009
Jansson, Shupe & Munger, Ltd.
245 Main Street
Racine, WI 53403

EXAMINER
SZEKELY, PETER A

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
11/06/2009	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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NOV 06 2009

Jansson, Shupe & Munger
245 Main Street
Racine, Wisconsin 53403-1034

In re DeFord et al
Serial No. 10/441,712
Filed: May 20, 2003
For: POLYMER-CEMENT COMPOSITES AND METHODS OF MAKING SAME

DECISION ON PETITION

Pursuant to applicant's request filed on August 17, 2009, action by the Office is suspended on this application under 37 CFR 1.103(a) for a period of 6 months. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

The petition is **GRANTED**.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist, Technology Center 1700
571-272-1055

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/441,712	05/20/2003	Harvey Dale DeFord	STC-101CON	3400

7590 12/04/2009
Jansson, Shupe & Munger, Ltd.
245 Main Street
Racine, WI 53403

EXAMINER
SZEKELY, PETER A

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
12/04/2009	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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Mailed: DEC 0 4 2009

In re application of	:	
DeFord et al.	:	DECISION ON
Serial No. 10/441,712	:	PETITION
Filed: May 20, 2003	:	
For: Polymer-Cement Composites And Methods Of Making Same	:	

Pursuant to applicant's request filed on August 18, 2009, action by the Office is suspended on this application under 37 CFR 1.103(a) for a period of 6 months. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP 709.

The petition is **GRANTED**.

/William Krynski/

William Krynski
Quality Assurance Specialist, Technology Center 1700

Jansson, Shupe & Munger
245 Main Street
Racine, Wisconsin 53403-1034

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COMMISSIONER FOR PATENTS
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WWW.USPTO.GOV

Paper No. None

Terril G Lewis
Wong Cabello
20333 SH 249
Ste 600
Houston TX 77057-2198

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AUG 14 2005

OFFICE OF PETITIONS

In re Application of
Robert T. Rasmussen
Application No. 10/441,716
Filed: May 20, 2003
Attorney Docket No. MCRO:288- -1
Title: ANODE SCREEN FOR A PHOSPHOR DISPLAY AND METHOD OF MAKING THE SAME

DECISION ON PETITIONS UNDER 37 C.F.R. §§1.181(a) AND 1.137(B)

This is a decision on the petitions under 37 C.F.R. §§1.181(a) and 1.137(b) to withdraw the holding of abandonment and to revive the above-identified application, respectively, filed concurrently on July 27, 2005.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed August 17, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees or publication fees[1]. Accordingly, the above-identified application became abandoned on November 18, 2004.

With the petition, Petitioner has submitted the petition, publication, and issue fees.

It is noted that the Notice of Allowance was sent to an incorrect address.

The petition under 37 C.F.R. §1.181(a):

In view of the fact that the Notice of Allowance was sent to the wrong address, the petition under 37 CFR §1.181(a) is **GRANTED**. The holding of abandonment is hereby **WITHDRAWN**.

1 See MPEP §710.02(e).

The petition under 37 C.F.R. §1.137(b):

Consequently, the petition under 37 CFR §1.137(b) is **DISMISSED AS MOOT**. The petition fee will be refunded to Petitioner's Deposit Account, as authorized in the present petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. The phone number for the Office of Patent Publication is (703) 308-6789.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/26/06

TO SPE OF : ART UNIT 3742

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/441735 Patent No.: 6923790

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

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

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

_____
Certificates of Correction Branch

703-308-9390 ext. _____

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: Enter the Correction {Pratt 5,893,862} as per Interview Summary of 3-8-2004

Daniel Robinson
12-3-2007

FRANTZ JULES
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

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DEC 04 2003

OFFICE OF PETITIONS

In re Application of
Toshifumi Yoneda et al.
Application No. 10/441,765
Filed: May 19, 2003
Attorney Docket No. MES1P062D2

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed October 20, 2003, for a corrected filing receipt.

The petition is **DISMISSED**.

Petitioner claims that due to a typographical error, upon filing of the above-identified application, priority was claimed to an incorrect application. The instant application is a divisional and upon filing, incorrectly referred to the parent application on page 1 of the transmittal and in the first paragraph of the specification as 10/111,125. Petitioner claims that the correct parent application no. Is 10/111,025 and that the Claim for Foreign Priority section of the transmittal (page 2 of 3), accurately refers to parent as 10/111.025 by indicating that the certified copy of the Japanese applications had previously been filed in 10/111,025.

While the error in citing the application number of the Parent Application may have been inadvertent, a request for a corrected filing receipt cannot be granted. Petitioners will have to file a petition under 37 CFR 1.78 to accept an unintentionally delayed claim for priority citing the correct application number of the parent application.

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

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

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

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FEB 03 2004

OFFICE OF PETITIONS

In re Application of
Toshifumi Yoneda et al.
Application No. 10/441,765
Filed: May 19, 2003
Attorney Docket No. MES1P062D2

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 14, 2004, by facsimile transmission, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 10/111,025, April 18, 2002.

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). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) of the prior-filed application, 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) 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 present pending application was filed on May 19, 2003, and was copending with the above-noted, prior-filed nonprovisional application, at the time of filing, for which priority is claimed. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following

[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 and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

the title, which was filed January 14, 2004, by facsimile transmission, under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120.. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. 10/111,025 is granted as of the date of filing the petition.

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

As authorized, the $1,330.00 fee required by 37 CFR 1.78(a)(3) has been charged to counsel's deposit account no 50-0388.

The application is being forwarded to Technology Center Art Unit 3751 for processing the amendment filed on January 14, 2004, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior filed nonprovisional application.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: David A. Dinsmoor	: DECISION ON REQUEST FOR
Patent Number	: 7620454	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/441,785	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **192** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

MAILED

MAY 11 2010

OFFICE OF PETITIONS

In re Application of
David A. Dinsmore et al. :
Application No. 10/441,786 : ON PETITION
Filed: May 19, 2003 :
Attorney Docket Number: P0011463.00 :

This is a decision on the petition, filed March 18, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned March 17, 2010 for failure to timely pay the issue fee in response to the Notice of Allowance mailed December 16, 2009 which set a three month statutory period for response. The instant petition preceded the mailing of the Notice of Abandonment which was mailed March 23, 2010.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RICHARD M. GOLDMAN
371 ELAN VILLAGE LANE
SUITE 208
SAN JOSE, CA 95134

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SEP 07 2007

OFFICE OF PETITIONS

In re Application of
Thomas Albrecht, et al.
Application No. 10/441,798
Filed: May 20, 2003
Attorney Docket No. CH920020003US1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 8, 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 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 17, 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) 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 2627 for appropriate action by the Examiner in the normal course of business on the reply received May 8, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AIR PRODUCTS AND CHEMICALS, INC.
PATENT DEPARTMENT
7201 HAMILTON BOULEVARD
ALLENTOWN PA 18195-1501

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DEC 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
RABASCO, John J. et al.	:	
Application No. 10/441,806	:	DECISION ON PETITION
Filed: May 19, 2003	:	TO WITHDRAW
Attorney Docket No. **06279 USA**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 06, 2008.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (04-08).

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, sale of above identified patent, does not meet any the conditions set forth in 37 CFR 10.40.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DR. MICHAEL SCHUDERER**
WACKER CHEMIE AG
HANNS-SEIDEL-PLATZ 4
D-81737 MUNICH
GERMANY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES & SMITH LLP
2777 ALLEN PARKWAY
SUITE 800
HOUSTON TX 77019

MAILED
APR 12 2010
OFFICE OF PETITIONS

In re Application of	:	
Maender, et al.	:	
Application No. 10/441,808	:	ON REQUEST FOR
Filed: May 20, 2003	:	RECONSIDERATION OF
Attorney Docket Number: 12903-009	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed December 29, 2009. Applicants believe that the correct total PTA to date is 509 days, not 441 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a

request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d).

The application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

BRINKS HOFER GILSON &
LIONE/ANN ARBOR
524 SOUTH MAIN STREET
SUITE 200
ANN ARBOR MI 48104

In re Application of Maender, et al. Application No. 10/441,808 Filed: May 20, 2003 Attorney Docket Number: 12903-009	ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed December 29, 2009. Applicants believe that the correct total PTA to date is 509 days, not 441 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a

request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d).

The application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

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

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/441,816
Filing Date	Sept. 22, 1999
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	600204531-7

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

Approved 7/19/05
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

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

- [ ] all the attorneys/agents of record.
- [x] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:

CORRESPONDENCE ADDRESS

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

[x] The address associated with Customer Number: 022879

OR

[ ] Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone				Fax	
Signature	William H. Dippert				
Name	William H. Dippert, Esq.		Registration No.	26,723	
Date			Telephone No.	(212) 790-9200	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

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P.O. Box 272400
3404 E. Harmony Road
Intellectual Property Administration
Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Yaacov Almog et al.	:	
Application No. 10/441,816	:	DECISION ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. 600204531-7	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 25, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 26, 2005. A Notice of Abandonment was mailed on March 13, 2006.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [Emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on November 26, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as William Dippert was the appointed attorney of record at the time of abandonment, an explanation is required as to why this application became abandoned while it was under his control and what efforts was made by counsel to further reply of itself and with whom this matter was discussed outside of his office. Copies of any correspondence relating to the filing, or to not filing, a further reply to the outstanding Office action is required from responsible person(s), appointed attorneys and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The

December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARK A. LITMAN & ASSOCIATES
York Business Center, Suite 205
3209 West 76th Street
Edina MN 55435

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JUL 07 2005

OFFICE OF PETITIONS

In re Patent No. 6,796,650	:	
Issue Date: September 28, 2004	:	
Application No. 10/441,817	:	DECISION ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. 01018US01	:	

This is a decision on the petition under 37 CFR 1.183, filed April 1, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignment information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The Office finance records indicate that petitioner's Deposit Account was incorrectly charged a $400.00 petition fee. Rather, petitioner owes a $130.00 processing fee and a $100.00 Certificate of Correction fee. Accordingly, Deposit Account No. 50-1391 will be credited the difference in the amount of $170.00.

The matter is being referred to the Certificate of Correction Branch to issue the Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

---

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 4

Myers Bigel Sibley & Sajovec
P. O. Box 37428
Raleigh, NC 27627

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AUG 2 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Alan Linton	:	
Application No. 10/441,821	:	DECISION GRANTING
Filed: May 20, 2003	:	PETITION
Attorney Docket No. 9052-163	:	

This is a decision on the petition filed July 28, 2003, requesting that the above-identified application be accorded a filing date of May 20, 2003, rather than the presently accorded date of May 21, 2003. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail Service on May 20, 2003. In support, the petition is accompanied by a copy of Express Mail receipt No. EV353591841US, showing a "date-in" of May 20, 2003. The same Express Mail receipt number was referred to in the original application papers found in the file.

The Office considers the date the paper or fee shown as deposited as "Express Mail" to be the "date-in" on the Express Mail label. See MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on May 20, 2003.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of May 20, 2003.** Thereafter, the application file will be forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Brian Hearn

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

7/21/03

Stephen B Salai Esq
Harter Secrest and Emery LLP
1600 Bausch and Lomb Place
New York NY 14604

Dear Applicant:

The Box PGPub replacement drawings for application number 10/441,837 received on 6/25/03 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
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

7/21/03

Harter Secrest and Emery LLP
1600 Bausch and Lomb Place
Rochester NY 14604

Dear Applicant:

The Box PGPub replacement drawings for application number 10/441,840 received on 6/25/03 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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PEARL COHEN ZEDEK, LLP
1500 BROADWAY, 12TH FLOOR
NEW YORK, NY 10036

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APR 14 2006

OFFICE OF PETITIONS

In re Application of :
Yvonne Paterson :
Application No. 10/441,851 : ON PETITION
Filed: May 20, 2003 :
Attorney Docket No. P-7769-US2 :

This is a decision on the petition filed February 16, 2006, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 17, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 18, 2005.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on February 16, 2006.

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

This matter is being referred to Technology Center AU 1645 for further processing.

Irvin Dingle
Petitions Examiner
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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JUL 12 2004

Paper No. 7

In re Application of
Donald R. Close *et al*
Application No. 10/441,875
Filed: May 19, 2003
Attorney Docket No. 38494-00209

DECISION ON PETITION

This is a decision on the petition filed on May 24, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated October 21, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that the application is not abandoned because a reply to the Office letter in question was actually filed November 21, 2003. Petitioners have supported this allegation by furnishing a copy of the reply and a copy of an Express Mail Label for the reply which shows that the reply was in fact deposited with the United States Postal Service as Express Mail, Post Office to Addressee, on November 21, 2003. Therefore, the reply is considered to have been received in the Office on November 21, 2003, a date within the period set for filing a reply to the Office letter in question. See 37 CFR 1.10(e). Therefore, it is clear that 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 entry of the reply filed on November 21, 2003. Thereafter, the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Lewis and Roca LLP
40 N. Central Ave.
Suite 1900
Phoenix, AZ 85004

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DIW 12-04

Paper No. 5

SHALONG MAA
P.O. BOX 117015
CARROLLTON TX 75011

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Shalong Maa	:	
Application No. 10/441,890	:	ON PETITION
Filed: 20 May, 2003	:	
For: Digitally Synchronized	:	
Animated Talking Doll	:	

This is a decision on the petition under 37 CFR 1.137(a) filed on 8 November, 2004, to revive the above-identified application.

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

The application became abandoned on 15 September , 2003, for failure to timely file the statutory basic filing fee as required by the Notice to File Missing Parts of Nonprovisional Application mailed on 14 July, 2003, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on 7 September, 2004.

The application has been restored to pending status.

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

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

D Wood

Douglas I. Wood
Senior Petitions Examiner
Office of Petitions

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Commissioner for Patents
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FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Peter S. Ebert	:	
Application No. 10/441,901	:	DECISION ON PETITION
Filed: May 20, 2003	:	TO WITHDRAW
Attorney Docket No. 13909-131001 /	:	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 2, 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 R. Boalick on behalf of himself.

Scott R. has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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
April M. Wise
Petitions Examiner
Office of Petitions

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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JUL 12 2007

OFFICE OF PETITIONS

In re Application of :
Jeffrey Scott Hawthorne et al :
Application No. 10/441,960 : ON PETITION
Filed: May 19, 2003 :
Attorney Docket No. 40510.0002US01

This is a decision on the petition, filed July 10, 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 4, 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 3736 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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Paper No. 4

Robin M. Silva
DORSEY & WHITNEY LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

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JAN 0 2 2004

OFFICE OF PETITIONS

In re Application of Young et al. Application No. 10/441,962 Filed: May 19, 2003 Attorney Docket No. A-72098	DECISION ON PETITION

This is a decision on the "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEMS UNDER C.F.R. § 1.53(e)(1)," filed September 29, 2003, requesting in effect, that to the extent that the "Notice to File Missing Parts of Application" mailed July 28, 2003, states that figures 4A-C, 6A-D appear to have been omitted from the above-identified application, that the notice be withdrawn and the instant petition fee be refunded.

The petition is **GRANTED**.

The application was filed on May 19, 2003. However, on July 28, 2003, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Application," stating, among other things, that the application had been accorded a filing date; however, Figures 4A-C and 6A-D described in the specification appeared to have been omitted.

In response, the present petition was timely filed. Applicants respectfully submit that the application as filed on May 19, 2003 included three sheets of drawings. Furthermore, the third sheet contained Figures 4A-C, Figure 5 and Figures 6A-D. Applicants further state that Figure 4 consists of 3 figures, denoted A, B and C in the upper left hand corner of each figure. Similarly, Figure 6 comprises 4 figures, labeled in the upper right hand corner as A, B, C and D.

Petitioners' arguments are well-taken. A review of the application file confirms that 3 sheets of drawings were filed on May 19, 2003, including sheet three containing figures 4A-C, Figure 5 and Figures 6A-D.

It is obvious from the petition and a review of the application file that no drawing was actually missing on May 19, 2003. Rather, due to the quality of the drawings, the Office did not recognize the letter references embedded in the figures. Accordingly, only to the extent that the Notice states that these figures appear to have been omitted from the application, the

"Notice to File Missing Parts of Application" is withdrawn. (However, all other requirements remain and the period for response to the Notice continues to be as set in the Notice. This decision in no way extends the period for reply).

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 50-2319, as authorized.

The application with a filing date of May 19, 2003 is being forwarded to the Office of Initial Patent Examination for processing as a nonprovisional application, using the papers received in the Office on May 19, 2003. (Those papers include Figures 4A-C and 6A-D).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 6

RAMON L. PIZARRO
SUITE 200
3515 SOUTH TAMARAC DRIVE
DENVER, CO 80237

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OFFICE OF PETITIONS

In re Application of :
Shawn Gregory :
Application No. 10/441,969 : ON PETITION
Filed: May 19, 2003 :
Attorney Docket No. TUFFY 2 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed July 15, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 16, 2003.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

6-21-2010

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Patent No. : 7,508,206
Ser. No. : 10/441,970
Inventor(s) : Ram, Sasusekharan, et. al.
Issued : March 24, 2009

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 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 1.17(i) (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
40l Dulany Street
Alexandria, VA 22314

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Janice A. Vatland, Ph.D.
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206

ej

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BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

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In re Application of	:	
Oh et al.	:	DECISION GRANTING
Application No. 10/441,972	:	PETITION UNDER
Filed: May 20, 2003	:	37 CFR 1.183
Title of Invention:	:	
IMAGE-BASED MODELING	:	
AND PHOTO EDITING	:	

This is in response to a Petition Under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor, and a Petition Under 37 CFR 1.48(a), to correct inventorship, filed March 3, 2006. Applicant requires waiver of 37 CFR 1.48(a)(2) and (a)(3), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The petition is properly treated under 37 CFR 1.183[1].

The petition is **granted**.

Applicant asserts that through error, and without deceptive intent, that inventor Julie Dorsey was not joined in the original application. Applicant further asserts that inventor Julie Dorsey refuses to execute the oath or declaration as required by 37 CFR 1.48(a)(2), and petitions for waiver of that rule to the extent that it requires an oath or declaration executed by the actual inventors. In support of this request, Applicant files a grantable petition under 37 CFR 1.47(a), demonstrating that inventor Julie Dorsey refuses to execute the

[1] In those situations where an inventor to be added refuses to submit a statement supporting the addition or such party cannot be reached, waiver under 37 CFR 1.183 of the requirement for a statement from that party would be appropriate upon a showing of such refusal or inability to reach the inventor. MPEP 201.03A

oath or declaration after having been presented with the application for signature.

Office records have been corrected to reflect the addition of inventor Julie Dorsey.

Fees

The MPEP provides that "[w]here waiver under 37 CFR 1.183 is requested in relation to a requirement under 37 CFR 1.48(a), a processing fee under 37 CFR 1.48(a) and a petition fee under 37 CFR 1.183 are required." MPEP 201.03C

Accordingly, Applicant's deposit account has been charged a total of $400.00 for the petition under 37 CFR 1.183, and $130.00 processing fee for the petition under 37 CFR 1.48(a).

The application is being referred to Technology Center Art Unit 2628 for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 24, 2006

TO SPE OF : ART UNIT 3676

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/441974 Patent No.: 7,010,946

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: _____

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER

SPE

3676
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 14, 2008

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction for Appl. No 10/442001patent no7038083

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: _____

Yvonne Eyler — SPE

1621 — Art Unit

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OFFICE OF PETITIONS

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

In re Application of Jason A. Ashton et al. Application No. 10/442,011 Filed: May 19, 2003 Attorney Docket No. PA2469US	: : : : : :	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 26, 2004.

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

A review of the file record indicates that the power of attorney to Steven M. Colby and those practitioners associated with customer number 22830 have been revoked by the assignee of the patent application on March 10, 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 Charles Smoot at 571-272- 3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: Jason A. Aston
CardPresent Technologies, Inc.
903 Whispering Pines Drive
Scotts Valley, CA 95066

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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STEVEN M. COLBY
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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MAY 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Jason A. Ashton	:	DECISION ON PETITION
Application No. 10/442,011	:	TO WITHDRAW
Filed: May 19, 2003	:	FROM RECORD
Attorney Docket No. PA2469US	:	

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 26, 2004.

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

A review of the file record indicates that on March 10, 2006 the power of attorney to Carr & Ferrell LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco CA 94111-3834

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Paper No. 090204

SEP - 7 2004

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

In re Application of:	:	
ANTHONY W. JACOMB-HOOD et al.	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/442,015	:	
Filed: May 19, 2003	:	
Attorney Docket No.: **040092-019910US**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 18, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of McDermott, Will & Emery was filed on April 05 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications 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 Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MCDERMOTT, WILL & EMERGY
18191 VON KARMAN, AVENUE, SUITE 400
IRVINE, CA 92612

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Paper No. 4

JAMES M. THOMSEN
PO BOX 5572
KEY WEST, FL 33045

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OCT 31 2003

OFFICE OF PETITIONS

In re Application of :
Thomsen :
Application No.: 10/442,031 : ON PETITION
Filing Date: May 20, 2003 :
For: FAILSAFE MOBIL AIR SAFETY :
SYSTEM :

This decision concerns the September 23, 2003 correspondence which in essence requests that a July 25, 2003 "Notice to File Corrected Application Papers" ("7/25/03 Notice") be withdrawn as it pertains to an omitted Figure 2. The correspondence is being properly treated as a petition under 37 CFR 1.53 that the allegedly omitted Figure 2 be accorded the May 20, 2003 filing date of the application.

The petition is **DISMISSED.**

The application was deposited on May 20, 2003. As indicated in the 7/25/03 Notice, a filing date had been accorded this application, but a drawing (Figure 2) described in the specification appeared to have been omitted from the filed application.

The petition asserts that the allegedly omitted Figure 2 was filed with the other application papers on May 20, 2003. However, Petitioner has not supplied any evidence supporting this assertion. Moreover, the petition disputes the 7/25/03 Notice, but is not accompanied by the requisite petition fee ($130). The petition is thus dismissed.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 20, 2003, using the papers filed on that date and for indication in the USPTO record that 14 sheets of drawings (Figures 1, 3-15) were present on filing. Upon completion of pre-examination, the application file will be forwarded to the appropriate Technology Center for examination in due course.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

BAKER & HOSTETLER LLP
Washington Square
Suite 1100
1050 Connecticut Avenue, N.W.
Washington DC 20036

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NOV 1 0 2003

OFFICE OF PETITIONS

In re Application of Schneider, Carson & Deutsch Application No. 10/442,092 Filed: May 21, 2003 Attorney Docket No. 87334.5341 For: TEMPERATURE SENSOR PRE-CALIBRATION METHOD AND APPARATUS	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 1, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor, Harvey Schneider, 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 Sean A Pryor 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. 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
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Paper No. 5

BAKER & HOSTETLER
WASHINGTON SQUARE
SUITE 1100
1050 CONNECTICUT AVENUE NW
WASHINGTON, DC 20036

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NOV 2 0 2003

OFFICE OF PETITIONS

In re Application of	:
Harvey Schneider et al	:
Application No. 10/442,093	: DECISION GRANTING STATUS
Filed: May 21, 2003	: UNDER 37 CFR 1.47(A)
For: BACK EMF MEASUREMENT TO	:
OVERCOME THE EFFECTS OF MOTOR	:
TEMPERATURE CHANGE	:

This is in response to the petition under 37 CFR 1.47(a), filed September 29, 2003.

The petition is granted.

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

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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HARVEY SCHNEIDER
1872 BUCKS HILL ROAD
SOUTHBURY, CT 06488

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NOV 20 2003

OFFICE OF PETITIONS

In re Application of
Harvey Schneider and David Michael Carson
Application No. 10/442,093
Filed: May 21, 2003
For: BACK EMF MEASUREMENT TO OVERCOME THE EFFECTS OF MOTOR TEMPERATURE CHANGE

Dear Mr. Schneider:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:
BANKER & HOSTETLER
WASHINGTON SQUARE
SUITE 1100
1050 CONNECTICUT AVENUE NW
WASHINGTON, DC 20036

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Alexandria, VA 22313-1450
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DRINKLER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Katsumi Shibayama	:	
Application No. 10/442,109	:	ON PETITION
Filed: May 21, 2003	:	
Attorney Docket No. 046124-5207	:	

This is a decision on the petition, filed May 25, 2007 and resubmitted on May 29, 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 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) 272-3208.

The examiner of Technology Center AU 2884 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090519

DATE : May 19, 2009

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction on Patent No.: 7,226,164

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

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

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

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

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

A Supplemental Notice of Allowance and the Examiner's Amendments referred to in the Request for Certificate of Correction, filed 3/27/09 do not appear in the record.

/ANGELA D SYKES/
Supervisory Patent Examiner.Art Unit 3762

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James Remenick
POWELL GOLDSTEIN, L.L.P.
901 New York Avenue, N.W.
Third Floor
Washington, DC 20001-4413

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JUL 21 2005

OFFICE OF PETITIONS

In re Application of
David J. Arthur, et al.
Application No.: 10/442,176
Filing Date: 21 May 2003
Attorney Docket No.: 54439-20012.00

DECISION ON
PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 20 April 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 Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed 19 October 2004, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on 20 December 2004.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response under 37 CFR 1.111, (2) the petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of 19 October 2004 is accepted as having been unintentionally delayed.

As authorized, the $1500.00 fee required under 37 CFR 1.137(b) and 1.17(m) has been charged to petitioner's Deposit Account No. 50-1682.

This matter is being referred to Technology Center Art Unit 2879.

Telephone inquiries concerning this decision should be directed to Nguyen Ngoc-Ho at (571) 272-3290.

Wan Laymon

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

NNH/WL:hn

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,988,925	2006-01-24	10/442,176	2003-05-21	8125.011.US

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	/James Remenick/	Date (YYYY-MM-DD)	2010-02-04
Name	James Remenick	Registration Number	36902

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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In re Patent No. 6988925
Issue Date: January 24,2006
Application No. 10442176
Filed: May 21,2003
Attorney Docket No. 8125.011.US

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

This is a decision on the electronic petition, filed February 4,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 4,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OFFICE OF PETITIONS

In re Application of	:	
KASTEKEWICZ, et al.	:	
Application No. 10/442,184	:	DECISION ON PETITION
Filed: May 21, 2003	:	TO WITHDRAW
Attorney Docket No. **449122055200**	:	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 **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on October 17, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL, BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ARENT, FOX, KINTNER, PLOTKIN & KAHN
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Patent No. 6,817,834	:	
Issue Date: November 16, 2004	:	
Application No. 10/442,186	:	ON PETITION
Filed: May 21, 2003	:	
Attorney Docket No. 107348-00344	:	

This is a decision on the petition filed December 1, 2004, which is being treated as a petition under 37 CFR 3.81[1] to correct the assignee's city on the front page of the above-identified patent by way of a Certificate of Correction.

A review of Office records show that petitioner submitted a check in the amount of $130 for the petition fee. However, effective November 22, 2004, that fee was increased to $400. Therefore, as authorized, the difference of $270 for the petition fee has been charged to petitioner's deposit account.

The petition is **granted**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. Questions concerning the Certificate of Correction may be directed to the Certificates of Correction Branch at (703) 305-8309.

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-28-06

TO SPE OF : ART UNIT 2841

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/442217 Patent No.: 7031169

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 Check Claims

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

Certificates of Correction Branch

703-308-9390 ext. 117

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

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Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 22 2010

OFFICE OF PETITIONS

In re Application of :
Tanaka :
Application No. 10/442,249 :
Filed: May 21, 2003 :
Attorney Docket No. 053969-0153 :
For: COMMUNICATION SYSTEM :
MULTIPLEXER INCLUDED IN THE :
SYSTEM, LINE PERFORMANCE TEST :
METHOD AND RECORDING MEDIUM :
HAVING PROGRAM RECORDED THEREON :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT", filed July 13, 2009. The Office thanks applicant for their candor and good faith in bringing this matter to the attention of the Office.

The request for review of the patent term adjustment is **Dismissed**.

On April 20, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one thousand one hundred twelve (1112) days. Applicant requests verification of the determination of patent term adjustment under 35 U.S.C. § 154(b).

The Office has reviewed the application history and no error has been detected.

An adjustment of 1105 days pursuant to 37 CFR 1.702(a)(1) was accorded in connection with the mailing of the non-final Office action on July 31, 2007.

An adjustment of 53 days pursuant to 37 CFR 1.702(a)(2) was accorded in connection with the mailing of the non-final Office action on August 20, 2008.

The adjustment totalling 1158 was properly reduced 46 days in accorded with 37 CFR 1.704(c)(8) in connection with the information disclosure statement filed April 14, 2008.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is one thousand one hundred twelve **(1112)** days.

To the extent applicant continues remains of the belief that the determination of patent term adjustment contains an error, after issuance of the patent, applicant should submit a letter setting forth with specificity the adjustments and/or deductions that applicant believes were accorded in error.

As this letter was submitted as an advisement to the Office of an error against applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e).

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450.
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G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

MAILED

MAY 1 8 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
KOIFMAN, IGAL, et al
Serial No.: 10/442,302
Filed: May 21, 2003
For: **DOT GAIN CALIBRATION METHOD AND APPARATUS**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

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

The petition requests that the color drawings, although not specifically identified but noted as, figures 2 and 4-10 (figure 4 is included since it is on the same sheet as figure 5) be accepted in lieu of black and white drawings.

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

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

The petition is **GRANTED**.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARLEN OLSEN
SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

MAILED

MAY 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Lawrence J. Friedman	:	DECISION ON PETITION
Application No. 10/442,324	:	TO WITHDRAW
Filed: May 21, 2003	:	FROM RECORD
Attorney Docket No. FRIEDP001US	:	

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 6, 2005.

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

A review of the file record indicates that on October 19, 2005 the power of attorney to Schmeiser, Olsen & Watts was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Law Office of Jay R. Yablon
910 Northumberland Drive
Schenectady NY 12309-2814

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2211

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NOV 2 1 2003

OFFICE OF PETITIONS

In re Application of
Tran, Singh, Duraiswamy & Kannan
Application No. 10/442,329
Filed: May 21, 2003
Attorney Docket No.A00312.70467.US
For: METHODS AND APPARATUS FOR INSTRUCTION ALIGNMENT

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 16, 2003 (certificate of mailing date October 14, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Thang M. Tran, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition signed by attorney William R. McClellan 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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THANG M. TRAN
1113 ELDER CIRCLE
AUSTIN TX 78733

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OFFICE OF PETITIONS

In re Application of
Tran, Singh, Duraiswamy & Kannan
Application No. 10/442,329
Filed: May 21, 2003
Attorney Docket No.A00312.70467.US
For: METHODS AND APPARATUS FOR INSTRUCTION ALIGNMENT

LETTER

Dear Mr. Tran:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2211

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Nagarajan Rajagopalan et al.	:	
Application No. 10/442,359	:	DECISION ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. A7747.2/T49210	:	

This is a decision on the petition, filed November 29, 2004, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application. The extended delay in answering this petition is regretted.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action restriction requirement of February 2, 2004, which set a shortened statutory period for reply of one (1) month. A reply was due on or before March 2, 2004. The notice of abandonment mailed November 1, 2004 indicates that no response to the restriction requirement was received.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on February 23, 2004 of, *inter alia,* a response to the restriction requirement of February 2, 2004. A copy of the previously submitted reply accompanies the petition.

A review of the file record shows a response to the restriction requirement timely filed on February 23, 2004.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 2818 for appropriate action in the normal course of business on the response to the restriction requirement as filed on February 23, 2004.

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : May 15, 2008

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/442364 Patent No.: 7302049 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Formatted: Indent: Left: 1.22"

Comments: _____

CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER 2614
TECHNOLOGY CENTER 2600

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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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MATTHEW A. NEWBOLES
STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO CA 92656

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AUG 03 2007

OFFICE OF PETITIONS

In re Patent No. 6860871	:	
Issue Date: 03/01/2005	:	
Application No. 10/442376	:	NOTICE
Filed: 05/21/2003	:	
Attorney Docket No. INJEC-016CBC	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on 13 March, 2007 (certificate of mailing date 2 October, 2006).

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

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

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas Wood
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100713

DATE : July 13, 2010

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction on Patent No.: 6976522

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:

we apologize for the delay-- COC request filed 3/27/2006 is approved

SPE: /Katherine W. Mitchell/ **Art Unit** 3634

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Peter W. Flemming	: DECISION ON REQUEST FOR
Patent Number	: 7614951	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/442,389	: 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 **1046** 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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VERIZON
PATENT MANAGEMENT GROUP
1320 NORTH COURT HOUSE ROAD
9TH FLOOR
ARLINGTON, VA 22201-2909

MAILED

MAY 28 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Robert D. Farris et al :
Application No. 10/442,414 :
Filed: May 21, 2003 :
Attorney Docket No. VE22.06C1

This is a decision on the petition, filed May 27, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 19, 2009 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 2416 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/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/17/06

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/442418 Patent No.: 6963092

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

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

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

Certificates of Correction Branch

703-308-9390 ext. _____

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

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,963,092

DATED : November 8, 2005

INVENTOR(S) : Lee

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

On the Title Page,
Section 56, U.S. PATENT DOCUMENTS, should include:
6,323,479 11/2001 Hynecek et al. 250/214L

Column 12,
Line 3 should read -- grounded or tied to a fixed potential;
wherein the at least one switching device comprises a transfer transistor, a reset transistor, a sensing transistor and a pull-up transistor, which are serially connected to the photodetector, a first node between the transfer transistor and the reset transistor being electrically connected to a gate electrode of the sensing transistor, and a second node between the reset transistor and the sensing transistor being electrically connected to the power supply voltage. --

Lines 6-13 (Claim 3) should be deleted.

Line 15 should read -- **4**. The image sensor of claim **1**, further comprising --

MAILING ADDRESS OF SENDER:
Myers, Bigel, Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

PATENT NO. 6,963,092
No. of additional copies: _____

⇒

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

FEB 8 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

January 7, 2004

Townsend and Townsend
and Crew
Two Embarcadero Center
8the floor
San Francisco, CA 94111-3834

In re Application of:
Akinori Shiozawa, et al
Serial No.: 10/442,430 On Petition
Filing Date: May 20, 2003
For: INFORMATION RECORDING METHOD AND OPTICAL DISK APPARATUS

In response to the petition received November 12, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional Application mailed July 25, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned September 26, 2003.

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

The application has been completed with the documents received on November 12, 2004 for release to Technology Center 2655.

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

Doshie Day

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

January 7, 2004

Townsend and Townsend
and Crew
Two Embarcadero Center
8the floor
San Francisco, CA 94111-3834

In re Application of:
Akinori Shiozawa, et al
Serial No.: 10/442,430 On Petition
Filing Date: May 20, 2003
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In response to the petition received November 12, 2004, to withdraw the holding of abandonment in the above application.

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

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

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BIOTECHNOLOGY LAW GROUP
C/O PORTFOLIOIP
PO BOX 52050
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of
Brian Cumpston, et al.
Application No. 10/442,431
Filed: May 20, 2003
Attorney Docket No. CIT86100DV

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 2, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before January 11, 2007. On February 2, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on April 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $700 issue fee and the $300 publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/442,450	05/21/2003	William Bradley Young	768008-0005

CONFIRMATION NO.
4436

STINSON MORRISON HECKER LLP
ATTN: PATENT GROUP
1201 WALNUT STREET, SUITE 2800
KANSAS CITY MO 64106-2150

Date Mailed: November 18, 2004

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) filed on November 18, 2004, for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ■ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. □ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. □ The Application was published on October 9, 2003, in compliance with 35 U.S.C. 122(b), the publication number is US20030189168A1, and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

UNITED STATES PATENT AND TRADEMARK OFFICE

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WWW.USPTO.GOV

Paper No. None

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OFFICE OF PETITIONS

JACOBSON & JOHNSON
ONE WEST WATER STREET, SUITE 285
ST. PAUL MN 55107

In re Application of	:	
James R. Steele et al.	:	
Application No. 10/442,464	:	DECISION ON PETITION
Filed: May 21, 2003	:	UNDER 37 C.F.R. §1.181
Attorney Docket No.: 5770	:	
Title: BLENDER	:	

This is a decision on the petition filed on May 26, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed July 19, 2005, which set a shortened statutory period for reply of three months. An amendment was received on October 11, 2005, and an advisory action was mailed on November 4, 2005. No extensions of time under 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 October 20, 2005. A notice of abandonment was mailed on May 8, 2006.

ANALYSIS

With the present petition, Petitioner has asserted that a response to this communication, a Request for Continued Examination (RCE), was submitted on November 10, 2005. Petitioner has submitted a copy of this submission, the petition for a one-month extension of time, and the postcard receipt.

Petitioner has also indicated why each of these items were not associated with the present file: Petitioner placed the wrong serial number on each of these submissions. As such, each of these items were associated with application number 10/443,464, as requested by Petitioner.

Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

CONCLUSION

It is clear that the submission was timely received on November 14, 2005, and placed into the electronic file associated with application number 10/443,464. Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is WITHDRAWN.

The petition for an extension of time, the RCE, and the fees associated with each of these submissions will be moved from the electronic file and records associated with 10/443,464 and placed into the electronic file and records associated with the present application in due course.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the RCE which was received on November 14, 2005 can be processed.

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK, NY 10016-0601

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DEC 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
GURVEY, Amy R.	:	
Application No. 10/442,468	:	DECISION ON PETITION
Filed: May 20, 2003	:	TO WITHDRAW
Attorney Docket No. **4662-002**	:	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 01, 2007.

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

A review of the file record indicates that the power of attorney to GOTTLIEB RACKMAN & REISMAN PC has been revoked by the applicant of the patent application on October 24, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ALLAN CHAN & ASSOCIATES**
225 BCOADWAY, SUITE 700
NEW YORK NY 10003

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
10/442,482	05/20/2003	3738	588	ATA-154CP	7	39	4

00959
LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109

CONFIRMATION NO. 6010

CORRECTED FILING RECEIPT

OC000000010993982

Date Mailed: 10/07/2003

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

Applicant(s)

Theodore Karwoski, Hollis, NH;
Mark D. Avella, Londonderry, NH;

Assignment For Published Patent Application

ATRIUM MEDICAL CORP., Hudson, NH;

Domestic Priority data as claimed by applicant

This application is a CIP of 08/937,083 09/24/1997 PAT 6,565,594

Foreign Applications

If Required, Foreign Filing License Granted: 07/15/2003

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Tunneling device for use with a graft

Preliminary Class
623

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

GRANTED

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

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

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

NOT GRANTED

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

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

Robert D. Buyan
Suite #310
4 Venture
Irvine CA 92618

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Keller et al.	:	
Application No. 10/442483	:	
Filing or 371(c) Date: 05/21/2003	:	ON PETITION
Attorney Docket Number:	:	
RADNT-015C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 18, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on August 19, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The application is being referred to Technology Center Art Unit 3739 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/442,483	05/21/2003	Wade A. Keller	RADNT-015C	6211

7590 09/22/2008

Robert D. Buyan
Suite #300
4 Venture
Irvine, CA 92618

EXAMINER
GIBSON, ROY DEAN

ART UNIT	PAPER NUMBER
3739	

MAIL DATE	DELIVERY MODE
09/22/2008	PAPER

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

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

OPY FOR YOUR INFORMATION

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Robert D. Buyan
Suite #310
4 Venture
Irvine CA 92618

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of :
Keller et al. :
Application No. 10/442483 :
Filing or 371(c) Date: 05/21/2003 :
Attorney Docket Number: :
RADNT-015C :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 18, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on August 19, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The application is being referred to Technology Center Art Unit 3739 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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DEC 23 2009

OFFICE OF PETITIONS

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

In re Patent No. 7,485,460	:	DECISION ON REQUEST
Prockop et al.	:	FOR RECONSIDERATION OF
Application No. 10/442,506	:	PATENT TERM ADJUSTMENT
Issue Date: February 3, 2009	:	UNDER 37 CFR 1.705
Filed: May 21, 2003	:	AND
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
09932.0002-00000	:	CERTIFICATE OF CORRECTION

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed on April 1, 2009. Patentees request that the determination of patent term adjustment be corrected from seven hundred sixty-seven (767) days to one thousand two hundred seventy-seven (1277) days.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED.**

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 six hundred twenty-three (623) 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.

BACKGROUND

On February 3, 2009, the application matured into U.S. Patent No. 7,485,460 with a revised patent term adjustment of 767 days. The Office determined that the 989 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 577 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and

37 CFR 1.702(a)(1) and (a)(2) accorded prior to the issuance of the patent. As such, 412 additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 222 days, the patent issued with a revised patent term adjustment of 767 (577 + 412 - 222) days.

On April 1, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1277 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee maintains that the correct patent term adjustment is 510 days - 222 days + 989 days or 1277 days.

OPINION

Preliminarily, it is noted that the 989 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) fails to exclude the period under 35 U.S.C. 154(b)(1)(B)(ii) and 37 CFR 1.702(b)(4). 37 CFR 1.703(b)(4) states that the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) and ending on the date a patent was issued, but not including the sum of the following periods the number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

On September 25, 2007, a notice of appeal was filed. On February 15, 2008, a non-final rejection was mailed. Accordingly, a 144 day period should have been excluded from the period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) for the period beginning on September 25, 2007 and ending February 15, 2008. The period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) should be 845 days (989 - 144) rather than 989 days.

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

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark*

Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), May 21, 2003, and ending on the date of issuance of the patent, February 3, 2009, (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a), 577 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 845 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 845 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 577 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 845 days and the 577 days is neither permitted nor warranted. The actual number of days issuance of the patent was delayed is 845 days.

Accordingly, at issuance, the Office should have entered 268 (845 - 577) additional days of adjustment pursuant to § 1.702(b) for a total of 845 days of Office delay.

CONCLUSION

In view thereof, the revised determination of patent term adjustment at the time of the issuance of the patent is 623 days (577 + 268 - 222).

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 six hundred twenty-three (623) days.

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

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

Anthony Knight
Supervisor
Office of Petitions

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,485,460 B2

DATED : Feb. 3, 2009

INVENTOR(S) : Prockop 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 (767) days

Delete the phrase "by 767 days" and insert – by 623 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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JIM C. SCHELLER
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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MAY 1 3 2005

OFFICE OF PETITIONS

In re Application of	:
Andrew W. Holman	:
Application No. 10/442,511	: DECISION GRANTING PETITION
Filed: May 21, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AVERP2951WOUSA	:

This is a decision on the petition, filed May 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 21, 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 2828 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently amendment and Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAY - 6 2005

In re Application of	:	
Hollis Kent Daniels	:	
Serial No. 10/442,514	:	DECISION ON
Filed: May 21, 2003	:	PETITION TO WITHDRAW
For: PACKAGING BLANK	:	AS ATTORNEY

By papers filed on December 21, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the new correspondence address for this application is:

Hollis Kent Daniels
160 Pine Hollow Road
Windsor, PA 17366

Donna P. Magahan
Office of the Director
Technology Center 3700

Summa and Allan, PA
11610 North Community House Road
Suite 200
Charlotte, NC 28277

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.go

Paper No. 8

ROBERT H. RINES
RINES AND RINES
81 NORTH STATE STREET
CONCORD, NH 03301

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OCT 1 5 2004

OFFICE OF PETITIONS

In re Application of :
Qian, D. :
Application No. 10/442,515 :
Filed: April 4, 2003 :
Title: Method Of And Architecture For :
Optically Switching Light Communication
Signals In Fiber Optic Networks And The Like

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 17, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed July 30, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 1, 2003. A Notice of Abandonment was mailed on September 7, 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.

[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.

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 item (3). 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement may be construed as the statement required by 37 CFR 1.137(b)(3). However, petitioner failed to include any delay statement in the instant petition.

To revive the above-identified application, petitioner must submit the appropriate statement.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[2] See MPEP 711.03(c)(III)(C) and (D).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 12

ROBERT H. RINES
RINES AND RINES
81 NORTH STATE STREET
CONCORD, NH 03301

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NOV 03 2004

OFFICE OF PETITIONS

In re Application of :
Qian, D. :
Application No. 10/442,515 :
Filed: April 4, 2003 :
Title: Method Of And Architecture For :
Optically Switching Light Communication
Signals In Fiber Optic Networks And The Like

ON PETITION

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed October 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed July 30, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 1, 2003. A Notice of Abandonment was mailed on September 7, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

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

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

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

7-17-07

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Patent No. : 7,170,838
Ser. No. : 10/442,530
Inventor(s) : Tsuyoshi Toda, et. al.
Issued : January 30, 2007
Title : INFORMATION RECORDING AND REPRODUCING APPARATUS
Docket No. : 16869S-082100US

Re: Request for Certificate of Correction

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

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

In view of the foregoing, your request is hereby 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
40l Dulany Street
Alexandria, VA 22314

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

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

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105

George B.F.Yee
Townsend and Townsend and Crew
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 30 2009

OFFICE OF PETITIONS

In re Patent No. 7170838 :
Issue Date: 01/30/2007 :
Application Number: 10/442530 : ON PETITION
Filing or 371(c) Date: 05/20/2003 :
Attorney Docket Number: 16869S-082100US :

This is a decision on the petition filed on August 3, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORTON CHIRNOMAS
19 SATINWOOD WAY
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OFFICE OF PETITIONS

In re Application of :
Yaffa Sheina Licari : DECISION GRANTING PETITION
Application No. 10/442,534 :
Filed: May 21, 2003 :
Attorney Docket No. 4280-145 US :

This is a decision on the petition under 37 CFR 1.137(a), filed August 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on September 11, 2005, for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due mailed on June 10, 2005, which set a three (3) month statutory period for reply. The present petition precedes the mailing of the Notice of Abandonment.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (703) 305-8497.

Telephone inquiries specifically concerning this decision 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEVISOHN, BERGER , LLP
11 BROADWAY , Suite 615
NEW YORK NY 10004

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Yaffa Sheina Licari	:	
Application No. 10/442,534	:	ON PETITION
Filed: May 21, 2003	:	
Attorney Docket No. 1855.011	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed March 17, 2008, which set a period for reply of three (3) months. Accordingly, this application became abandoned on June 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings , (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584

This application is being referred to the Office of Data Management for appropriate action in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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DEC 2 0 2007

OFFICE OF PETITIONS

WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

In re Application of	:	
Berlin et al.	:	
Application No. 10/442,535	:	DECISION ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. 0630/1F498-US3	:	

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

The petition is **GRANTED**.

The 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.

Effective September 29, 2007, the petition fee increased from $1500.00 to $1540.00. Petitioner's deposit account was charged accordingly as authorized.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1640.00 extension of time fee submitted with the petition on October 3, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

This matter is being referred to Technology Center 1794 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

NOTICE

In re Application of :
Jonah Jacob et al :
Application No. 10/442,544 :
Filed: May 21, 2003 :
Attorney Docket No. S00622.70072.US :

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

This file is being referred to Technology Center AU 2881

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CLEVELAND OH 44114

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APR 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Eric Horvitz	:	
Application No. 10/442,546	:	ON PETITION
Filed: May 21, 2003	:	
Attorney Docket No. MS124236.5	:	

This is a decision on the petition filed September 29, 2004, under 37 CFR 1.137(b), which is being treated as a petition under 37 CFR 1.137(a), to revive the above-identified application.

The petition is **GRANTED**.

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

This matter is being referred to the Office of Initial Patent Examination for processing using the copy of the **Abstract** submitted with the instant petition on September 29, 2004.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WOLF GREENFIELD (Microsoft Corporation)
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600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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DEC 0 3 2009

OFFICE OF PETITIONS

In re Application of Horvitz :
Application No. 10/442,546 :
Filing Date: May 21, 2003 :
Attorney Docket No. M1103.70707US00 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 3, 2008, 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 Tuesday, January 6, 2009. A Notice of Abandonment was mailed on May 8, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to requirements (1) and (2), petitioner has submitted a reply to the non-final Office action and the petition fee of $1,620.

As to requirement (3), the petition states 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 Office notes the petition is signed by Attorney William McClellan. Attorney McClellan was not an attorney of record at the time the application became abandoned.

Therefore, it appears Attorney McClellan may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney McClellan that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

As to requirement (4), a terminal disclaimer is unnecessary in this case.

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

Technology Center Art Unit 2176 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

[1] *See* Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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Paper No.

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NEW FREEDOM, PA 17349

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OFFICE OF PETITIONS

In re Application of :
Laurence Ayling : DECISION ON PETITION
Application No. 10/442,548 :
Filed: May 21, 2003 :
Attorney Docket No. AYL-2-CONT:

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed January 31, 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 timely pay the Issue Fee and Publication Fee within the three-month period set forth in the Notice of Allowance and Fee(s) Due mailed July 1, 2005. This statutory period for transmitting the Issue Fee is not extendable. An authorization to charge the payment to a Deposit Account was received on September 29, 2005. However, upon presentation, the fees in the Deposit Account were found to be insufficient. The above-identified application became abandoned on October 2, 2005. A Notice of Abandonment was mailed on December 30, 2005.

Applicants timely filed the instant petition. Petitioner maintains that the abandonment was unavoidable due to the attorney of records' medical condition. Specifically, the morning of preparation of the Issue Fee transmittal (for $1,700) counsel had had two root canals, was in great pain therefrom; and was under the influence of a prescription pain killer containing codeine. Due to this condition, counsel was unaware that the Deposit Account was deficient $165.

Consideration under § 1.137(a)

A grantable petition under § 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 C.F.R. §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 this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to §1.137(d). A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless
previously filed;
(2) The petition fee as set forth in § 1.17(l);
(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition lacks item (3).

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

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and

> instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

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 argument has been considered, but has been determined not to meet the burden of showing that the delay was unavoidable within the meaning of § 1.137(a). It is well established that an applicant is bound by the actions of his voluntarily-chosen representative. Under such circumstances, the inquiry shifts to focus on whether the attorney (rather than the applicant) acted reasonably and prudently.

A showing of medical incapacitation may meet the burden of establishing that the delay was "unavoidable." A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's incapacitation was of such a nature and degree as to render petitioner unable to conduct business (e.g., draft and submit issue fee payment to the Office) during the relevant period. Such a showing should be supported by a statement from petitioner's treating physician, and such statement should provide the nature and degree of petitioner's incapacitation during the relevant period.

Petitioner has submitted a copy of a note from their dentist reflecting the level of dental treatment and the medications prescribed. The petition supports a conclusion that counsel was in pain. Although it is understandable that counsel was in pain due to the dental procedures undertaken, the evidence is insufficient to support a conclusion that he was under a medical

condition that interfered with his functioning such that he was able to prepare an Issue Fee transmittal but unable to verify (or delegate the verifying of) the adequacy of funds in the Deposit Account. The evidence does not establish that counsel was under such impairment that the Issue Fee and Publication Fee should be accepted as unavoidably delayed.

37 CFR 1.25(a) provides in pertinent part that:

> Charges to accounts with insufficient funds will not be accepted.

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. In this instance, diligence requires verification of sufficiency of funds. Petitioner has not shown that his level of pain (or impairment) was of sufficient severity to warrant excusing of the failure of care to verify the funds in the Deposit Account or to delegate that task (or to simply add additional funds to ensure sufficiency).

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

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Paper No.

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OFFICE OF PETITIONS

In re Application of :
Laurence Ayling : DECISION ON PETITION
Application No. 10/442,548 :
Filed: May 21, 2003 :
Attorney Docket No. AYL-2-CONT:

This is a decision on the REQUEST FOR RECONSIDERATION OF Petition For Revival of An Application for Patent Abandoned Unavoidably Under 37 CFR §1.137(a) filed September 11, 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 effective October 2, 2005 for failure to timely pay the Issue Fee and Publication Fee within the three-month period set forth in the Notice of Allowance and Fee(s) Due mailed July 1, 2005. The above-identified application became abandoned on October 2, 2005. A Notice of Abandonment was mailed on December 30, 2005.

By decision mailed June 8, 2006, the initial "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed January 31, 2006 was dismissed. Petitioner failed to meet his burden of establishing that the entire delay in filing the required reply was unavoidable within

the meaning of 1.137(a). Petitioner had argued that due to the attorney of record having had the morning of preparation of the Issue Fee transmittal two root canals, being in great pain therefrom; and being under the influence of a prescription painkiller containing codeine, he submitted the transmittal unaware that the Deposit Account was deficient $165.

Petitioner was advised that 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. Moreover, a showing of medical incapacitation may meet the burden of establishing that the delay was "unavoidable." A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's incapacitation was of such a nature and degree as to render petitioner unable to conduct business (e.g., draft and submit issue fee payment to the Office) during the relevant period. Such a showing should be supported by a statement from petitioner's treating physician, and such statement should provide the nature and degree of petitioner's incapacitation during the relevant period.

To meet this burden on initial petition, petitioner submitted a copy of a note from their dentist reflecting the level of dental treatment and the medications prescribed. Petitioner was advised that this evidence is insufficient to support a conclusion that he was under a medical condition that interfered with his functioning such that he was able to prepare an Issue Fee transmittal but unable to verify (or delegate the verifying of) the adequacy of funds in the Deposit Account. Thus, it was concluded that petitioner has not shown that his level of pain (or impairment) was of sufficient severity to warrant excusing of the failure of care to verify the funds in the Deposit Account or to delegate that task (or to simply add additional funds to ensure sufficiency). Petitioner had not met his burden of establishing unavoidable delay.

On instant renewed petition, petitioner argues that the grounds for dismissing the petition focus solely upon the pain of counsel, but do not consider the mental condition caused by the prescription painkiller, which included Codeine. Thus, Counsel aided by the pain killer component, was able to prepare the formal papers for payment of the Issue Fee, and despite the pain aspect, did so. However, petitioner argues pain alone is not the issue. Rather, petitioner argues the issue is the well-

known effect of Codeine on the brain particularly on memory. Petitioner argues, in effect, that because he was clouded by the Codeine, he failed to re-check the balance in his Deposit Account, which is a matter he would always do except for such mental state, and the effect thereon by the powerful medication. Petitioner argues that the combined effects of both pain and mental condition meet the test of incapacity and the unavoidable consequence. Finally, petitioner respectfully submits that Counsel is a sole Practitioner with a home office without a secretary or other person to whom he may delegate such matters; only a part time typist who works at her home office by fax and email.

Petitioner's arguments have been considered, but not found persuasive. Petitioner draws a distinction that is not adequately supported. The effects of Codeine on memory are not so well known that petitioner is relieved of his burden of submitting medical evidence to show incapacity. He is now under a burden of showing medical evidence of incapacity due to pain and memory loss. This is particularly necessary in this instance where petitioner expects the Office to find that his failure is excusable because his mind was too clouded to take the steps necessary to ensure that the Deposit Account had sufficient funds to implement the Issue Fee transmittal; however, that cloudiness of the mind did not prevent him from completing the transmittal.

But even with medical evidence of this effect, petitioner's failure is unlikely to be found unavoidable. Petitioner has not overcome the conclusion that the facts and circumstances of the delay simply do not support a conclusion that the failure to ensure the Deposit Account had sufficient funds should be excused as unavoidable. Petitioner's argument on the well-known effect of Codeine simply amplifies the question of what actions did he take to guard against the medical effects related to his root canal. Petitioner arguably completed the Issue Fee transmittal on September 27, 2005 under impairment. Although he states he always checks the Deposit Account, he says he failed to do so in this instance because his mind was clouded. Yet, the Office did not charge the Deposit Account until September 29, 2005. Moreover, to avoid abandonment the fee was due by October 1, 2005. So the Office is expected to excuse his failure i) to take any precautions against what he describes as well known effects on memory combined with pain to prevent making errors in submitting the Issue Fee transmittal on

September 27, 2005 (such as getting assistance completing this task or waiting until his mind cleared to complete the form since he had until October 1, 2005 to submit it), or ii) to subsequently double-check his work after the effects of the Codeine had minimized. Knowing he had completed the form with a clouded mind and had not obtained any assistance doing so, a reasonably prudent person would double-check his work.

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

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Paper No.

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of :
Laurence Ayling : DECISION ON PETITION
Application No. 10/442,548 :
Filed: May 21, 2003 :
Attorney Docket No. AYL-2-CONT:

This is a decision on the Petition for Revival of An Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) fied April 30, 2007.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned effective October 2, 2005 for failure to timely pay the Issue Fee and Publication Fee within the three-month period set forth in the Notice of Allowance and Fee(s) Due mailed July 1, 2005. The above-identified application became abandoned on October 2, 2005. A Notice of Abandonment was mailed on December 30, 2005.

By decision mailed June 8, 2006, the initial "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed January 31, 2006 was dismissed. By decision mailed December 5, 2006, a REQUEST FOR RECONSIDERATION OF Petition For Revival of An Application for Patent Abandoned Unavoidably Under 37 CFR §1.137(a) filed September 11, 2006 was dismissed. In both instances, it was concluded that petitioner had failed to meet his burden of establishing that the entire delay in filing the required reply was unavoidable within the meaning of §1.137(a).

Petitioner now requests revival based on unintentional delay. Petitioner has met this standard. The petition includes payment of the petition fee set forth in 37 CFR 1.17(m) and a statement of unintentional delay. The required reply, payment of the Issue Fee and Publication Fee[1], was completely submitted on previous petition filed January 31, 2006 and September 29, 2005 respectively. No terminal disclaimer is required.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] There was no distinct but concurrent requirement for corrected drawings.

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)
6850601	2005-02-01	10442551	2003-05-20	SNT-001

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	/thomas schneck/	Date (YYYY-MM-DD)	2009-08-03
Name	Thomas Schneck	Registration Number	24518

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. 6850601
Issue Date: February 1,2005
Application No. 10442551
Filed: May 20,2003
Attorney Docket No. SNT-001

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

This is a decision on the electronic petition, filed August 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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Washington, D.C. 20231
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MASSILLION OH 44646-1676

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of
Goff
Application No. 10/442,572
Filed: May 21, 2003
For: AIRCRAFT HANDLER

: ON PETITION

This is a decision on the communication filed December 28, 2004, captioned "petition to sign and record assignment on behalf of omitted inventor" which is being treated as a petition under 37 CFR 1.182 to accept as an "assignment" a document that was in fact not executed (signed) by the putative assignor or his legal representative.

The petition is **dismissed.**

According to petitioner, the named inventor has resigned and now cannot be reached or located to execute an assignment of the above-noted application to petitioner (his former employer) who, it is asserted, is the rightful owner by way of the inventor's employment agreement. To this end, petitioner has included for recordation by the USPTO a document asserted by petitioner to be "assignment" notwithstanding that is was executed, not by Mr. Goff, but rather, by a Mr. Towill, who it turns out is an officer of the putative assignee, that facially purports to convey Mr. Gogg's rights, title, and interest in the instant application to Douglas Equipment Ltd.

Inventorship is the starting point for determining ownership, see University Patents, Inc. v. Kligman, 762 F.Supp. 1212, 1218-19, 20 USPQ2d 1401, 1405 (E.D. Pa. 1991), and unless there is an assignment, the USPTO will presume the named inventor to be the owner, see 37 CFR 3.73(a). Furthermore, it is noted that the employment agreement of record is **not** an assignment. An agreement to assign in the future inventions not yet developed may vest the promisee with equitable rights in those inventions once made; however, such an agreement does not by itself vest legal title to patents on the inventions in the promisee. See Arachnid, Inc. v. Merit Industries, Inc., 939 F.2d 1574, 1580 19 USPQ2d 1513, 1518 (Fed. Cir. 1991).

In order for an instrument to be considered an assignment under the [United States] law, the conveyance must necessarily be executed by the assignor. See 35 U.S.C.A. § 256 n. 136; Ashcroft v. Walworth, C.C. Mass 1872, Holmes 152, Fed. Cas. No. 580. The assignment must be "in writing" in order to be valid or recognized by the USPTO. Standard Computing Scale Co. v. Lincoln Scale Corp., 57 F.2d 334, 11 USPQ 246 (W.D. Pa. 1931). That is, the written conveyance must be duly signed. American Tobacco v. Ascot Tobacco Works, 165 F. 207 (C.C. N.Y. 1908). As noted in University Patents, Inc. v. Kligman, supra

> Assignment of patent must be in writing, and must show clear and unmistakable intent to transfer ownership and must be executed by patentee or by patentee's assigns or legal representatives.

While a valid assignment need not be executed under seal, the assignment must be executed by the assignor. Gottfried v. Miller, 104 U.S. 521, 26 L.Ed. 851, 1882 C.D. 120.

Here, while Mr. Towill asserts he is an empowered legal representative of the putative assignee, Mr. Towill does not assert, much less proffer supporting documentation, that he is either the assignee or the empowered legal representative of Mr. Goff. Furthermore, as Mr. Towill is not a named inventor, much less the sole named inventor, he has no rights in the instant application to assign. Accordingly, the signature of Mr. Towill on the proffered "assignment" cannot have any force and effect with respect to

conveying Mr. Goff's rights in the above-identified application to the putative assignee. Indeed, the conspicuous absence of the signature of Mr. Goff on any sort of conveyance and the circumstances surrounding his departure from his former employer militate away from a finding of a "clear and unmistakable intent" on the part of Mr. Goff to assign this application to his former employer.

Indeed, the USPTO has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11 F.3d. 1573, 1581 n.10, 29 USPQ2d 1188, 1194 n.10 (Fed. Cir 1993), *cert. denied*, 114 S. Ct. (1994). Rather, here in the U.S., state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The USPTO cannot settle disputes as to title, or convert whatever equitable title that might exist in this application for petitioner simply by inspection of the documents upon which petitioner relies. Rather, a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2D 1119, 1123 (Fed. Cir. 1997)("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v. Crouch, 24 N.W. 2d 400, 33 USPQ2D 1361 (Iowa 1994) (patent ownership issue properly triable in state court).

Petitioner is advised that this decision was rendered as a courtesy notwithstanding the remittance of insufficient funds. That is, effective November 22, 2004, the fee for this petition increased to $400, leaving a balance owed of $270. **A full payment is required**.

As set forth in 37 CFR 3.54, while the recording of a document pursuant to § 3.11 is not a determination by the Office of the validity of the document or the effect that document has on the title to an application, the USPTO reserves the right to determine, as here, what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office. Petitioner's request, upon payment of the issue fee by way of the PTOL 85b, that the patent issue to Douglas Equipment Ltd. as the putative assignee is clearly untenable for the reasons given above. As there is currently no assignee within the meaning of 35 U.S.C. § 152 and 37 CFR 3.81 to whom this patent may properly issue, an appropriate correction to the PTOL 85b has been made *sua sponte* by the undersigned. No change will be made to the recorded "assignment" records of the USPTO as the USPTO records a document exactly as denoted by the requestor on the cover sheet under 37 CFR 3.31.

This allowed application is being referred to the Office of Publications.

Telephone inquiries relevant to this decision should be directed to the undersigned at (571) 272-3217.

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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PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
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WINSTON-SALEM NC 27101

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APR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
JASSO et al.	:	
Application No. 10/442,578	:	ON APPLICATION FOR
Filed: May 21, 2003	:	PATENT TERM ADJUSTMENT
Docket No. IMM172 (51851-279591)	:	

This is in response to the "Petition Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance" filed February 2, 2009. Applicant requests that the determination of patent term adjustment be corrected from 284 days to 687 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 three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

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

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

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

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

It is noted that a Request for Continued Examination (RCE) was filed in this application on June 29, 2007.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to the Deposit Account as authorized. No additional fees are required.

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

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

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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PVF -- PARC
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OCT 3 1 2008

OFFICE OF PETITIONS

In re Patent No. 7,363,508	:	
Application No. 10/442,582	:	
Filed: March 21, 2003	:	ON PETITION
Issued: April 22, 2008	:	
Attorney Docket No. PARC-DA2076Q-US-NP	:	

This is a decision on the petition filed October 20, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add 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**.

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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AUG 0 5 2005

OFFICE OF PETITIONS

In re Application of
CONAWAY, Lawrence M. et al
Application No.: 10/442,583
Filing Date: May 21, 2003
Docket No.: 139969CIP
For: FLOW-THROUGH MIXING APPARATUS

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on November 01, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the Notice to File Missing Parts mailed July 30, 2003. This Notice set a two (2) month period for reply, with extensions of time obtainable under §1.136(a). No extension of time having been obtained and no reply received, the above-identified application became abandoned effective October 1, 2003. A Notice of Abandonment was mailed on September 03, 2004.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the reply in the form of a declaration and the required fees, paid the petition fee and made the required statement of unintentional delay. Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being forwarded to Office of Initial Patent Examination for continued processing.

Erin P. Thomson
Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Christian Kiesl etal :
Application No. 10/442,585 : ON PETITION
Filed: May 21, 2003 :
Attorney Docket No. 414-28407-US :

This is a decision on the petition, filed March 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 2859 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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JUN 17 2009

OFFICE OF PETITIONS

In re Application of
In Gyun Jeon, et al.
Application No. 10/442,613
Filed: May 21, 2003
Attorney Docket No. PIA30516/DBE/US

ON PETITION

This is a decision in response to the petition, filed March 14, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b). The delay in responding is regretted; however the petition was just recently referred to the undersigned for consideration.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 8, 2007. A Notice of Abandonment was mailed on February 25, 2008. On March 14, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3663 for appropriate action by the Examiner in the normal course of business on the response filed March 14, 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

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JUN 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Marquess, Foley Leigh Shaw	:	DECISION ON PETITION
Application No. 10/442,662	:	TO WITHDRAW
Filed: May 21, 2003	:	FROM RECORD
Attorney Docket No. MER 03-008	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 25, 2005.

The request is **NOT APPROVED**.

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

The request cannot be approved because the reason provided for the request does not fall into one of the proper categories listed under 37 CFR 10.40. Further, it is unclear if the only the petitioner wishes to be withdrawn or if all the attorneys currently of record wish to be withdrawn as well.

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

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquiries should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

THOMAS KOWALSKI, ESQ.
745 FIFTH AVENUE
NEW YORK, NY 10151

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MAY 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Foley Leigh Shaw MARQUESS	:	
Application No. 10/442,662	:	DECISION ON PETITION
Filed: May 21, 2003	:	
Attorney Docket No. **P31005**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 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 Restriction Requirement, mailed January 08, 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 February 09, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of January 08, 2007 is accepted as having been unintentionally delayed.

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

The application is being referred to the Technology Center AU 1632 for appropriate action on the concurrently filed election.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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DORSEY & WHITNEY LLP
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Columbia Center
701 Fifth Avenue, Suite 6100
SEATTLE, WA 98104-7043

Mail Date: 05/24/2010

Applicant	: Graham Kirsch	: DECISION ON REQUEST FOR
Patent Number	: 7627737	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/442,667	: 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 **453** 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.

APPROVED: /J.Z./ 04/12/2010

Our Ref./Docket No: ESKO-039 Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Klein, *et al.* Assignee: Esko IP NV Patent No: 7,394,570 Issue Date: July, 1, 2008 Application No.: 10/442,682 Filed: May 20, 2003 Title: METHOD AND APPARATUS FOR ELIMINATING SEAMS IN SCREENED IMAGE DATA FOR REPETITIVE PRINTING	

REQUEST FOR CERTIFICATE OF CORRECTIONS

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

Dear Commissioner:

The above patent contains significant error(s) as indicated on the attached Certificate of Correction form (submitted in duplicate).

X Such error(s) arose through the fault of the Patent and Trademark Office. It is requested that the certificate be issued at no cost to the applicant.

However, if it is determined that the error(s) arose through the fault of applicant(s), please note that such error is of clerical error or minor nature and occurred in good faith and therefore issuance of the certificate of Correction is respectfully requested. The Commissioner is authorized to charge Deposit Account No. 50-0292 any required fee. A duplicate of this request is attached.

Such error(s) specifically:.

In column 5, line 8, kindly replace “the superceilperiod” with --the supercell period--

In column 9 , lines 53-55, kindly replace "A method as recited in claim 10, wherein the halftone dot position modifying displaces dots in one area while the halftone dots in the other area remain fixed." with --A method as recited in claim 6, further comprising:

repairing each partial halftone dot that is originally located at the edge of the image that becomes whole after displacement.--

In column 9, lines 56-59, kindly replace "A method as recited in claim 6, further comprising: repairing each partial halftone dot that is originally located at the edge of the image that becomes whole after displacement." with --A method as recited in claim 13, wherein the repairing of a halftone dot includes determining the average gray level in a region surrounding the halftone dot and adding pixels to the halftone dot to increase its area such that the halftone dot size matches the average gray level of the region.--

In column 9, lines 60-64, kindly replace "A method as recited in claim 14, wherein the repairing of a halftone dot includes determining the average gray level in a region surrounding the halftone dot and adding pixels to the halftone dot to increase its area such that the halftone dot size matches the average gray level of the region." with -- A method as recited in claim 10, wherein the halftone dot position modifying displaces dots in one area while the halftone dots in the other area remain fixed.--

The undersigned requests being contacted at (510) 547-3378 if there are any questions or clarifications, or if there are any problems with issuance of the Certificate of Correction.

Respectfully Submitted,

August 26, 2008
Date

/Dov Rosenfeld/ #38687
Dov Rosenfeld, Reg. No. 38687
Agent of Record.

Address for correspondence:
Dov Rosenfeld
5507 College Avenue, Suite 2,
Oakland, CA 94618
Tel.(510) 547-3378; Fax: (510) 291-2985

Our Ref./Docket No: ESKO-039 Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Klein, *et al.* Assignee: Esko IP NV Patent No: 7,394,570 Issue Date: July, 1, 2008 Application No.: 10/442,682 Filed: May 20, 2003 Title: METHOD AND APPARATUS FOR ELIMINATING SEAMS IN SCREENED IMAGE DATA FOR REPETITIVE PRINTING	

REQUEST FOR CERTIFICATE OF CORRECTIONS

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

Dear Commissioner:

The above patent contains significant error(s) as indicated on the attached Certificate of Correction form (submitted in duplicate).

X Such error(s) arose through the fault of the Patent and Trademark Office. It is requested that the certificate be issued at no cost to the applicant.

However, if it is determined that the error(s) arose through the fault of applicant(s), please note that such error is of clerical error or minor nature and occurred in good faith and therefore issuance of the certificate of Correction is respectfully requested. The Commissioner is authorized to charge Deposit Account No. 50-0292 any required fee. A duplicate of this request is attached.

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In column 5, line 8, kindly replace “the superceilperiod” with --the supercell period--

In column 9 , lines 53-55, kindly replace "A method as recited in claim 10, wherein the halftone dot position modifying displaces dots in one area while the halftone dots in the other area remain fixed." with --A method as recited in claim 6, further comprising:

repairing each partial halftone dot that is originally located at the edge of the image that becomes whole after displacement.--

In column 9, lines 56-59, kindly replace "A method as recited in claim 6, further comprising: repairing each partial halftone dot that is originally located at the edge of the image that becomes whole after displacement." with --A method as recited in claim 13, wherein the repairing of a halftone dot includes determining the average gray level in a region surrounding the halftone dot and adding pixels to the halftone dot to increase its area such that the halftone dot size matches the average gray level of the region.--

In column 9, lines 60-64, kindly replace "A method as recited in claim 14, wherein the repairing of a halftone dot includes determining the average gray level in a region surrounding the halftone dot and adding pixels to the halftone dot to increase its area such that the halftone dot size matches the average gray level of the region." with -- A method as recited in claim 10, wherein the halftone dot position modifying displaces dots in one area while the halftone dots in the other area remain fixed.--

The undersigned requests being contacted at (510) 547-3378 if there are any questions or clarifications, or if there are any problems with issuance of the Certificate of Correction.

Respectfully Submitted,

August 26, 2008
Date

/Dov Rosenfeld/ #38687
Dov Rosenfeld, Reg. No. 38687
Agent of Record.

Address for correspondence:
Dov Rosenfeld
5507 College Avenue, Suite 2,
Oakland, CA 94618
Tel.(510) 547-3378; Fax: (510) 291-2985

PTO/SB/44 (10-96)
Approved for use through 6/30/99. OMB 0651-0033
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,394,570 PAGE 1 of 1

DATED : July 1, 2008

INVENTOR(S) : Klein, et al.

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

In column 5, line 8, kindly replace “the superceilperiod” with --the supercell period--

In column 9, lines 53-55, kindly replace “A method as recited in claim 10, wherein the halftone dot position modifying displaces dots in one area while the halftone dots in the other area remain fixed.” with
--A method as recited in claim 6, further comprising:
repairing each partial halftone dot that is originally located at the edge of the image that becomes whole after displacement.--

In column 9, lines 56-59, kindly replace “A method as recited in claim 6, further comprising:
repairing each partial halftone dot that is originally located at the edge of the image that becomes whole after displacement.” with --A method as recited in claim 13, wherein the repairing of a halftone dot includes determining the average gray level in a region surrounding the halftone dot and adding pixels to the halftone dot to increase its area such that the halftone dot size matches the average gray level of the region.--

In column 9, lines 60-64, kindly replace “A method as recited in claim 14, wherein the repairing of a halftone dot includes determining the average gray level in a region surrounding the halftone dot and adding pixels to the halftone dot to increase its area such that the halftone dot size matches the average gray level of the region.” with -- A method as recited in claim 10, wherein the halftone dot position modifying displaces dots in one area while the halftone dots in the other area remain fixed.--

MAILING ADDRESS OF SENDER (Atty/Agent of Record):
Dov Rosenfeld, Reg. No. 38687
5507 College Avenue, Suite 2
Oakland, CA 94618

PATENT NO: 7,394,570
No. of additional copies

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100412

DATE : September 16, 2008

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction on Patent No.: 7394570

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/Mark K Zimmerman/
Supervisory Patent Examiner, Art Unit 2625

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROMBERG & SUNSTEIN
125 SUMMER STREET
BOSTON, MA 02110-1618

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OCT 2 0 2005

OFFICE OF PETITIONS

In re Application of :
William Adams et al :
Application No. 10/442,687 :
Filed: May 21, 2003 :
Attorney Docket No. 1945/A41 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(b), filed October 18, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2882 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 19 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Kawamura, et al.
Application No. 10/442,724
Filed: May 20, 2003
For: MULTIPLE DATA MANAGEMENT METHOD, COMPUTER AND STORAGE DEVICE THEREFOR

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 07 March 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 15 2005

PAUL A. LEVITSKY
COMPETITIVE TECHNOLOGIES, INC.
1960 BRONSON ROAD
FAIRFIELD, CT 06824

In re application of
Harry McKay
Application No. 10/442,735
Filed: May 21, 2003
For: METHOD AND SYSTEM FOR SUPPORTING INSULATING PANELS IN AN INSULATED CONCRETE WALL STRUCTURE

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on April 14, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with condition B) above.

As to condition B) the reason "Returning application to inventor," is not appropriate. A proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
((571) 272-6619

RAR/dcg: 5/12/05

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JUL 1 9 2005

9/22/05
APPROVED

PTO/SB/83 (04-05)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/442,735
Filing Date	May 21, 2003
First Named Inventor	Harry McKay
Art Unit	3635
Examiner Name	Basil S. Katchaves
Attorney Docket Number	MCKAY-01-02

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

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

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number [ ]

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The inventors knowingly and freely assent to termination of representation, in accordance with business relationship between CTT, a technology transfer company, and inventors, whereby CTT became assignee of the application and prosecuted it. In April, 2005, CTT assigned the application back to the inventors and transferred the file to them; CTT can therefore no longer continue prosecution.

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number: [ ]

OR

[x] Firm or Individual Name	Harry McKay				
Address	57 Merkley Square				
City	Scarborough	State	Ontario	Zip	M1G 2Y6
Country	Canada				
Telephone	416-431-1982			Email	
Signature					
Name	Paul A. Levitsky			Registration No.	48,449
Date	July 18, 2005			Telephone No.	203-255-6044

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID L. FEHRMAN
MORRISON & FOERSTER LLP
555 W. 5TH STREET, 35TH FLOOR
LOS ANGELES, CA 90013

COPY MAILED

MAY 0 2 2006

OFFICE OF PETITIONS

In re Application of	:
Nobukazu Toba et al	:
Application No. 10/442,751	: DECISION GRANTING PETITION
Filed: May 21, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 393032037800	:

This is a decision on the petition, filed April 25, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2144 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\442751.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

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APR 19 2005
OFFICE OF PETITIONS

In re Application of :
Chawnshang Chang et al :
Application No. 10/442,754 : DECISION ON PETITION
Filed: May 20, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 21108.0011U5

This is a decision on the petition, filed July 23, 2004 which is being treated as a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

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

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 applications satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(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. §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 provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1646 for appropriate action on the amendment submitted July 23, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications.

Frances Hicks

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK NC 27709

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OFFICE OF PETITIONS

In re Application of :
Patrick Droz et al :
Application No. 10/442,762 : ON PETITION
Filed: May 21, 2003 :
Attorney Docket No. :
RPS920020034US1

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to submit formal drawings on or before September 7, 2007 in reply to the Notice of Allowability, mailed June 7, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 8, 2007. A Notice of Abandonment was mailed on October 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of replacement drawings; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of June 7, 2007 is accepted as being unintentionally delayed.

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

entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to the Office of Data Management for further processing in accordance with this decision reviving the application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Erin C. Ming
Sawyer Law Group LLP
2465 E. Bayshore Road
Suite No. 406
Palo Alto, CA 94303

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

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MAR 0 7 2007

OFFICE OF PETITIONS

In re Application of Stevens et al. :
Application No. 10/442,777 : Decision on Petition
Filing Date: May 21, 2003 :
Attorney Docket No. HRT0293C :

This is a decision on the petition under 37 CFR 1.137(b), filed October 19, 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 April 18, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 19, 2006.

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.

On October 20, 2006, the sum of $1,020 was previously charged to petitioner's deposit account for a three-month extension of time. Payment of an extension of time is unnecessary when filing a petition to revive. Therefore, the sum $1,020 has been credited back to petitioner's deposit account.

Technology Center Art Unit 3738 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

PFIZER INC.
PATENT DEPARTMENT
MS 8260-1611
EASTERN POINT ROAD
GROTON, CT 06340

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JUN 0 2 2004

OFFICE OF PETITIONS

In re Application of
Todd A. Blumenkopf et al
Application No. 10/442,807
Filed: May 20, 2003
Attorney Docket No. PC10285C

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 29, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 30, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950.00 extension of time submitted with the petition on May 24, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to Technology Center AU 1624.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 4

Wood, Herron & Evans
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202

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SEP 1 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Vosahlik et al.	:	DECISION DISMISSING
Application No. 10/442,814	:	PETITION
Filed: May 21, 2003	:	
Attorney Docket No. HILB/704D2	:	

This is a decision on the petition under 37 CFR 1.53(e), filed August 6, 2003, requesting that the application be accorded a filing date of May 21, 2003, with Figures 3-6 as part of the original disclosure.

The application was filed on May 21, 2003. However, on July 11, 2003, the Office mailed a "Notice of Omitted Items" stating that the application had been accorded a filing date of May 21, 2003, and advising applicants that the drawings of Figures 3-6 described in the specification appeared to have been omitted.

In response, applicants filed the present petition, a $130.00 petition fee, and a copy of Figures 3-6. Applicants explain that the Figures were omitted due to a clerical error.

The Office notes that the mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, applicants admitted that Figures 3-6 were omitted on filing. Additionally, applicants did not request the filing date of August 6, 2003 (the date the drawings were supplied).

Instead, applicants seek, in effect, to amend the application to include Figures 3-6. However, no petition is necessary for that purpose. The primary examiner without petition may enter new drawings so long as the new drawings contain no new matter. See MPEP § 608.02(a).

Accordingly, the petition is inappropriate and is hereby dismissed.

A review of the official file confirm that Figures 3-6 were not present on the filing of the above-identified application. Accordingly, the "Notice of Omitted Item(s)" mailed July 11, 2003, was correct in stating that Figures 3-6 described in the specification had been omitted. Therefore, the "Notice of Omitted Item(s)" was properly mailed and will not be withdrawn.

It is noted the Figures 3-6 were incorporated by reference. Obviously, in view of the incorporation by reference statement, the drawings of Figures 3-6 are not new matter if they were a part of the disclosure of the prior application. If applicants desire that Figures 3-6 be added to the application, an amendment should be filed prior to the first action on the merits, which will be considered by the primary examiner.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 21, 2003. Figures 3-6 will NOT be entered at this time.

Thereafter, the application will be forwarded to Technology Center 3600 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 3 2004

Paper No. 081104

BOB HUTCHINGS
806 SINGING DRUM DRIVE
HENDERSON, NV 89015

In re Application of:	:	
BOB HUTCHINGS	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/442,818	:	
Filed: May 20, 2003	:	
Attorney Docket No.: **4380P2847**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 03, 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 Weiss & Moy PC was filed on June 30, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTDALE, AZ 85251

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/442844

Paper No.: ____

DATE : ~~11/9/05~~ 1/16/06

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 6781916 B2

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

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

Vu Le, approved.

RICHARD ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE 7/5/06 2824 Art Unit

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THOMAS M. FREIBURGER
P O BOX 1026
TRIBURON, CA 94920

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter F. Santina	:	
Application No. 10/442,864	:	DECISION GRANTING PETITION
Filed: May 21, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 560P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 3, 2004, as required by the Notice of Allowance and Fee(s) Due, mailed August 3, 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 the issue fee of $700 and the publication fee of $300; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

This matter is being referred to Publishing Division.

Frances Hicks

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

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CHRISTOPHER LEE MONTGOMERY
7634 MCELVY ROAD
PANAMA CITY BEACH FL 32408

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 6,843,006	:	
Issue Date: January 18, 2005	:	
Application No. 10/442,869	:	DECISION ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. 330335	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 13, 2009 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 19, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The address given on the petition differs from the new address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Peter Loffler
P.O. Box 1001
Niceville, FL 32588-1001

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 6843006 Total Records Found: 1

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
03/18/2009	00000054	2	1599	$2,130.00	03/13/2009	CC

```
Adjustment date: 06/09/2009 LDIEP1
03/18/2009 DALLEN   00000020 6843006
01 FC:1599                          -2130.00 OP


06/09/2009 LDIEP1   00000001 6843006

01 FC:2551                            490.00 OP
02 FC:1558                           1640.00 OP
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KAPLAN GILMAN GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

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OCT 3 0 2007

OFFICE OF PETITIONS

In re Application of	:	
BHARAT DAVE	:	
Application No. 10/442,876	:	DECISION ON PETITION
Filed: 05/21/2003	:	
Attorney Docket No. 312/27X2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 2007, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed on October 26, 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 January 27, 2007. A Notice of Abandonment was mailed on July 23, 2007. On May 25, 2007, petitioner filed the present petition, signed by Boris Stefanov of the Alphion Corporation. An assignment from the inventor to the Alphion Corporation is recorded in the USPTO.

37 CFR 1.33(b) states in pertinent part:

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application **must be signed by**:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
>
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
>
> (3) An assignee as provided for under § 3.71(b) of this chapter;[1] or

[1] Pursuant to 37 CFR 3.71, a single assignee of the entire right, title and interest in the application or all partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application may prosecute an application. An assignee becomes of record by filing a statement in compliance with § 3.73(b) (attached) that is signed by a party who is authorized to act on behalf of the assignee.

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Boris Stefanov signed the present petition but did not list his title. In order to request or take action in a patent matter, the assignee must establish its ownership of the patent property by submitting a Statement under 37 CFR 37 CFR 3.73(b). The appropriate form is enclosed. The Office will not presume by the filing of the present petition that Mr. Stefanov is a proper party pursuant to 37 CFR 1.33. Accordingly, it is concluded that the petition is improperly signed.

The petition is **dismissed**. The Office will not render a decision on this matter until a "renewed" petition is filed in this application, signed by a person having authority to prosecute the application in compliance with 37 CFR 1.33, and accompanied by a completed Statement under 37 CFR 3.73(b).

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

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

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

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: PTO/SB/96

PTO/SB/96 (10-07)
Approved for use through 10/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature	Date
Printed or Typed Name	Telephone Number
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

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900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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JUL 29 2009
OFFICE OF PETITIONS

In re Application of :
BHARAT DAVE :
Application No. 10/442,876 : DECISION ON PETITION
Filed: 05/21/2003 :
Attorney Docket No. 312/27X2 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2009, to revive the above-identified application.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed on October 26, 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 January 27, 2007. A Notice of Abandonment was mailed on July 23, 2007.

On May 25, 2007, petitioner filed a petition under 37 CFR 1.137(b), signed by Boris Stefanov of the Alphion Corporation. An assignment from the inventor to the Alphion Corporation is recorded in the USPTO. However, the petition was not signed in compliance with 37 CFR 1.33(b). Mr. Stefanov did not list his title or provide a Statement under 37 CFR 3.73(b). On October 30, 2007, the Office informed petitioner that the USPTO would not presume by the filing of the petition that Mr. Stefanov was a proper party pursuant to 37 CFR 1.33. The Office further indicated that a decision would not be rendered on the matter as the petition was not signed in compliance with 37 CFR 1.33(b).

On July 28, 2009, petitioner filed the present petition and a Statement under 37 CFR 3.73(b) signed by Mr. Stefanov and listing his title. The petition is accompanied by an authorization to charge the Deposit Account for the $60.00 difference in the petition fee amount from the previously paid amount and the current fee.

Petitioner has met the requirements of 37 CFR 1.137(b) in that petitioner: (1) previously submitted the reply on May 25, 2007; (2) authorized payment of the petition fee; and, (3) made a proper statement of unintentional delay.

The Office will charge the balance due of $60.00 for the petition fee to the Deposit Account as authorized.

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

This application is being referred to Technology Center Art Unit 2613 for appropriate action by the Examiner in the normal course of business on the reply received on May 25, 2007.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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APR 0 6 2006

OFFICE OF PETITIONS

ATTILA J. MELKUTI
18 VIA TRANQUILA
ALISO VIEJO CA 92656

In re Application of
Attila J. Melkuti
Application No. 10/442,903
Filed: May 22, 2003
Title of Invention: VTOL/STOL DUCTED PROPELLER AIRCRAFT

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed March 28, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

A non-Final Office Action was mailed February 24, 2004. A response was due not later than May 24, 2004. A response in the form of an amendment was filed May 27, 2004 with a certificate of mail dated May 24, 2004. However, on August 13, 2004 the applicant was advised in a "Notice of Non-Compliant Amendment" that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the August 13, 2004 Notice. No response having been filed, this application became abandoned September 13, 2004 and accordingly, a Notice of Abandonment was mailed April 20, 2005.

Petitioner asserts unavoidable delay in that the response filed February 15, 2005 was filed without a "late fee".

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. 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 § 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 this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3), above.

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.[1]

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner has not provided any explanation as to why the delay in responding to the "Notice of Non-Compliant Amendment" was not filed by September 13, 2004. The time for responding to the Notice of Non-Compliant Amendment was set for one month from the mailing of the Notice.

When the response was filed on February 15, 2005 it could have been filed with an extension of time request and fee however, petitioner has not submitted any explanation that would satisfy the requirements under the unavoidable standard as to why his mistake in not submitting the appropriate fees with the response should be viewed as unavoidable.

The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[3], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional

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

[3] 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)).

delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

It should be noted that if petitioner chooses to file a petition under 37 CFR 1.137(b), the fee for a small entity is set at $750.00 and the $250.00 paid for the unavoidable petition under 37 CFR 1.137(a) will not be credited towards that payment. Petitioner has already received consideration under that standard and the fees are not transferable. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ATTILA J. MELKUTI
18 VIA TRANQUILA
ALISO VIEJO CA 92656

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OFFICE OF PETITIONS

In re Application of
Attila J. Melkuti
Application No. 10/442,903
Filed: May 22, 2003
Title of Invention: VTOL/STOL DUCTED PROPELLER AIRCRAFT

ON PETITION

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

The petition is **DISMISSED**.

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

A non-Final Office Action was mailed February 24, 2004. A response was due not later than May 24, 2004. A response in the form of an amendment was filed May 27, 2004 with a certificate of mail dated May 24, 2004. However, on August 13, 2004 the applicant was advised in a "Notice of Non-Compliant Amendment" that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the August 13, 2004 Notice. No response having been filed, this application became abandoned September 13, 2004 and accordingly, a Notice of Abandonment was mailed April 20, 2005. A petition filed March 28, 2006 was dismissed in a decision mailed April 6, 2006 because petitioner had not sufficiently and to the satisfaction of the Commissioner shown that the failure to submit the response filed February 15, 2005 without a "late fee" was unavoidable.

Comes now petitioner with a renewed petition and an additional fee in the amount of $250 with further explanation that "due to a divorce in August 2004, which resulted in emotional and financial difficulty, his life was in disarray and he lost track of the patent application progress."

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. 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 § 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 this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition still lacks item (3), above.

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.[1]

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

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

As a basis for unavoidable delay, petitioner asserts that a divorce caused emotional and financial difficulties but without any specifics as to what his emotional and financial status was at the time the response to the office communication was due. A showing of unavoidable delay must establish that the condition of the petitioner during the **entire** period of the delay was such as to excuse the delay.[3] In order to establish unavoidable delay based on a financial situation, petitioner must provide a showing of the responsible person's financial condition at the time, including income, expenses, assets, credit, and obligations, which made the delay in responding to the Notice unavoidable. Petitioner must provide copies of any documents or records that would confirm the financial situation and why it impacted his ability to respond to the Notice.

In order to establish unavoidable delay based on a medical or mental health situation, based on petitioners argument that the divorce caused emotional difficulty, petitioner must provide a showing that petitioner was incapacitated as a result, and that the incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between when the office action was mailed up until a grantable petition has been filed. Such a showing must be supported by a statement from a treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period. The statement must also state the time period during which petitioner was or is incapacitated, and the degree to which the disability has impaired and continues to impair petitioner's ability to prosecute the instant patent application.

While the circumstances described by petitioner are certainly unfortunate, they do not constitute a showing of unavoidable delay. Rather, petitioner has not shown that he acted with the care or diligence that is generally used and observed by prudent and careful persons in relation to their most important business.

Furthermore, the Patent Office does not send bills for late fees and thus petitioner's argument regarding the late fee is unsubstantiated.

In view thereof, petitioner has not carried the burden of proof to establish to the satisfaction of the Commissioner that the delay was unavoidable and the record fails to adequately evidence that petitioner exercised the due care observed by prudent and

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

[3] Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

careful men, in relation to their most important business, to establish unavoidable delay, Pratt, supra.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[4], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).
The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

It should be noted also that the instant renewed petition included $250.00. No additional fees were due for a petition under the unavoidable standard. The decision mailed March 28, 2006 advised that if petitioner chose to file a petition under 37 CFR 1.137(b), the fee for a small entity is set at $750.00 and that the $250.00 paid for the unavoidable petition under 37 CFR 1.137(a) would not be credited towards that payment. Petitioner is again advised that if he chooses to file under the unintentional standard, the fee is $750 for a small entity and $1500 for a large entity. The petition fee submitted with the instant petition can be applied to a petition under the unintentional standard if petitioner so chooses or petitioner can request a refund.

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

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[4]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)).

By mail: Mail Stop Petitions
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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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Alexandria, VA 22313-1450
www.uspto.gov

ATTILA J. MELKUTI
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ALISO VIEJO CA 92656

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OFFICE OF PETITIONS

In re Application of
Attila J. Melkuti
Application No. 10/442,903
Filed: May 22, 2003
Title of Invention: VTOL/STOL DUCTED PROPELLER AIRCRAFT

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed August 2, 2006, to revive the above-identified application.

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

A non-Final Office Action was mailed February 24, 2004. A response was due not later than May 24, 2004. A response in the form of an amendment was filed May 27, 2004 with a certificate of mail dated May 24, 2004. However, on August 13, 2004 the applicant was advised in a "Notice of Non-Compliant Amendment" that the amendment filed was non-compliant under 37 CFR 1.121. The time for response was one month from the mailing of the August 13, 2004 Notice. No response having been filed, this application became abandoned September 13, 2004 and accordingly, a Notice of Abandonment was mailed April 20, 2005.

The petition to revive was filed under the unavoidable standard with incorrect fees on

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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)).

March 28, 2006 in the amount of $750.00 and on May 25, 2006 in the amount of $250.00. As was advised in a decision mailed, June 20, 2006, the fee paid March 28, 2006 should have been $250.00 and no fee was due with the petition filed May 35, 2006 since it was a renewed petition. Therefore, as advised, the overage in the fees paid will be applied to the instant petition to revive under the unintentional standard which is set at $750.00.

This matter is being referred to Technology Center for appropriate action on the amendment filed February 15, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of :
Kemp et al. :
Application No. 10/442,905 : DECISION ON PETITION
Filed: 05-21-2003 :
Attorney Docket No. IR 6896-05 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 8, 2006, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional petition fee is necessary.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within two (2) months of the Notice of Appeal filed September 16, 2005. Accordingly, the application became abandoned on November 17, 2005. A Notice of Abandonment was mailed on May 4, 2006.

The provisions of 37 CFR 1.137(b) 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 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 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 set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The present petition does not satisfy requirement (1) above.

Pursuant to MPEP 711.03(c)(II)(A)(2)(c), where abandonment occurred because of the failure to file an appeal brief, the reply required pursuant to 37 CFR 1.137(b)(1) must be either:

(A) an appeal brief in compliance with 37 CFR 41.37(c) and appeal brief fee;
(B) the filing of an RCE accompanied by a submission and the requisite fee in compliance with 37 CFR 1.114; or
(C) the filing of a continuing application under 37 CFR 1.53(b).

With the present petition, petitioner submitted an amendment as the reply. As an amendment is not an appropriate reply, the petition under 37 CFR 1.137(b) is **dismissed**.

Petitioner must file a renewed petition under 37 CFR 1.137(b), accompanied by either an appeal brief and fee, a RCE with a submission and fee, or a continuing application within **TWO MONTHS** of the date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

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MAR 2 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Kemp et al.	:	
Application No. 10/442,905	:	DECISION ON PETITION
Filed: 05-21-2003	:	
Attorney Docket No. IR 6896-05	:	

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

The application became abandoned as a result of petitioners' failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within two (2) months of the Notice of Appeal filed September 16, 2005. Accordingly, the application became abandoned on November 17, 2005. A Notice of Abandonment was mailed on May 4, 2006. On May 8, 2006, petitioners filed a petition under 37 CFR 1.137(b), which was dismissed by the decision dated January 22, 2007. On March 20, 2007, petitioners filed the present renewed petition.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of an RCE and a previously filed submission; (2) the petition fee of $1,500.00; and (3) an appropriate statement of unintentional delay. Accordingly, the petition is **granted**.

This matter is being referred to Technology Center Art Unit 3732 for processing of the RCE.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FREUDENBERG-NOK GENERAL PARTNERSHIP
LEGAL DEPARTMENT
47690 EAST ANCHOR COURT
PLYMOUTH MI 48170-2455

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APR 24 2006

OFFICE OF PETITIONS

In re Patent No. 7,004,477	: DECISION UNDER 37 CFR
Issued: February 28, 2006	: 1.705(d) and NOTICE OF
Application No. 10/442,915	: INTENT TO ISSUE CERTIFICATE
Filed: May 21, 2003	: OF CORRECTION
Atty. Dkt. No.: 01-0056	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON ISSUED PATENT (37 C.F.R. § 1.705(d)," timely filed February 28, 2006.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,004,477 on February 28, 2006. The instant request for reconsideration was timely filed February 28, 2006 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 38 days. Patentees argue that the adjustment was improperly reduced 64 days in connection with Comments on Statement of Reasons for Allowance and a Request for Corrected Notice of Allowance filed May 31, 2005.

A review of the application history reveals that patentees are correct in that the adjustment of 102 days was improperly reduced 64 days in connection with the above-referenced submissions filed May 31, 2005.

As indicated by patentees, the papers filed May 31, 2005 were of the type deemed by the Director not to be a failure to engage in reasonable efforts to conclude processing or examination of an application. Thus, at the time of issuance, the patent was entitled to a PTA of 102 days, as argued by patentees. The PTA indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of 102 days.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction

to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 102 days.

Receipt is hereby acknowledge of the required application fee of $200.00.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,004,477 B2
DATED	:	February 28, 2006
INVENTOR(S)	:	Sakata, 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 38 days

Delete the phrase "by 38 days" and insert – by 102 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 18, 2006

TO SPE OF : ART UNIT 2115

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/442916 Patent No.: 6,915,442 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: _____

REHANA PERVEEN
SUPERVISORY PATENT EXAMINER

SPE

2115
Art Unit

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WARNER-LAMBERT COMPANY
2800 PLYMOUTH RD
ANN ARBOR, MI 48105

In re Application of	:	DECISION ON PETITION
Bratton et al.	:	
Application No. 10/442,917	:	
Filed: May 21, 2003	:	
Attorney Docket No.:	:	
PC020542A	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed November 9, 2004.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed August 15, 2003. The Notice required an executed oath or declaration and a late filing fee oath or declaration surcharge. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned October 16, 2003. A Notice of Abandonment was mailed September 9, 2004.

Applicant files the instant petition, executed oath/declaration and the appropriate fees, accordingly, the petition is granted.

The application file is being referred to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
Attorney
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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of
Mitsuo Baba
Application No. 10/442,951
Filed: May 22, 2003
Attorney Docket: Q75763
Title of Invention: Phase Comparator Having A Flip-Flop Circuit and A Logic Circuit

ON PETITION

This is a decision on the petition under 37 CFR §1.181 filed September 11, 2007 to withdraw the holding of abandonment.

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

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on February 2, 2007. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 3, 2007. A Notice of Abandonment was mailed on August 28, 2007.

Petitioner asserts that the final Office action on February 2, 2007 was never received. Petitioner states a search of the file jacket and docket records confirms the final Office action was not received. In support of petitioner's contention, a copy of the docket records has been provided. The record shows that there was an irregularity in the mailing of the final Office action. The final Office action was returned to the Office for an unknown reasons.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being forwarded to Art Unit 2611 for re-mailing of the final Office

Action to the correspondence address of record. The extendable three month time period for reply will be set to run from the mailing date of the new final 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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,923,838	2005-08-02	10/442,968	2003-05-22	1195.41698X00

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	/William I. Solomon/	Date (YYYY-MM-DD)	2009-08-06
Name	William I. Solomon	Registration Number	28565

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. 6923838
Issue Date: August 2,2005
Application No. 10442968
Filed: May 22,2003
Attorney Docket No. 1195.41698X00

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

This is a decision on the electronic petition, filed August 6,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 6,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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KUN WANG
P.O. BOX 697
FENG-YUAN CITY
TAICHUNG HSIEN, 420 TAIWAN

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
Kun Wang :
Application No. 10/442,969 : ON PETITION
Filed: May 22, 2003 :
For: MULTI-FUNCTIONAL CHILD HIGH CHAIR :

This is a decision on the petition, filed August 13, 2004, requesting withdrawal of the holding of abandonment.[1] This is also a decision on the petition under 37 CFR 1.137(b), filed May 23, 2005, to revive the above-identified application.

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

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 8, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 7, 2004.

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

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

This matter is being referred to Publishing Division.

Wan Laymon

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

Attachment: PTOL-85(b)

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[1] Since petitioner has not provided any evidence to establish nonreceipt of an Office communication, the petitions strictly treated under 37 CFR 1.137(b).

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FEB 11 2005

Thomas P. Liniak
Liniak, Berenato & White
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

In re Application of	
Walter Kozachuk et al	:
Serial No.: 10/442,985	:
Filed: May 22, 2003	: WITHDRAWAL OF ATTORNEY
Attorney Docket No.: 7381.140	:

This is in response to applicants' attorneys' request, filed January 5, 2005, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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PHARMACEUTICAL PATENT ATTORNEYS, LLC
55 MADISON AVENUE
4TH FLOOR
MORRISTOWN NJ 07960-7397

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OFFICE OF PETITIONS

In re Application of	:	
KOZACHUK	:	
Application No. 10/442,985	:	ON PETITION
Filed: May 22, 2003	:	
Attorney Docket No. (None)	:	

This is a decision on the petition, filed August 20, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment and under 37 CFR 1.137(a) and 1.137(b) to revive the above-identified application.

The petitions are **DISMISSED.**

Any further petition to revive 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** a final agency action within the meaning of 5 U.S.C.§ 704.

As required by 37 CFR 10.18, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with 37 CFR 1.4(d) or (e). The petitions filed on August 20, 2006 have not been signed. For the above reason, the petitions will not be addressed on their merits.

Additionally, a petition based on 37 CFR 1.137(a) requires a $250 petition fee (small entity) for consideration. While the Office has received the requisite fee for the petition under 37 CFR 1.137(b), the $250 fee for a petition under 37 CFR 1.137(a) has not been received. When the requisite fee is remitted, the petition under 37 CFR 1.137(a) will be considered on its merits.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

Frances Hicks
Petitions Examiner
Office of Petitions

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MAY 04 2007

OFFICE OF PETITIONS

In re Application of :
KOZACHUK :
Application No. 10/442,985 : ON PETITION
Filed: May 22, 2003 :
Attorney Docket No. (None) :

This is a decision on the petition, filed August 20, 2006 and renewed December 27, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment and under 37 CFR 1.137(a) and 1.137(b) to revive the above-identified application.

The petitions under 37 CFR 1.181 and 1.137(a) are **DISMISSED.**

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

Each of the petitions, in turn, will be treated below under their respective heading.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 4, 2005, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The extension of time was accompanied by an improper Request for Continued Examination (RCE) with no argument or amendment. Because the RCE was submitted without a reply, the time period set forth in the May 4, 2005 Office action continued to run. Accordingly, the application became abandoned on November 5, 2005.

37 CFR 1.181

Petitioner requests that the Office withdraw the holding of abandonment in the above-identified application based on evidence that a reply was timely filed with the Office. Petitioner argues that the submission of an RCE on November 4, 2006 was a *bona fide* attempt to reply to the non-final Office action mailed May 4, 2005.

A *bona fide* reply by the applicant under 37 CFR 1.135(c) is a response that attempts to advance the application to final action but contains minor deficiencies. Such an attempt to reply to a non-final Office action would include: (1) an argument or amendment under 37 CFR 1.111 that substantially responds to the rejections, objections, or requirements in a non-final Office action but contains minor deficiencies or (2) the filing of a continuation application under 37 CFR 1.53(b). On November 4, 2005, applicant submitted an RCE, a three-month extension of time, and a power of attorney. None of these submissions advanced the instant application to final action.

Section 114 of Title 37 of the Code of Federal Regulations permits the filing of an RCE "if prosecution in an application is closed[.]" A non-final Office action in the instant application was mailed May 4, 2005. Prosecution had not closed when the RCE was filed on November 4, 2005, and the mere filing of an RCE, therefore, did nothing advance the application to final action. Also while a power of attorney appoints practitioners of record, this filing does nothing to advance the application to final action. Additionally, even if the RCE was a proper request, the RCE filed on November 4, 2005 is still incomplete because no submission in accordance with 37 CFR 1.114 accompanied the request. The power of attorney is not a "submission" as used in 37 CFR 1.114. MPEP 706.07(h)(II) further states, "[a] request for a suspension of action ... will not be considered a submission under 37 CFR 1.114." Thus, applicants request to suspend action for three months on the RCE will not be considered a submission.

Finally as to petitioner's argument that the RCE must be *bona fide* because the fee was charged, the Office will refund the $395 fee in due course.

In sum because the November 4, 2005 reply was not *bona fide*, the application properly went abandoned.

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 Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petitioner argues that the delay was unavoidable due to the applicant's former practitioner abruptly departing from the practice of law. Petitioner alleges that given the short time period to prepare a response to the May 4, 2005 Office action, the delay was unavoidable. There is, however, conflicting information in the record as to when exactly applicant was aware of his former practitioner's departure from the practice of law. Paragraph 3 under the Statement of Facts in the petition states applicant retained new patent counsel on November 4, 2005, which was the "last day to file a response." On the other hand, the Power of Attorney to Prosecute Applications Before the USPTO was executed on October 19, 2005. Thus, there is evidence of record that applicant had time (greater than two weeks before the maximum period for response) to prepare and file an amendment and does not demonstrate that the entire delay in filing the required reply was unavoidable.

Petitioner further argues that the delay in filing a petition to revive on August 20, 2006 "was due to the Applicant needing to wait for the case to be declared abandoned[.]" An application goes abandoned under 35 U.S.C. 133 by operation of law upon the failure of the applicant to prosecute the application within the maximum extendable period for response. As no declaration of abandonment is necessary in order for the application to go abandon, the argument that petitioner must delay the filing of a petition to revive until a Notice of Abandonment is mailed is unpersuasive. Moreover, the record does not explain petitioner's delay in filing the petition to revive more than six months after

applicant was informed that the RCE was improper on February 9, 2006, such that the time period continued to run from the mailing of the May 4, 2005 Office action and the application went abandoned by operation of law.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute "unavoidable" delay. See *Haines*, 673 F. Supp. at 317, 5 USPQ2d at 1132; *Vincent v. Mossinghoff*, 230 USPQ 621, 624 (D.D.C. 1985); *Smith v. Diamond*, 209 USPQ 1091 (D.D.C. 1981); *Potter v. Dann*, 201 USPQ 574 (D.D.C. 1978); *Ex parte Murray*, 1891 Dec. Comm'r Pat. 130, 131 (1891). Thus, the filing of an improper RCE prior to the close of prosecution, rather than a *bona fide* response to the Office action or a continuation application, does not constitute unavoidable delay. Additionally, petitioner's delay in filing a petition to revive based on an incorrect understanding that petitioner needed to wait for the case to be declared abandoned before filing a petition to revive does not constitute unavoidable delay.

For the reasons stated above, petitioner has not show to the satisfaction of the Director that the entire period of delay between the 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.

37 CFR 1.137(b)

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply to the May 4, 2005 non-final Office action in the form of an amendment under 37 CFR 1.111 filed on April 18, 2006, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

The terminal disclaimer requirement of 37 CFR 1.137(d) does not apply to the instant application. See MPEP 711.03(c)(II)(G). The $65 terminal disclaimer fee will be refunded in due course.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

Brian Hearn
Petitions Examiner
Office of Petitions

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McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

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In re Patent No. 6,960,960	:	
Issue Date: November 1, 2005	:	
Application No. 10/442,987	:	ON PETITION
Filed: May 22, 2003	:	
Patentee(s): Masahiko Ishiwaki	:	

This is a decision on the petition filed on March 10, 2006, which is being treated as a request under 37 CFR 3.81[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 petition is **GRANTED**.

The patent file 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) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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

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NE

Mailed: 7/18/05

In re application of Morin et al. Serial No. 10/443,003 Filed: May 21, 2003 For: POLYPROPYLENE MONOFILAMENT AND TAPE FIBERS EXHIBITING CERTAIN CREEP-STAIN CHARACTERISTICS AND CORRESPONDING CRYSTALLINE CONFIGURATIONS	:	DECISION ON PETITION

This is a response to the PETITION FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT filed April 29, 2004. The petition request that the Information Disclosure Statement filed March 22, 2004 be considered, since it was timely filed by applicant before the Notice of Allowance of April 13, 2004.

DECISION

The instant request has been accepted as a petition to consider the Information Disclosure Statement under the provisions of 37 CFR 1.181 (no fee). A review of the evidence submitted shows the Information disclosure statement (IDS) was timely filed on March 22, 2004. A review of the eDan file show the IDS was considered by the Examiner of record and a signed copy was forwarded to applicant on July 6, 2004.

The Petition is **DISMISSED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MILLIKEN & COMPANY
Legal Dept. (M495)
P.O. Box 1927
Spartanburg, SC 29303

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901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:
Yurugi, et al.	:
Application No. 10/443,025	: DECISION ON PETITION
Filed: May 22, 2003,	:
Docket No.: 04329.3062	:

This is a decision on the petition under 37 CFR 1.181, filed July 3, 2007, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

The application was abandoned for failure to timely submit a properly reply to the non-final Office action mailed October 20, 2006. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed June 19, 2007.

Petitioners assert non-receipt of the non-final Office action.

The petition submitted herewith is improperly executed and therefore has not been reviewed on the merits. *See generally*, 37 CFR 1.33 and 1.34. Herein, the petition fails to set forth the name of the individual signing the petition. Specifically, while signed by one whose signature and registration number is legible, the name of the individual signing the petition is not indicated. In accordance with 37 CFR 1.34, the patent practitioner must set forth his or her registration number, his or her name and signature.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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DEC 17 2007

OFFICE OF PETITIONS

In re Application of :
Yurugi, et al. :
Application No. 10/443,025 : DECISION ON PETITION
Filed: May 22, 2003, :
Docket No.: 04329.3062 :

This is a decision on the renewed petition under 37 CFR 1.181, filed November 7, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the non-final Office action mailed October 20, 2006. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed June 19, 2007.

Petitioners assert non-receipt of the non-final Office action.

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

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES 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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APR 29 2009

OFFICE OF PETITIONS

STEVEN S. PAYNE
8027 ILIFF DRIVE
DUNN LORING, VA 22027

In re Application of :
Cronvall Leif :
Application No. 10/443,026 : ON PETITION
Filed: May 22, 2003 :
Attorney Docket No. 150-113 :

This is a decision in response to the petition, filed February 17, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment mailed October 12, 2005. A Notice of Abandonment was mailed on September 22, 2006. On February 17, 2009, the present petition was filed.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In

re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over three years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Stevens Payne was counsel of record at the time of abandonment, Mr. Payne should explain why this application became abandoned while it was under his control and what efforts he made to further reply of itself and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from all responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered

as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition with respect to this matter may be delivered through one of the following mediums:

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

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

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

By Internet: EFS-Web[1]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 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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CAPITOL CITY TECHLAW, PLLC
PO BOX 1210
VIENNA VA 22183

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In re Application of
Cronvall Leif
Application No. 10/443,026
Filed: May 22, 2003
Attorney Docket No. 315-0052/US

ON PETITION

This is a decision in response to the renewed petition, filed December 21, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment mailed October 12, 2005. A Notice of Abandonment was mailed on September 22, 2006. On February 17, 2009, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed April 29, 2009. In response on December 21, 2009, the present petition was filed.

While this application has been abandoned for an extended period of time, the U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2884 for appropriate action by the Examiner in the normal course of business on the amendment received December 21, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

In re Application of	:	
Jun Tanaka et al	:	
Application No. 10/443,045	:	DECISION GRANTING PETITION
Filed: May 22, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q75464	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 28, 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 25, 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 1754 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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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET NW, SUITE 501
WASHINGTON, DC 20036

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FEB 16 2006

OFFICE OF PETITIONS

In re Application of	:
Hiroyuki Nagura et al	:
Application No. 10/443,061	: DECISION GRANTING PETITION
Filed: May 22, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NFC-0286	:

This is a decision on the petition, filed February 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 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) 272-3218.

This matter is being referred to Technology Center AU 3765 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Feb9\443061.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 Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

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OFFICE OF THE DIRECTOR
TC 3600

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 Avenue of the Americas (6th Avenue)
New York, NY 10036-2417

In re application of
Robb A. Cohen
Application No. 10/443,067 :
Filed: May 22, 2003 :
For: METHOD AND SYSTEM FOR MANAGING HOME SHOPPER DATA :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on May 24, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B) without a 3.73(b) statement, there is no indication that the assignee is the client. Power was conferred by the inventor so absent other documentation, it is assumed the inventor is the client.

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

SNM/pav: 11/03/04

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BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON OR 97006

In re Application of
WAN-CHAO TSENG
Application No.: 10/443,075
Attorney Docket No.: 112P14020

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

This is a decision on the petition under 37 CFR 1.137(b), filed April 24,2006 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance mailed August 11, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on November 14, 2005 (November 11 was a federal holiday, November 12 was a Saturday and November 13 was a Sunday).

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

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

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FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

In re Application of
Hyun-Sung Kim
Application No. 10/443,133
Filed: May 22, 2003
Attorney Docket No. P-0539

ON PETITION

This is a decision on the "Petition for Withdrawal of Terminal Disclaimer" filed January 18, 2006. This petition is being treated under 37 CFR 1.182.

The petition is **GRANTED**.

The examiner of record has determined the terminal disclaimer submitted on December 14, 2005 can be withdrawn.

The Office is in receipt of $130.00 towards the petition fee. However the current fee for a petition under 37 CFR 1.182 is $400. Accordingly, deposit account 16-0607 will be charged the $270.00 difference.

This application is being forwarded to Technology Center 2600 for correction in the PALM database and file records consistent with this decision.

Telephone inquiries relative to this decision 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
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Alexandria, VA 22313-1450
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APP 26 2005

MARTHA CASSIDY
ROTHWELL, FIGG, ERNST & MANBECK, PC
SUITE 800
1425 K STREET, NW
WASHINGTON, DC 20005

In re Application of	:
Dwight D. Hanshew, Jr., et al	:
Serial No.: 10/443,135	: PETITION DECISION
Filed: May 22, 2003	:
Attorney Docket No.: 1592-458	:

This is a response to the petition under 37 CFR 1.59(b), filed November 5, 2003, to expunge information from the above identified application. The delay in acting on this petition is regretted.

Petitioner requests that a letter submitted as part of the initial application papers, filed May 22, 2003, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition has been held in abeyance until prosecution on the merits has been closed. The application has now been allowed. The letter noted in the petition has been found not to be material to patentability of the application. The letter itself will not be returned to applicants as this file has been converted to an image file. However, the letter has been closed to public access. This in effect expunges the letter from the file.

The petition to expunge is **GRANTED**.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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Zagorin, O'Brien & Graham, LLP
7600B N. Capital of Texas Hwy.
Suite 350
Austin, TX 78731

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SEP 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Uttam Ghoshal, et. al.	:	
Application No. 10/443,186	:	NOTICE
Filed: May 22, 2003	:	
Attorney Docket No. NNC-004	:	

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 Technology Center Art Unit 3746 for examination in due course.

Inquiries related to this communication should be directed to Andrea Smith at (703) 308-6711.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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William L. Botjer
P.O. Box 478
Center Moriches, NY 11934

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SEP 0 2 2004

OFFICE OF PETITIONS

NOTICE

In re Application of :
Andrew Carl Miner, et. al. :
Application No. 10/443,190 :
Filed: May 22, 2003 :
Attorney Docket No. NNC-003 :

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**.

There is no indication that the person signing the papers styled "Request to Excuse Small Entity Error"was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of David W. O'Brien appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

This file is being referred to Technology Center Art Unit 3746 for examination in due course.

Inquiries related to this communication should be directed to Andrea Smith at (703) 308-6711.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

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OCT 1 0 2003

OFFICE OF PETITIONS

In re Application of
David Chown
Application No. 10/443,197
Filed: May 22, 2003
Attorney Docket No. 871-011348-US/30020642US
For: OPTOELECTRONIC MODULE WITH INTEGRATED VARIABLE OPTICAL ATTENUATOR

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed September 8, 2003 (certificate of mailing date September 5, 2003).

The petition is granted.

Petitioner has shown that the non-signing inventor, David Chown, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Dr. James Lenney, representative of Agilent Technologies UK Limited, a party with proprietary interest, establishes that the inventor was twice mailed the application papers, including the specification, claims and drawings, but the inventor failed to respond to the requests that he sign the declaration. In addition, petitioner has shown that Agilent Technologies UK Limited has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the company owned all intellectual property rights arising out of the work carried out by the inventor during the course of his employment. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

Pursuant to petitioner's authorization, deposit account no. 16-1350 will be charged a $130 late declaration surcharge.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/16/05

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction on Patent No.: 6860815 B2

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

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

Daniel P Stodola — 3679

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON WI 53562

COPY MAILED
FEB 17 2010

In re Application of

Maria Z. Siemionow

Application No. 10/443,215

Filed: May 22, 2003

Attorney Docket No. **CCF-14612**

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed May 20, 2009. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was not received within the allowable period and the application became abandoned on August 21, 2009.

The Request for Continued Examination and amendment filed December 14, 2009, are noted.

The application file is being forwarded to Technology Center, GAU 1644 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Mark S. Leonard, Esq.
Brown Rudnick Berlack Israels LLP
One Financial Center
Boston MA 02111

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NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of
Laletin
Application No. 10/443,230
Filed: May 21, 2003
Attorney Docket No. 21463/1-3

DECISION ON PETITIONS

This is a decision on the petition under 37 CFR 1.48(a), filed July 25, 2005, to delete persons as inventors of the above-identified application. This is also a decision on the petition under 37 CFR 1.183, filed July 25, 2005, to waive 37 CFR 1.48(a)(2), which requires petitioner to provide a statement from each person being deleted as an inventor indicating that the error in inventorship occurred without deceptive intention on his or her part.

The petitions were recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioner. On May 21, 2003, petitioner filed the above-identified application, including a declaration executed by William H. Laletin, Kurt Salloux, and Logan L. Brashear as joint inventors.

On July 25, 2005, petitioner filed the present petition to delete Kurt Salloux and Logan L. Brashear as joint inventors in the above-identified application. Petitioner stated that petitioner could not locate Logan L. Brashear after diligent efforts in order to obtain a statement from him that the error in inventorship occurred without deceptive intention on his part pursuant to 37 CFR 1.48(a)(2).

Petition Under 37 CFR 1.183

In the present petition, petitioner asserted that petitioner could not locate or reach Logan L. Brashear after diligent efforts in order to obtain a statement from him that the error in inventorship occurred without deceptive intention on his part. Thus, petitioner requested that the Office waive the requirement of 37 CFR 1.48(a)(2).

Pursuant to 37 CFR 1.183, in an extraordinary situation, when justice requires, any requirement of the regulations, which is not a requirement of the statutes, may be suspended or waived by the Director or

the Director's designee, *sua sponte*, or on petition of the interested party. In the present petition, petitioner showed that diligent efforts were made to locate Mr. Brashear in order to obtain a statement from him that the error in inventorship occurred without deceptive intention on his part; however, it was to no avail.

In view of the fact that Mr. Brashear could not be reached after petitioner made reasonable attempts to contact him, it is agreed that justice would be served by waiving the requirement of 37 CFR 1.48(a)(2).

Accordingly, the petition under 37 CFR 1.183 is **granted**.

Petition Under 37 CFR 1.48(a)

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

(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Although the petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.48(a)(2) is granted, the petition lacks item (5) above.

Pursuant MPEP 201.03(I)(D), the assignee must establish its ownership of the application in accordance with 37 CFR 3.73. However, a review of the record does not indicate that that petitioner submitted a completed Statement Under 37 CFR 3.73(b) previously or with the present petition. A copy of the appropriate form accompanies this decision for petitioner's convenience.

Accordingly, the petition under 37 CFR 1.48 is **dismissed**.

The $400.00 fee for filing the petition under 37 CFR 1.183 and the $130.00 processing fee for the petition under 37 CFR 1.48 will be charged to petitioner's Deposit Account, as authorized.

Petitioner is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the above-noted deficiency. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.48." Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Mark S. Leonard, Esq.
Brown Rudnick Berlack Israels LLP
One Financial Center
Boston MA 02111

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Laletin	:	
Application No. 10/443,230	:	DECISION ON PETITION
Filed: May 21, 2003	:	
Attorney Docket No. 21463/1-3	:	

This is a decision on the renewed petition under 37 CFR 1.48(a), filed January 12, 2006, to delete persons as inventors of the above-identified application.

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

(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The petition lacks item (5) above.

The Office acknowledges receipt of the executed assignment and a Statement Under 3.73(b), establishing assignee's ownership of application. However, petitioner failed to provide the Office with the written consent of the assignee. The Office notes that the establishment of ownership and the written consent of the assignee are two separate requirements.

As stated in MPEP 201.03(I)(D):

> The individual signing on behalf of the assignee giving its consent to the requested inventorship correction, should specifically state that he or she has the authority to act on behalf of the assignee. In the absence of such a statement, the consent will be accepted

if it is signed by an appropriate official of the assignee (e.g., president, vice president, secretary, treasurer, or derivative thereof) if the official's title has been made of record. A general statement of authority to act for the assignee, or on the specific matter of consent, or the appropriate title of the party signing on behalf of the assignee should be made of record in the consent. However, if it appears in another paper of record, e.g., small entity assertion, it is also acceptable. **Further, the assignee must establish its ownership of the application in accordance with 37 CFR 3.73.**

Accordingly, the petition under 37 CFR 1.48 is **dismissed**.

Petitioner is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the above-noted deficiency by submitting the written consent of the assignee in compliance with MPEP 201.03(I)(D). Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.48." Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 20060724

Applicant : Laletin, William
Appl No.: 10/443,230
Filed: May 21, 2003

DECISION GRANTING PETITION UNDER *37 CFR 1.48*

This decision is in response to the petition filed February 22, 206 in the above-identified application. Petitioner requests that inventorship be corrected in accordance with 37 C.F.R. 1.48.

Specifically, the petition requests that Logan L. Brashear and Kurt Salloux be deleted as co-inventors.

The petition complies with 37 C.F.R. 1.48(a) in that (1) the desired inventorship change is set forth; (2) a statement is included from Mr. Salloux that the error occurred without deceptive intention on his part; (3) a declaration from each actual inventor was provided; (4) the fee set forth in 37 CFR 1.17(i) was paid; and (5) written consent of the assignee was submitted. A petition under 37 CFR 1.183 to waive the requirement for Mr. Brashear's statement, in view of petitioner's inability to locate Mr. Brashear after reasonable effort to do so, was previously granted.

The papers filed on February 22, 2006 thus fulfill the requirements set forth in 37 C.F.R. 1.48(a), and the petition is GRANTED.

Marc Hoff
Supervisory Patent Examiner, Art Unit 2857
Technology Center 2800

Mark S. Leonard, Esq.
Brown Rudnick Berlack Israels LLP
One Financial Center
Boston, MA 02111

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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VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

COPY MAILED
DEC 13 2006
OFFICE OF PETITIONS

In re Application of	:
Paul H. Burmeister, et al.	:
Application No. 10/443,231	: DECISION ON PETITION
Filed: May 21, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. S63.2-4944US05	:

This is a decision on the communication filed August 31, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/246,320 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.

This application was filed after November 29, 2000, and did not include a reference to the above-noted, prior-filed application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior-filed application. Since the claim for priority is submitted after the period specified in 37 CFR 1.78(a)(2)(ii), this is an appropriate petition under the provisions of 37 CFR 1.78(c).

It is noted that petitioner suggests that the amendment listing Application No. 08/246,320, filed May 19, 1994, is a correction, not a new claim for benefit. Petitioner also states that the failure to make the amendment identifying the application within four months of filing the present application has not had any affect on the publication date of the application. Therefore, no fee is seen to be due for claiming benefit to Application No. 08/246,320, filed May 19, 1994.

Petitioner is, in effect, requesting waiver of the surcharge fee required by 37 CFR 1.78(a)(3) for accepting a delayed claim for priority, which is more properly made by way of a petition under 37 CFR 1.183, for which no fee has been tendered. Nevertheless, the argument presented in the "contingent" petition will be briefly addressed here.

Petitioner's contention that the surcharge should not be required is without merit. Petitioner overlooks that his failure to timely claim the benefit of the earlier filed application under 35 U.S.C. § 120 constituted a *waiver* of his right to claim such benefit of priority. *See* 35 U.S.C. § 120 ("the Director may consider the failure to submit such [a claim] within that time period as a waiver of any benefit under this section"); 37 CFR 1.78(a)(2)(ii); *Cong. Rec.* S14719 (Nov. 17, 1999). Fortunately for petitioner, however, he may now seek reinstatement of his unintentionally waived right, subject, however, to payment of the very surcharge of which petitioner now complains. See 35 U.S.C. § 120, last sentence; 37 CFR 1.78(a)(3); *Cong. Rec.*, supra. That is, since petitioner now desires to be entitled to the potential benefits of the earlier application via § 120, then petitioner must also accept the consequences attendant to that action. *See* Abbott Laboratories v. Novopharm Ltd., 38 USPQ2d 1309, 1312 (D.C. N. Il. 1996), *aff'd* 104 F.3d. 1305, 41 USPQ2d 1535 (Fed. Cir. 1997).

Accordingly, the $1,370 fee for the petition under 37 CFR 1.78(a)(3) will be charged to petitioner's Deposit Account as authorized.

The petition is found to comply with the requirements of 37 CFR 1.78(a)(3) in that petitioner has supplied (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application; (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 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 Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3738 for consideration amendment, including applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/443,231	05/21/2003	3738	1086	S63.2-4944US05	13	17	7

CONFIRMATION NO. 4764

CORRECTED FILING RECEIPT

OC000000021579468

490
VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

Date Mailed: 12/12/2006

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)

Paul H. Burmeister, Maple Grove, MN;
Charles L. Euteneuer, St. Michael, MN;
Brian J. Brown, Hanover, MN;
Paul J. Fordenbacher, Minneapolis, MN;
Anthony C. Vrba, Maple Grove, MN;

Power of Attorney:

Peter Gafner--36517
Luke Dohmen--36783
James Chiapetta--39634
Albert Kau--40672
Kurt Lockwood--40704
Robert Rauker--40782
Scott Bluni--40916
Todd Messal--42883
William Shaw--43111
Steven McAuley--46084

Domestic Priority data as claimed by applicant

This application is a CON of 09/427,291 10/26/1999
which is a CON of 08/737,492 03/19/1997 PAT 6,582,461
which is a 371 of PCT/US95/06228 05/18/1995
which is a CIP of 08/246,320 05/19/1994 ABN
This application 10/443,231
is a CON of 09/172,590 10/14/1998 PAT 6,451,052
which is a DIV of 08/737,492 03/19/1997 PAT 6,582,461
which is a 371 of PCT/US95/06228 05/18/1995
which is a CIP of 08/246,320 05/19/1994 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 07/30/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/443,231

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Tissue supporting devices

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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SEP 15 2003

PAPER NO. 3

In re Application of	:	
Gordon L. Gallup	:	
Serial No: 10/443,232	:	PETITION UNDER
Filed: May 22, 2003	:	M.P.E.P. 708.02, IV
For: WASTE MUD AGITATION SYSTEM	:	

This is in response to the petition filed May 22, 2003, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Glenn F. Gallinger
7420 Milner Dr., # 1000
Colorado springs, CO 80920

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARMSTRONG WORLD INDUSTRIES, INC.
LEGAL DEPARTMENT
P. O. BOX 3001
LANCASTER PA 17604-3001

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of	:	
Timothy McAdoo	:	
Application No. 10/443,275	:	DECISION ON PETITION
Filed: May 21, 2003	:	
Attorney Docket No. A148 1820.1	:	

This is a decision on the petition under 37 CFR §1.137(b), filed February 8, 2006 to revive the above-identified application.

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice Regarding Drawings which was mailed August 9, 2005 and set a two (2) month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on October 10, 2005. A Notice of Abandonment was mailed on January 6, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of corrected drawings submitted with the instant petition.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

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

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissi ner for Patents
Unit d States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 5

RENNER KENNER GREIVE BOBAK
TAYLOR & WEBER
FIRST NATIONAL TOWER - FOURTH FLOOR
AKRON, OHIO 44308

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SEP 0 3 2003

OFFICE OF PETITIONS

In re Application of	:
Satyendra Kumar et al	:
Application No. 10/443,276	: DECISION GRANTING
Filed: May 22, 2003	:STATUS UNDER 37 CFR 1.47(a)
For: POLYMER ENHANCED LIQUID	:
CRYSTAL DEVICES BUILT WITH RIGID	:
OR FLEXIBLE SUBSTRATES	

This is in response to the petition under 37 CFR 1.47(a), filed August 4, 2003.

The petition is granted.

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

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center 2800.

Frances Hicks

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

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SATYENDRA KUMAR
1981 CROSSFIELD CIRCLE
KENT, OHIO 44240

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SEP 0 3 2003

OFFICE OF PETITIONS

In re Application of
Satyendra Kumar; Qingbing Wang
Application No. 10/443,276
Filed: May 22, 2003
For: POLYMER ENHANCED LIQUID CRYSTAL DEVICES BUILT WITH RIGID OR FLEXIBLE SUBSTRATES

Dear Inventor Kumar:

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

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

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:

Renner, Kenner, Greive, Bobak,
Taylor & Weber
First National Tower - Fourth Floor
Akron, Ohio 44308

UNITED STATES
PATENT AND
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

9/24/03

Bromberg and Sunstein LLP
125 Summer Street
Boston MA 02110-1618

Dear Applicant:

The Box PGPub replacement drawings for application number 10/443,295 received on 7/29/03 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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Commissioner for Patents
Washington, DC 20231
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Signature of Reviewer, Office of Initial Patent Examination

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United States Patent and Trademark Office
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www.uspto.gov

David L Hoffman
LAW OFFICES OF DAVID L. HOFFMAN
Suite 422
27023 McBean Parkway
Valencia, CA 91355

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DEC 19 2005

OFFICE OF PETITIONS

In re Application of Salkind et al. :
Application No. 10/443,301 :
Filing Date: May 21, 2003 :
Attorney Docket No. 03-10017 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 2005, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 3, 2004, 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 above-identified application became abandoned as of midnight on December 3, 2004. A Notice of Abandonment was mailed June 16, 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.

Petitioner states an oral election was made *after* the November 3, 2004 Office action was mailed. An *oral* election may be made *prior* to the mailing of a restriction action but not after an Office action has been mailed. Therefore, the application was properly deemed abandoned.

Technology Center 2100 will be informed of the instant decision so that the election can be considered by the examiner 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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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1089

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Sethi, et al.	:	
Application No. 10/443,316	:	ON PETITION
Filed: May 21, 2003	:	
Attorney Docket No. 50277-2029	:	

This is a decision on the petition under 37 CFR 1.181, filed October 12, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to this office for review.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the Office action mailed February 10, 2005, which set a one (1) month period for reply. Accordingly, this application became abandoned on March 11, 2005. A Notice of Abandonment was mailed on October 6, 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 2100 for re-mailing of the February 10, 2005 Office action with a new period for reply.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Leonard Forbes	: DECISION ON REQUEST FOR
Patent Number	: 7662701	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/443,337	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1204** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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~~JAN 11 2006~~ VOID

JAN 17 2006

MARK D. MOORE, ESQ.
HAYNES & BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS TX 75202

In re Application of	:
Elliott et al.	:
Serial No.: 10/443,344	: PETITION DECISION
Filed: May 22, 2003	:
Attorney Docket No.: 36697.8	:

This is in response to the petition under 37 CFR § 1.59(b), filed December 13, 2005, to expunge information from the above identified application.

Petitioner requests that the Proprietary Information Disclosure Statement, filed September 7, 2005, 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.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, applicants' petition is GRANTED.

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.

Jasemine C. Chambers

Jasemine Chambers
Director, Technology Center 1600

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Joel K. Young	: DECISION ON REQUEST FOR
Patent Number	: 7574431	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/443,356	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **537** 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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Date :February 26, 2009

Patent No. :7235348
Inventor(s) :Bang-Chein Ho et al.
Issued :June 26, 2007
Title :WATER SOLUBLE NEGATIVE TONE PHOTORESIST

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

EFS web uspto.gov/ebc/index.html
(must be registered as an e-filer to submit responses)
Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

A. Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 ext. 123

Thomas, Kayden, Horstemeyer & Risley, LLP
600 Galleria Parkway, N.W., Ste 1500
Atlanta, GA 30339-5948

/arg

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Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY LLP
600 GALLERIA PARKWAY, 15TH FLOOR
ATLANTA, GA 30339

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JUL 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,235,348	:	
Issue Date: June 26, 2007	:	
Application No. 10/443,359	:	DECISION ON PETITION
Filed: May 22, 2003	:	UNDER 37 CFR 3.81(b)
Attorney Docket No. 252016-2290	:	

This is a decision on the petition filed March 13, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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

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RYAN TOKKO
5376 WILSHIRE BLVD.
LOS ANGELES, CA 90038

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OFFICE OF PETITIONS

In re Application of

Ryan Tokko :

Application No. 10/443,360

: DECISION ON PETITION

Filed: May 22, 2003

:

Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 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 November 15, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on February 16, 2005.

The amendment filed January 30, 2006, is noted.

The request for an extension of time within the third month, filed January 30, 2006, is noted but cannot be granted as the request was made outside the maximum statutory period for reply and the application was already in an abandoned status. The amount of $510.00 will be refunded, in due course.

The application is being forwarded to Technology Center 3700, GAU 3732 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Robert Listou
725 3rd St. SW
Washington, DC 20024-3103

MAILED

OCT 14 2004

Technology Center 2100

In re Application of: Listou
Application No. 10/443,364
Filed: May 22, 2003
For: COMPUTER PROGRAM FOR RAPIDLY EDITING AND VISUALLY DISTINGUISHING ELEMENTS OF PRESENTATION OF PARAMETRIC TEXT DATA OBJECTS AND ASSOCIATED FILES

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P.§708.02(IV): APPLICANT'S AGE

This is a decision on the petition, filed May 22, 2003 (status letter filed September 12, 2003), under 37 C.F.R. 1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition under 37 C.F.R. 1.102(c), and M.P.E.P. §708.02, Section IV, must include evidence showing that the applicant is 65 years of age or more. Evidence in the form of a birth certificate or applicant's statement is sufficient. There is no fee required for such a petition.

The petition filed May 22, 2003 includes a statement that applicant's age is 79 yrs. (born October 3, 1923), thus the requirements set forth above are met.

The petition is **GRANTED**.

The application is being forwarded to the examiner to be advanced out of turn for examination in accordance with the procedures set forth in M.P.E.P. §708.02 and 37 C.F.R. 1.102.

10/14/04

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

#3
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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SEP 15 2003

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OFFICE OF THE DIRECTOR
TC 3600

Buskop Law Group, P.C.
1717 St. James Place, Suite 500
Houston, Texas 77056

In re application of
Richard Glee Wood et al.
Application No. 10/443,382
Filed: May 22, 2003
For: METHODS FOR REDUCING FRAUD IN GOVERNMENT PROGRAMS

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

This is a decision on the petition submitted on May 22, 2003, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age

The petition is **GRANTED**.

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

The evidence submitted with the petition is a driver's license from the applicant showing that he is at least 65 years of age.

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

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

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

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

snm/en: 9/10/03

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Paper No. 6

Mark E. Pochal, Esq.
Suite 200
489 Gold Star Highway
Groton, CT 06340

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NOV 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Jae Bouchard	:	
Application No. 10/443,386	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed July 8, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight October 8, 2003.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee, claims commencing on a separate page and an abstract.

The petition is **GRANTED**.

In the instant petition, petitioner states that a Change of Correspondence Address was previously filed. However, a review of the record fails to show a document requesting a change of address. Therefore, a courtesy copy of this decision is being mailed to the address given on the petition; thereafter, the Office will mail all future correspondence solely to the address of record unless otherwise instructed.

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

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

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

cc: Mark E. Pochal
86 Denison Avenue
Mystic, CT 06355

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KALAMAZOO, MI 49001

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In re Application of	:	
Ford et al.	:	
Application No. 10/443,399	:	ON PETITION
Filed: September 16, 2003	:	
Attorney Docket Number:	:	
6161.N DV1	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed March 28, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed September 16, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on December 17, 2005. A Notice of Abandonment was mailed February 10, 2006.

With the instant petition Applicant has submitted the issue fee.

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Killworth, Gottman, Hagan & Schaeff, L.L.P.
Suite 500
One Dayton Centre
Dayton OH 45402-2023

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APR 14 2005

OFFICE OF PETITIONS

In re Application of :
Peter M. Martin et al. :
Application No. 10/443,410 :
Filing Date: May 22, 2003 :
Attorney Docket No. : VIT 0008 VA :
Title: MULTILAYER PLASTIC :
SUBSTRATES :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 18, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

This application is being forwarded to Technology Center Art Unit 1732 for appropriate action on the amendment filed March 18, 2005, including consideration by the Examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a

reasonable inquiry into the facts and circumstances of such delay[1]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in submitting the priority claim under 37 CFR 1.78(a)(3) was intentional, Petitioner must notify the Office.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

cc: PRIOR, PATRICIA
Dinsmore & Shohl LLP
One Dayton Centre
One South Main Street, Suite 1300
Dayton, OH 45402--202

ATTACHMENT: Corrected Filing Receipt

1 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

HARNESS, DICKEY & PIERCE, PLC
7700 BONHOMME AVENUE
SUITE 400
ST. LOUIS, MO 63105

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DEC 22 2003

OFFICE OF PETITIONS

In re Application of
Horner-Richardson et al.
Application No. 10/443,443
Filed: May 22, 2003
Attorney Docket No. 9858-000150

ON PETITION

This decision concerns the November 10, 2003 petition under 37 CFR 1.47(a).

The petition is **DISMISSED.**

Five inventors are named in this application which was filed with an unexecuted declaration. On July 14, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, setting forth an extendable 2-month period for submitting, *inter alia*, a proper oath or declaration.[1] The petition then followed, accompanied by 2 declarations: one signed by all except inventor Howard H. Horn; the other signed by only Howard H. Horn with added remarks on Page 1 of 3 that Howard H. Horn has not reviewed and does not understand the contents of the application specification.

The petition requests that the available inventors be allowed to file the application on behalf of themselves and Howard H. Horn.

Under 37 CFR 1.47(a), the available inventors may file this application on behalf of themselves as well as Howard H. Horn, provided that a *bona fide* attempt has been made to present to Howard H. Horn a copy of the **entire** application (specification including claims; drawings), but the latter refuses to join in this application.[2]

To show that Howard H. Horn refuses to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts concerning not only the circumstances of the presentation of the application papers to Howard H. Horn at his last known addresses,[3] but

---

1 Also missing were the application basic filing fee and the extra claims fees.

2 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

3 *Id.*

also his subsequent refusal to sign the application declaration.[4]

The petition and the exhibits do not contain any evidence that a copy of the application papers was ever sent to Howard H. Horn. On contrary, the remarks inserted in the declaration signed by Howard H. Horn indicates that Howard H. Horn has not been provided with a copy of the application.

In view of the above, the Office is unable to conclude that a reasonably diligent effort has been made, in vain, to secure Howard H. Horn's signature on the application declaration.[5] The petition is thus dismissed.

A renewed §1.47(a) petition (no fee) must:[6]

-be filed within **TWO MONTHS** of the mailing date of this decision;[7]

-show that:[8]

-a *bona fide* attempt has been made to present to Howard H. Horn a copy of the application (specification including claims; drawings);

-Howard H. Horn nonetheless refuses to join in the application;

and should be addressed as follows:

-by mail: Mail Stop Petitions
Commissioner of Patents
PO Box 1450
Alexandria, VA 22313-1450

---

[4] See MPEP section 409.03(d) (Rev. 1, Feb. 2003) (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 . . . 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.).

[5] The remarks added to the declaration by Howard H. Horn renders the declaration non-compliant with 37 CFR 1.63(b)(2).

[6] The renewed petition should supplement, and not re-iterate, information/argument already provided in the instant petition.

[7] 37 CFR 1.181(f).

[8] The statement(s) of facts must be signed by person(s) with first hand knowledge of the facts recited therein.

-by hand: USPTO
2011 South Clark Place
Customer Window, Mail Stop Petitions
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

-by fax: (703) 872-9306
Attn: Office of Petitions

Finally, the Office acknowledges receipt with the petition of: the request for a 2-month extension of time and the $420 extension-of-time fee; the $130 petition fee; the $130 surcharge for lacking an acceptable oath/declaration upon filing of the application; and the extra claims fees.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Howard H. Horn
39 Mountain View Acres
Wilmot, NH 03287

COPY MAILED
FEB 27 2004
OFFICE OF PETITIONS
ON PETITION

In re Application of
Horner-Richardson et al.
Application No. 10/443,443
Filed: May 22, 2003
For: TORCH WITH ROTATIONAL START

Dear Mr. Horn,

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

As one of the named inventors, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and 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.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner for Patents

cc: Kelly K. Burris, Esq.
Harness, Dickey & Pierce, PLC
7700 Bonhomme Avenue, Suite 400
St. Louis, MO 63105

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

HARNESS, DICKEY & PIERCE, PLC
7700 BONHOMME AVENUE
SUITE 400
ST. LOUIS, MO 63105

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FEB 27 2004

OFFICE OF PETITIONS

In re Application of
Horner-Richardson et al.
Application No. 10/443,443
Filed: May 22, 2003
Attorney Docket No. 9858-000150

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision concerns the February 20, 2004 "Petition under 37 CFR 1.47(a)" which is a renewed §1.47(a) petition.

The petition is **GRANTED.**

The previous §1.47(a) petition, filed on November 10, 2003, was dismissed on December 22, 2003 for lacking any showing that the non-signing inventor had been provided with a copy of the entire application (specification including claims; drawings).

Upon review of the instant renewed petition and accompaniments, the Office concludes that the non-signing inventor had been given a copy of the application, but refused to join in this application. The petition is thus granted.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to the non-signing inventor, Howard H. Horn, at his last known address indicated in the petition:

39 Mountain View Acres
Wilmot, NH 03287

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

No petition fee is owed. The application is now complete.

The file is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARK A. LITMAN & ASSOCIATES, P.A.
YORK BUSINESS CENTER, SUITE 205
3209 WEST 76TH STREET
EDINA, MN 55435

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JAN 25 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jon P. Wikstrom et al :
Application No. 10/443,453 :
Filed: May 22, 2003 :
Attorney Docket No. 590.001US1

This is a decision on the petition, filed January 13, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

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JUL 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Eugene F. Duval	:	
Application No. 10/443,459	:	DECISION GRANTING PETITION
Filed: May 22, 2003	:	UNDER 37 CFR 1.313(c)(2)
For: COUNTER BALANCE SYSTEM AND	:	
METHOD WITH ONE OR MORE	:	
MECHANICAL ARMS	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 1, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 10, 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 3682 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

JOHN P. O'BANION
O'BANION & RITCHEY LLP
400 CAPITOL MALL SUITE 1550
SACRAMENTO CA 95814

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OCT 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Gardner, et al. :
Application No. 10/443,461 :
Filed: May 21, 2003 :
Attorney Docket No. GAR 1756.17A3 :

DECISION GRANTING PETITION

This is a decision on the petition filed September 17, 2003, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of May 21, 2003, rather than the presently accorded filing date of May 12, 2003.

Petitioner alleges that the application was deposited with the Express Mail Service on May 21, 2003. In support of the allegation, the petition is accompanied by a copy of the "Track and Confirm" communication from the United States Postal Service showing that Express Mail package EV352306911US was deposited with the United States Postal Service, Express Mail Service on May 21, 2003. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on May 21, 2003.

In view of the above, the petition is granted. The new filing date for the above-cited application is May 21, 2003.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 21, 2003, and for issuance of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

KING & SPALDING LLP
191 PEACHTREE STREET, N.E.
ATLANTA, GA 30303-1763

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NOV 1 9 2004

OFFICE OF PETITIONS

In re Application of
Charles Q. Meng et al
Application No. 10/443,470
Filed: May 21, 2003
Attorney Docket No. ATH 115CON

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 1, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed April 22, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 23, 2004.

The above-identified application became abandoned for failure to timely pay the issue fee. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. See MPEP 711.03(c)(III)(A)(1). Therefore, the filing of a continuing application 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 change any additional fees due, the $985.00 issue fee will be charged to Deposit Account No. 11-0980.

Petitioner is advised that the issue fee paid on October 1, 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]

---

[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 above-identified application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being forwarded to Technology Center AU 1626 for processing of the request for continued examination (RCE) under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of	:
Charles H. Dennison et al	:
Application No. 10/443,471	: DECISION GRANTING PETITION
Filed: May 22, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5081.3US (91-0463.08/US)	:

This is a decision on the petition, filed September 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 5, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), 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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SEP 17 2003

OFFICE OF PETITIONS

WILLIAM D. LEE, JR
P.O. BOX 10827
GREENVILLE, SC 29603

In re Application of :
Scott D. Quigley et al :
Application No. 10/443,474 : NOTICE
Filed: May 22, 2003 :
Attorney Docket No. 035365.00001 Voith

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

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)
6735229	2004-05-11	10/443,495	2003-05-22	UCF-355

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	/Brian S. Steinberger/	Date (YYYY-MM-DD)	2008-06-23
Name	Brian S. Steinberger	Registration Number	36423

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6735229
Issue Date: May 11,2004
Application No. 10443495
Filed: May 22,2003
Attorney Docket No. UCF-355

:

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

:

This is a decision on the electronic petition, filed August 8,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 8,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Wai-Hon Lee :
Application No. 10/443,500 :
Filed: May 21, 2003 :
Attorney Docket No. 021478-000200US :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed December 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 January 11, 2005. A response was filed April 11, 2005 although not made of record until a second copy of the response was filed August 4, 2005 (see the post card receipt date-stamped by the USPTO on April 11, 2005). By Advisory Action of August 26, 2005, petitioner was advised that the response did not place the application in condition for allowance. This application became abandoned on April 12, 2005. Accordingly, a Notice of Abandonment was mailed December 19, 2005.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

The application is being forwarded to Technology Center 2872 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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TRELLIS INTELLECTUAL PROPERTY LAW GROUP, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
W. James Scheuermann, et al.	:	
Application No. 10/443,501	:	DECISION ON PETITION
Filed: May 21, 2003	:	TO WITHDRAW
Attorney Docket No. QSTH-07200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 21, 2007 and October 5, 2007.

The request is **APPROVED**.

A review of the file record indicates that Trellis Intellectual Property Law Group, PC: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Trellis Intellectual Property Law Group, PC has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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) the intervening assignee of the entire interest. 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).

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: W. JAMES SCHEUERMANN
21485 SARATOGA HILLS ROAD
SARATOGA, CA 95070

cc: MARK KAUFMAN, ESQ.
NIXON PEABODY
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/443,501	05/21/2003	W. James Scheuermann	046301-072000

CONFIRMATION NO. 4645

POWER OF ATTORNEY NOTICE

OC000000029202474

37490
Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Date Mailed: 04/01/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/05/2007.

- 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.

/amwise/

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

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

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In re Application of :
W. James F. Scheuermann et al. :
Application No. 10/443,501 : ON PETITION
Filed: May 21, 2003 :
Attorney Docket No. 046301-072000 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed October 10, 2008 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed April 8, 2008, which set a three month period for response. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) with the petition and a request that the amendment filed October 8, 2008 be considered as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2445 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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

Mail Date: 04/27/2010

Applicant	: W. James Scheuermann	: DECISION ON REQUEST FOR
Patent Number	: 7653710	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/443,501	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1690** 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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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Lee, et al.	:	
Application No. 10/443,504	:	ON PETITION
Filed: May 21, 2003	:	
Attorney Docket No. 012538-000400US	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 13, 2007.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed August 23, 2006. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on November 24, 2006. A Notice of Abandonment was mailed on March 6, 2007.

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

The matter is being forwarded to Group Art Unit 1764 for consideration of the Amendment filed March 13, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WILSON & HAM
1811 Santa Rita Road
Suite 130
Pleasanton, CA 94566

Mail Date: 04/30/2010

Applicant	: Eric Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7609693	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/443,505	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1923** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kit M. Stetina
STETINA BRUNDA GARRED & BRUCKER
Suite 250
75 Enterprise
Aliso Viejo, CA 92656

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OFFICE OF PETITIONS

In re Application of	:	
Jeffery A. Klein	:	
Application No.: 10/443,509	:	ON PETITION
Filed: May 22, 2003	:	
Attorney Docket No:KLEIN-085A	:	

This is a decision on the petition under 37 CFR §1.137(b), December 15, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the final Office action mailed October 5, 2004. The notice set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on January 6, 2005. A Notice of Abandonment was mailed on April 19, 2005.

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 Manuel Mendez has determined that the amendment filed December 15, 2005, failed to place the application in condition for allowance. A proper response must be filed with any renewed petition. A proper response would be a Request for Continued Examination under 37 CFR 1.114 or an amendment that places the application in condition for allowance.

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

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

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Aliso Viejo, CA 92656

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OFFICE OF PETITIONS

In re Application of

Jeffery A. Klein

Application No. 10/443,509

Filed: May 22, 2003

Attorney Docket No. KLEIN-085A

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 16, 2006, to revive the above-identified application.

The renewed petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely response to the final Office action mailed October 5, 2004. No response was received within the allowable period and the application became abandoned on January 6, 2005. A Notice of Abandonment was mailed on April 19, 2005. A petition under 37 CFR 1.137(b) was filed on December 15, 2005, and dismissed by a decision mailed January 4, 2006.

The Request for Continued Examination and amendment filed March 16, 2006, are noted.

The application file is being forwarded to Technology Center 3700, GAU 3763 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK NY 10022-7650

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OFFICE OF PETITIONS

In re Application of
Kurosky et al
Application No. 10/443,514
Filed: May 22, 2003
Attorney Docket No: Biodegradable Lubricants

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 2006, to revive the above-identified application.

This petition is hereby **Dismissed**.

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

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on January 5, 2006. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 6, 2006. A Notice of Abandonment was mailed on July 24, 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. The proposed reply required for consideration of a petition to revive after a final Office Action must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that prima facie places the application in condition for allowance, the filing of a continuing application or a Request for Continued Examination (RCE). See MPEP 711.03(c)(III)(A)(2) and 37 CFR 1.114. The examiner has determined the amendment submitted with the petition does not place the application in condition for allowance. Accordingly, this application cannot be revived.

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

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

enclosure: Advisory Action

cc: Michael I. Wolfson
Greenberg Traurig LLP
200 Park Avenue, 34th Street
New York, NY 10166

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OFFICE OF PETITIONS

In re Application of
Kurosky et al
Application No. 10/443,514
Filed: May 22, 2003
Attorney Docket No: Biodegradable Lubricants

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), filed April 5, 2007.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on January 5, 2006. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 6, 2006. A Notice of Abandonment was mailed on July 24, 2006. A petition was dismissed on April 5, 2007.[1]

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 1700 for further processing.

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[1] The petition was dismissed on April 5, 2007 because petitioner failed to submit a proper reply in the form of a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that prima facie places the application in condition for allowance, the filing of a continuing application or a Request for Continued Examination (RCE). See MPEP 711.03(c)(III)(A)(2) and 37 CFR 1.114. The decision did not state a notice of appeal was required. A notice of appeal was one of several options petitioner could submit in reply to a final office action. Applicants' submission of a amendment which failed to place the application in condition for allowance made the reply improper.

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
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GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

MAILED

MAR 24 2009

OFFICE OF PETITIONS

In re Application of :
Kurosky et al. :
Application No. 10/443,514 :
Filed: May 22, 2003 :
Attorney Docket No. Royal-221(086078-010200) :

NOTICE

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 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.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Patent Administrator
Chemtura Corporation
199 Benson Road
Middlebury, CT 06749

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of
John William Studholme, et al.
Application No. 10/443,520
Filed: May 22, 2003
Attorney Docket No. 46309/282844

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed April 13, 2004, which set a statutory period for reply of three(3) months. The above-identified application became abandoned on July 14, 2004.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111.

The application file is being forwarded to the Office of Publications to be processed into a patent.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : October 12, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Peter Green et al
Application No. :10/443,525
Filed :May 21, 2003

The above-identified application has been assigned Patent No. 7,129,646 and an issue date of October 31, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 31, 2006:

"All reference to Patent No. 7,129,646 to Peter Green et al of California for BASIC HALOGEN CONVERTOR IC appearing in the Official Gazette of October31, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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OCT 12 2006

OFFICE OF PETITIONS

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of	:	
Peter Green et al	:	
Application No. 10/443,525	:	ON PETITION
Filed: May 21, 2003	:	
Attorney Docket No. IR-2082	:	

This is a decision on the petition, filed October 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 15, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

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JUL 14 2009

OFFICE OF PETITIONS

In re Patent No. 6,875,796
Issue Date: April 5, 2005
Application No. 10/443,538
Filed: May 21, 2003
Attorney Docket No. 027495-000041

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 27, 2009.

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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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ROBERT RYAN MORISHITA
MORISHITA LAW FIRM, LLC
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SUITE 850
LAS VEGAS, NV 89169

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MAR 09 2007

OFFICE OF PETITIONS

In re Application of Odom :
Application No. 10/443,567 : Decision on Petition
Filing Date: May 22, 2003 :
Attorney Docket No. Karaway03-02 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 27, 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 including a requirement for restriction/election mailed August 18, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on September 19, 2006.

The instant petition requests revival of the application.

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

Technology Center Art Unit 3714 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

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Alexandria, VA 22313-1450
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APR 26 2007

OFFICE OF PETITIONS

Schnader Harrison Segal & Lewis LLP
Suite 3600
1600 Market Street
Philadelphia, PA 19711

In re Application of	:	
Paragi Shah et al.	:	
Application No. 10/443,568	:	DECISION ON PETITION
Filed: May 22, 2003	:	TO WITHDRAW
Attorney Docket No. 1045-R-02	:	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 **APPROVED**.

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

The request was signed by Joan T. Kluger on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **PARAGI SHAH**
1801 BUTLER PIKE
APT. 50
CONSHOHOEKEN, PA 19428

cc: **MCKENNA LONG & ALDRIDGE LLP**
1900 K STREET, NW
WASHINGTON, DC 20006

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United States Patent and Trademark Office
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www.uspto.gov

PARAGI SHAH
1801 BUTLER PIKE
APT. 50
CONSHOHOEKEN PA 19428

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OFFICE OF PETITIONS

In re Application of	:	
Shah et al.	:	
Application No. 10/443,568	:	DECISION ON PETITION
Filed: May 22, 2003	:	
Attorney Docket No. 1045-R-02	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed April 27, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on July 28, 2007. A Notice of Abandonment was mailed November 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00, three- month extension of time fee submitted with the petition on October 16, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner via treasury check in due course.

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

This application is being referred to Technology Center AU 2435 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Rebecca G. Rudich
McKenna Long & Aldridge LLP
1900 K Street, N.W.
Washington DC 20006

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LUCIE HESKETT
HERREN FAHR STR. 8
6045 MEGGEN CH
SWITZERLAND

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JUN 0 1 2007

OFFICE OF PETITIONS

In re Application of Heskett-Brem :
Application No. 10/443,570 : Decision on Petition
Filing Date: May 22, 2003 :
Attorney Docket No. Gold Weaver :

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 also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

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

A non-final Office action was mailed April 18, 2006. The Office action set a shortened statutory period for reply of three (3) months. A reply to the Office action was not matched with the file. As a result, a Notice of Abandonment was mailed November 20, 2006.

Petitioner contends a reply was timely submitted by facsimile transmission on Sunday, July 2, 2006.

In support of the petition, petitioner has submitted:
(1) a copy of a transmission report from petitioner's facsimile machine, and
(2) a copy of a telephone bill.

The transmission report "appears" to indicate a transmission consisting of 5 pages was sent to the Office's facsimile number (571-272-3203) on July 2, 2006.

Normally, proof that 5 pages were sent on July 2, 2006, would be insufficient to justify withdrawal of the holding of abandonment. The transmission report fails to indicate the nature of the pages or an application number. However, Office records indicate petitioner is only listed as an inventor for one other application. Therefore, it is unlikely the 5 pages were intended for another application. The other application is application no. 60/382,973 filed May 23, 2002.

Unfortunately, the transmission report is not in English. Petitioner should file a request for reconsideration and supply a copy of an English translation of the report.

In the future, petitioner should submit papers using a Certificate of Transmission in compliance with 37 CFR 1.8. "Certificate of Transmission" procedures allow one to prove a paper was timely transmitted when USPTO records fail to indicate the paper was received.

Using "Certificate of Transmission" procedures under 37 CFR 1.8 involves several steps.

Step 1: The first step in using "Certificate of Transmission" is placing the proper language on a portion of each paper being submitted or placing the certification language on a separate sheet. If the certification is presented on a separate sheet, that sheet must:

(1) be signed,
(2) be attached to the papers filed, and
(3) fully and completely identify each paper being attached, e.g., reply to final rejection, Notice of Appeal, etc.

An example of language one may use for a Certificate of Transmission can be found below:

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on (put the date).

Typed or printed name of person signing this certificate

_____

Signature: _____

Step 2: The individual who will be sending the paper(s) by facsimile transmission must complete the information in the Certificate of Mailing or Transmission *on the date it will be mailed or transmitted.*

Step 3: Retain a copy of the papers. The copy should be made *after* the Certificate has been properly completed (dated, signed, etc.).

Step 4: Obtain a sheet from the sending unit verifying the transmission was successful, and retaining the sheet.

It should be noted that the benefits of a Certificate of Transmission procedures do not apply to all papers.[1] In addition to the exceptions listed in the footnote, one may not use a Certificate of *Transmission* for some drawing submissions.

[1] Certificate of Transmission practice does not apply to the submission of original application papers, Continued Prosecution Applications, some papers related to interference practice, the filing of an international application, the filing of papers in an international application, and the filing of copy of international application and fee required to enter national stage. In certain situations, one may not send drawings by facsimile transmission.

Enclosed is a copy of a suggested Transmittal Form prepared by the Office. Please note the Certificate of Mailing/Transmission located on the bottom of the form.

In the future, petitioner should ensure the information in the header of all papers is correct. If the application number is partially illegible due to degradation from the facsimile process, the Office can use the remaining information to determine the application number. The header on the papers filed July 2, 2006, lists a correct application number but lists an incorrect filing date and invention title.

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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Form PTO/SB/21

PTO/SB/21 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

Total Number of Pages in This Submission

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☐ Other Enclosure(s) (please Identify below):

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature			
Printed name			
Date		Reg. No.	

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

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HERREN FAHR STR. 8
6045 MEGGEN CH
SWITZERLAND

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AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of Heskett-Brem :
Application No. 10/443,570 :
Filing Date: May 22, 2003 :
Attorney Docket No. Gold Weaver :

Decision on Petition

This is a decision on the renewed petition under 37 CFR 1.181 and 37 CFR 1.137(b) filed July 20, 2007.

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

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

A non-final Office action was mailed April 18, 2006. The Office action set a shortened statutory period for reply of three (3) months. A reply to the Office action was not matched with the file. As a result, a Notice of Abandonment was mailed November 20, 2006.

Petitioner has established reply was timely submitted by facsimile transmission on Sunday, July 2, 2006.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(b) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, a petition fee has not been charged to petitioner's credit card.

As a courtesy, the Office will briefly discuss the concerns petitioner has with respect to the application's filing date. A provisional application was filed May 23, 2002. The provisional application included a sheet signed by petitioner with the title, "Cover Sheet for Provisional Application For Patent." The provisional application was assigned Application No. 60/382,973.

A new application was filed May 22, 2003. The application included a sheet signed by petitioner with the title, "Utility Patent Application Transmittal." The application was assigned Application No. 10/443,570.

As can be seen above, petitioner has filed two applications, not one.

The filing date for the instant application is the date the application was filed. The instant application was filed May 22, 2003. Therefore, the filing date of May 22, 2003, is proper. Claiming priority to a provisional application allows one to use the provisional application's filing date for various purposes such as overcoming prior art. However, the fact a nonprovisional application can gain benefits based on a provisional application's filing date does not change the actual filing date for the nonprovisional application.

Technology Center Art Unit 3677 will be informed of the instant decision and the application, including the copy of the amendment filed January 5, 2007, 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: Form PTO/SB/21

PTO/SB/21 (04-07)
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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

Total Number of Pages in This Submission

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☐ Other Enclosure(s) (please Identify below):

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature			
Printed name			
Date		Reg. No.	

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

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FISH & RICHARDSON PC
45 ROCKEFELLER PLAZA, SUITE 2800
NEW YORK, NY 10111

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In re Application of	:
Patrizio Vinciarelli	:
Application No. 10/443,573	: DECISION GRANTING PETITION
Filed: May 22, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 00614-136001	:

This is a decision on the petition, filed August 25, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2838 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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JAN 3 0 2004
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PARENT OF
10/443,590
155660-0219

Paper No. 20

Blakely Sokoloff Taylor & Zafman
124 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

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OFFICE OF PETITIONS

In re Application of
Elliot A. Rudell
Application No. 08/866,561 RUDELL
Filed: May 30, 1997 155660-0068
Attorney Docket No. 076101-P035X

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 17, 2003 and supplemented by facsimile transmission on July 10, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 28, 1999, 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 September 29, 1999.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The file 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.

RECEIVED
JUL 1 8 2003
IRELL & MANELLA LLP

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. 10/443,590.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308 5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 3700, Art Unit 3712.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

cc: Ben J. Yorks
Irell & Manella LLP
840 Newport Center Drive, Suite 400
Newport Beach, CA 92660

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OFFICE OF PETITIONS

STEPHEN DONOVAN
ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE CA 92612

In re Application of
Kei Roger Aoki et al.
Application No. 10/443,593
Filed: May 21,2003
Attorney Docket No. 16952CON1CIP1 (BOT)

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on May 21, 2003.

The petition is GRANTED.

The above-identified application was filed on May 21, 2003. The application names Kei Roger Aoki, Michael W. Grayston, Steven R. Carlson and Judith M. Leon as inventors. The declaration is signed by inventors Aoki, Grayston and Carlson. The applicant files this petition alleging that joint inventor Judith M. Leon refuses to sign the oath/declaration and seeks status under 37 CFR 1.47(a).

By declaration of Stephen Donovan, Attorney of Record, it was shown that the application papers were mailed to Ms. Leon and that follow-up correspondence and telephone calls were sent to Ms. Leon regarding the Patent Application and a request for her to execute the oath and declaration. Additionally, Mr. Donovan avers that Ms. Leon left a voice message for him acknowledging receipt of the application papers. The proof submitted substantiates the presumption that by her actions, Ms. Leon refuses to execute the oath and declaration and to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

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

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

The application is being forwarded to the Office of Initial Patent Examination to be processed in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JUDITH LEON
33861 MONTANAS DEL MAR
SAN JUAN CAPISTRANO, CA 92675

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JAN 0 9 2004

OFFICE OF PETITIONS

In re Application of
Kei Roger Aoki et al.
Application No. 10/443,593
Filed: May 21, 2003
For: BOTULINUM TOXIN TREATMENT FOR STRABISMUS

Dear Ms. Leon:

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 Petitions Attorney at (703) 305-4497. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
STEPHEN DONOVAN
ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE CA 92612

1654

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OFFICE OF PETITIONS

STEPHEN DONOVAN
ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE CA 92612

In re Application of
Kei Roger Aoki et al.
Application No. 10/443,593
Filed: May 21, 2003
Attorney Docket No. 16952CON1CIP1 (BOT)

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) DISMISSED AS INVOLVING MOOT ISSUES

Papers filed on December 4, 2003, to Withdraw a Petition under 37 CFR 1.47(a) included a Declaration signed by the previously nonsigning inventor, Judith Leon, in compliance with 37 CFR 1.63.

The petition was filed May 21, 2003 to accord status under 37 CFR 1.47(a). A decision according status under 37 CFR 1.47(a) was mailed January 9, 2004 because the petition to withdraw the May 21, 2003 petition had not been matched with the file.

However, in view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is **dismissed** as involving moot issues; this application will no longer have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 010904

MR. GENE SCOTT
PATENT LAW & VENTURE GROUP
3140 RED HILL AVENUE, SUITE 150
COSTA MESA, CA 92626-3440

JAN 15 2004

In re Application of	:	
Yorum NEUMARK	:	DECISION ON PETITION
Application No. 10/443,601	:	
Filed: May 21, 2003	:	
Attorney Docket No. Neumar.Y-04	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed September 29, 2003 to make the above-identified application special.

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

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of $130.00, (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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LOUIS TESSIER
P O BOX 54029
TMR QC H3P 1L6
CANADA

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OFFICE OF PETITIONS

In re Application of
Cornfield, et al.
Application No. 10/443,615
Filed: May 23, 2003
Attorney Docket No. 200
For: ROTARY-TYPE CUTTING IMPLEMENT

ON PETITION

This is a decision on the petition, filed December 23, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the May 5, 2005 non-final Office action. Applicants filed a one month extension of time, drawings, and an amendment on November 4, 2005. A three month extension of time was required at the time. The application became abandoned on Septmeber 6, 2005. A Notice of Abandonment was mailed on December 1, 2005.

Applicants have re-submitteed drawings and an amendment in reply to the May 5, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 5, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3724 for consideration of the drawings and amendment filed with the instant petition.

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

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

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OFFICE OF PETITIONS

Burns Doane Swecker & Mathis LLP
PO Box 1404
Alexandria, VA 22313-1404

In re Application of Mayersak Application No. 10/443,621 Filed: May 23, 2003 Attorney Docket No. 1034169-000002	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 12, 2006, which set a shortened statutory period for reply of three (3) months. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 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 a Notice of Appeal[1] and fee previously submitted on January 30, 2006[2]; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

The address of record differs slightly from that filed with the petition. While a courtesy copy of this decision is being mailed to the below address, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

This application is being referred to Technology Center AU 3641 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Denise Pothier
Petitions Examiner
Office of Petitions

Cc: Buchanan Ingersoll & Rooney PC
P.O. Box 1404
Alexandria, VA 22313-1404

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[1] Because at least one claim in the above application has been twice rejected, applicant is permitted to appeal. See 37 CFR 41.31.

[2] The Notice of Appeal fee will apply to a later appeal on the same application following reopening of prosecution by the examiner. See MPEP 1207.04.

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Paper No. 7

John C. Alemanni
Kilpatrick Stockton LLP
1001 W. Fourth Street
Winston-Salem NC 27101

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In re Application of
Hunt, Edstrom, Michie, Clayton & McCleery
Application No.: 10/443,627
Filed: May 22, 2003
Attorney Docket No.:49942/279572
For: DOOR AND METHOD OF MAKING SAME

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed February 18, 2004 (Express Mail date February 17, 2004).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on May 22, 2003 without an executed oath or declaration. Accordingly, on July 14, 2003, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on February 18, 2004 (Express Mail date February 17, 2004), a petition for a five month extension of time and required fee, a declaration executed by 4 of 5 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A statement of facts Attorney John C. Alemanni accompanied the petition. Attorney Alemanni explains that non-signing joint inventor Timothy Lee McCleery received a copy of the above-identified application, but did not respond to the request that he sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration contains an noninitialed, nondated alteration to Inventor Edstrom's information. The first page of the declaration that lists all the inventors' information contains a handwritten modification to Mr. Edstrom's address. It adds an apartment number to the address. The body of the declaration does not list an apartment number.

37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a).
An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. McCleery is REQUIRED. See MPEP 409.03(a).

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Edstrom can clarify the apartment number issue by executing a supplemental declaration listing his correct information, identifying the entire inventive entity and including their information, <u>but signed only by him</u>.

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

John C. Alemanni
Kilpatrick Stockton LLP
1001 W. Fourth Street
Winston-Salem NC 27101

COPY MAILED

JUN 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Hunt, Edstrom, Michie, Clayton & McCleery :
Application No.: 10/443,627 :
Filed: May 22, 2003 :
Attorney Docket No.:49942/279572 :
For: DOOR AND METHOD OF MAKING SAME

ON PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed May 28, 2004 to accord a filing date of February 17, 2004 to the papers filed in response to a Notice to File Missing Parts, which were received in the Office on February 18, 2004.

The petition is **GRANTED**.

The above-identified application was filed on May 22, 2003 without an executed oath or declaration. Accordingly, on July 14, 2003, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, petitioners filed a petition under 37 CFR 1.47(a), including a declaration, a surcharge, and the petition fee, and a five month extension of time and required fee. These papers were assigned a filing date of February 18, 2004. The undersigned noted the Express Mail date listed on the papers was February 17, 2004 and treated the papers as timely filed.

The undersigned dismissed the petition under 37 CFR 1.47(a) on March 12, 2004 for reasons unrelated to the issue of timeliness. A response to the March 12, 2004 dismissal is still required.

Petitioners filed the instant petition under 37 CFR 1.10(d) because the February reply to the July 14, 2003 Notice had to be filed *at the latest* on February 17, 2004 in order to be timely. Office computer records list the February reply was received on February 18, 2004.

Petitioners request an earlier filing date for the February 2004 reply on the basis that the reply was deposited in Express Mail service on February 17, 2004, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by, *inter alia*, a statement from Jim Thomas, acting manager of the Greensboro Air Mail Center for the USPS, that states that six Express Mail envelopes, including the one at issue, EV315182232US, were deposited with the USPS prior to the cutoff time for Express Mail deposit on February 17, 2004. The Express Mail label number EV315182232US is found on the transmittal letter of the response to the Notice to File Missing Parts.

Paragraph (d) of 37 CFR 1.10 states that:

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

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed May 28, 2004 is accompanied by the corroborating evidence required by the rule. The USPS manager at the facility in question attests that the Express Mail package associated with Express Mail label no. EV315182232US was in USPS possession on February 17, 2004 prior to the Express Mail deposit cutoff time. Accordingly, the petition is granted.

Regarding finances, a petition under 37 CFR 1.10(d) is feeless. Therefore, the $130.00 petition fee submitted with the instant petition will be credited to deposit account no. 16-1435.

The application is being forwarded to Technology Center Art Unit 3635 for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.13

John C. Alemanni
Kilpatrick Stockton LLP
1001 W. Fourth Street
Winston-Salem NC 27101

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SEP 21 2004

OFFICE OF PETITIONS

In re Application of
Hunt, Edstrom, Michie, Clayton & McCleery
Application No.: 10/443,627
Filed: May 22, 2003
Attorney Docket No.:49942/279572
For: DOOR AND METHOD OF MAKING SAME

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed June 14, 2004.

Petitioners have shown that the non-signing inventor, Timothy Lee McCleery, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney John C. Alemanni states that Mr. McCleery received a copy of the above-identified application, but did not respond to the request that he sign the declaration for the patent application. 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 Technology Center 3600 for examination in due course.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TIMOTHY LEE McCLEERY
11366 CREEKSTONE LANE
SAN DIEGO, CA 92128

COPY MAILED

SEP 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Hunt, Edstrom, Michie, Clayton & McCleery :
Application No.: 10/443,627 : LETTER
Filed: May 22, 2003 :
Attorney Docket No.:49942/279572 :
For: DOOR AND METHOD OF MAKING SAME :

Dear Mr. McCleery:

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: John C. Alemanni
Kilpatrick Stockton LLP
1001 W. Fourth Street
Winston-Salem NC 27101

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JOHN C. ALEMANNI
KILPATRICK STOCKTON LLP
1001 W. FOURTH STREET
WINSTON-SALEM, NC 27101

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OFFICE OF PETITIONS

In re Application of	:	
Hunt et al.	:	DECISION ON PETITION
Application No. 10/443,627	:	TO WITHDRAW
Filed: May 22, 2003	:	FROM RECORD
Attorney Docket No. 49942-279572	:	

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 2, 2005.

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

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 43925 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc:

NELSON MULLINS RILEY & SCARBOROUGH, LLP
1320 MAIN STREET, 17TH FLOOR
COLUMBIA SC 29201

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Shmuel Shaffer	: DECISION ON REQUEST FOR
Patent Number	: 7602894	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/443,630	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1275** 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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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 04/22/2010

Applicant	: Hannu J. Mikkola	: DECISION ON REQUEST FOR
Patent Number	: 7610543	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/443,652	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **729** 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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JEFFERY M DUNCAN
BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of	:
Scholz, et al.	: DECISION ON APPLICATION
Application No. 10/443,654	: FOR PATENT TERM ADJUSTMENT
Filed: May 22, 2003	:
Atty. Dkt. No.: 9793/134	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)" filed June 13, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **DISMISSED**.

Applicants request that the Determination of Patent Term Adjustment be corrected from 98 days, as indicated on the Determination of Patent Term Adjustment mailed March 21, 2005, to an adjustment of 102 days.

In accordance with 37 CFR 1.702(a)(1), an adjustment of 98 days was accorded for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed.

Applicants argue that an adjustment of four days under 37 CFR 1.702(a)(2) should have been accorded. Applicants argue that the period of adjustment under 37 CFR 1.703(a)(2) commenced March 18, 2005, the day after the date that is four months after the date that applicants' response to the restriction requirement was filed, and ended March 21, 2005, the date that the Corrected Notice of Allowance was mailed. *See*, 37 CFR 1.703(a)(2).

The application history has been reviewed and it has been determined that the initial patent term adjustment of 98 days is correct. The Office mailed a Notice of Allowance under section 151 on February 18, 2005, which is within four months of the date of applicants' response to the restriction requirement filed November 17, 2004.

The subsequent mailing of another notice of allowance does not alter the date used in calculation of the period of adjustment. The record reveals both notices were mailed to the correspondence address of record. However, the properly addressed notice of allowance mailed February 18, 2005, was returned to the Office by the postal service. Accordingly, a "Corrected" Notice of Allowance was mailed on March 21, 2005. This remailing was not due to any error on the part of the Office in mailing the first notice of allowance to applicants. Thus, the remailing of the Notice of Allowance did not constitute a delay by the Office in the issuance of the patent within the meaning of 35 U.S.C. 154(b).

Thus, the period of patent term adjustment as of the date of mailing of the Corrected Notice of Allowance is 98 days.

The Office hereby acknowledges receipt of the required application fee of $200.00.

The application file is being forwarded to the Publications Division for issuance of a patent.

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

Kery Fries

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

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Paper No. 5

MARGER JOHNSON & McCOLLOM P.C.
1030 SW MORRISON STREET
PORTLAND, OR 97205

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SEP 05 2003

OFFICE OF PETITIONS

In re Application of	:	
John F. Acres et al	:	
Application No. 10/443,685	:	NOTICE
Filed: May 21, 2003	:	
Attorney Docket No. 4164-198	:	

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 3714.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 3700

Gary M. Polumbus
DORSEY & WHITNEY LLP
370 Seventeenth Street
Suite 4700
Denver, CO 80202-5647

MAILED

JUN 28 2005

Director's Office
Group 3700

In re Application of COLSON et al :
Serial No. 10/443,690 :
Filed: May 21, 2003 : Decision on Petition
For: Beam Winding Apparatus :

In the petition under 37 CFR 1.48(a), filed July 13, 2004, applicants request that Daniel M. Fogarty be deleted as an inventor of the above identified invention. Applicants have provided a statement from Daniel M. Fogarty indicating that the error in naming him originally as an inventor arose without deceptive intent as required by 37 CFR 1.48(a)(2), an oath or declaration by the actual inventors as required by 37 CFR 1.48(a)(3), the written consent of the assignee as required by 37 CFR 1.48(a)(5), and the required fee.

All requirements set forth in 37 CFR 1.48(a) have been met by applicants' petition and attached statements.

The petition is granted.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

John J. Calvert
Supervisory Patent Examiner
Art Unit 3765
Phone: (571) 272-4983
Fax: (571) 273-4983

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Paper No. 4

DUKE W. YEE
CARSTENS, YEE & CAHOON, LLP.
P.O. BOX 802334
DALLAS, TX 75380

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NOV 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Girouard, et al. :
Application No. 10/443,698 : ON PETITION
Filed: May 22, 2003 :
Attorney Docket No. AUS920030316US1 :

This is a decision on papers styled "Response To Notice of Omitted Item(s) In a Nonprovisional Application" filed on September 11, 2003, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of May 22, 2003, including Figures 7-14 as described in the specification.

The application was submitted on May 22, 2003. However, on July 8, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s)" (Notice) that stated the application had been accorded a filing date, and that Figures 7-14 as described in the specification appear to have been omitted.

In response, on September 11, 2003, the present petition was filed wherein petitioner argues that Figures 7-14 as described in the specification were filed on May 22, 2003. In support, petitioner has submitted a copy of the return postcard receipt, a coy of the Express Mail label and a copy of the application as allegedly submitted on May 22, 2003, which includes five (5) pages of drawings which contain Figures 1-14.

The argument is not persuasive. The Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the official file reveals that five (5) pages of drawings were, in fact, filed on May 22, 2003. The five (5) pages of drawings filed May 22, 2003 contain only Figures 1-6. The first page of the drawings is also marked

with the Express Mail Label no. EU781298475US, which matches the number on the Express Mail label submitted with the instant petition. Figures 7-14, as described in the specification, are not found in the five (5) pages of drawings that were actually submitted and received on May 22, 2003.

Figures 7-14, as described in the specification, were not filed on May 22, 2003, since no such Figures are present in the file. Petitioner claims five (5) sheets of drawings were filed on May 22, 2003 and a review of the application file reveals that five (5) pages of drawings were, in fact, filed on May 22, 2003, however the five (5) pages of drawings contain only Figures 1-6. Petitioner has not submitted any evidence that is more probative than the official file record of what was actually filed on May 22, 2003, which does not contain Figures 7-14.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. No additional petition fee is required for such a request for reconsideration.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

The application will be returned to OIPE for further processing with a filing date of May 22, 2003, using the five (5) pages of drawings submitted on that date containing Figures 1-6.

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

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

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COMMISSIONER FOR PATENTS
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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

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APR 27 2004
OFFICE OF PETITIONS

Applicant: Xu
Appl. No.: 10/443,701
Filing Date: May 21, 2003
Title: REVERSE-PHASE HPLC ASSAY FOR PLASMINOGEN ACTIVATORS
Attorney Docket No.: P1788R1C1
Pub. No.: US 2003/0199016 A1
Pub. Date: October 23, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on December 4, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a mistake in dependent claim 4, "Asn117 is of human wild-type tPA (SEQ ID NO:4) is changed to Gln" is misprinted as "Asn117 is of human wild-type tPA (SEQ ID NO:4) is changed to Gin".

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 noted by requestor is an Office error, but the mistake is a minor typographical error, which is clearly understandable, as "Gln" (glutamine) is a well known amino acid in the art. The mistake is a minor typographical error which is clearly understandable from reading the claim in which the term is used, as terms are not read in a vacuum. Additionally, the term is used throughout the specification and in other claims. The mistake does not affect the public's ability

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

to 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 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(b), 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

By facsimile: 703-872-9306

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

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 06/07/2010

Applicant	: Steve P. Courtney	: DECISION ON REQUEST FOR
Patent Number	: 7654476	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/443,702	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **960** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

Michael E. Milz
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

In re Patent No. 7,111,387	:	
Kiyoshi Sato	:	DECISION FOR REQUEST
Issue Date :September 26, 2006	:	FOR RECONSIDERATION
Application No. 10/443,710	:	OF PATENT TERM
Filed: May 22, 2003	:	ADJUSTMENT
Attorney Docket No. 9281-4472	:	

This is a decision on the "Petition for Reconsideration of Patent Term Adjustment," filed October 17, 2006. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from four hundred forty-two (442) days to five hundred sixty-eight days (568).

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentee's are given TWO (2) MONTHS from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

On September 26, 2006, the above-identified application matured into U.S. Patent No. 7,111,387, with a revised patent term of 442 days. The instant request for reconsideration filed October 17, 2006, was timely filed within two months of the date the patent issued. See § 1.705(d). Patentees assert that an additional period of adjustment should have been entered for the Office taking in excess of three years to issue the patent.

It is noted that 442 days were entered for Office delay in issuing the patent pursuant to 37 CFR 1.702(a)(1). This is the correct period of adjustment for the delay. It is noted that the instant patent issued 3 years and 126 days after its filing date. However, any days of delay for Office issuance of the patent more than three years after the filing date of the application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 145(b)(2)(A); and 37 CFR 1.703(f). In this instance, the 126 days attributable to the delay in issuance of the patent overlaps with the period of 442 days attributable to grounds specified in §

1.702(a)(1). The period of adjustment cannot exceed the actual number of days of delay of 442 days. Accordingly, no additional period of adjustment pursuant to § 1.702(b) was entered.

In view thereof, the patent term adjustment of 442 days indicated in the patent is correct.

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

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

By Mail: Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries regarding this decision may directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

ATTN: Andrew R. Basile
YOUNG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY MI 48084-3107

In re Application of	:	
Timmermans et al.	:	
Application No.10/443,712	:	ON PETITION
Filed: May 22, 2003	:	
Attorney Docket No. AEI-173-C	:	
Title of Invention: Drive Line Apparatus	:	

This is a decision on the petition under 37 CFR §1.137(a), filed June 7, 2004 to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

The petition filed under 37 CFR 1.137(a) is **Dismissed as Moot**.

This above-identified application was held abandoned for failure to timely reply to the non final Office Action mailed September 29, 2003. The non-final Office Action set a three (3) month shortened statutory period for reply. A reply was not received. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on December 30, 2004. A Notice of Abandonment was mailed on May 28, 2004.

Petitioner maintains that a response to the non-final Office Action was mailed on February 2, 2004. Petitioner does acknowledge a typographical error on the amendment resulted in the incorrect identifiers being placed on the response. The amendment and accompanying documents contained the application number of the priority document (60/191,162) and the incorrect filing date. The amendment did contain the correct art unit, name of the examiner, and title of invention. In support of petitioner's contention that a response was timely submitted to the Office Action,

petitioner has submitted a copy of a stamped post card receipt, certificate of mailing, a copy of the amendment, terminal disclaimer and to make the reply timely a one month request for extension of time.

The amendment, certificate of mailing, associate power of attorney, terminal disclaimer and one month request for extension of time have been located in application no. 60/191,162. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

The requirements for a grantable petition under 37 CFR §1.181 have been met. This petition is hereby **Granted**. The petition fee will be refunded in the amount of $110.00.

This application is being forwarded to the Technology Center 3600 for further processing.

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

Charlema R. Grant

Charlema R. Grant

Petition Attorney

Office of Petitions

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Alexandria, VA 22313-1450
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JUL 14 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STEVE JEWKES
625 SEARLES WAY
PETALUMA, CA 94954

In re Application of :

Steven Charles JEWKES :
Application No. 10/443,714 : DECISION ON PETITION
Filed: May 23, 2003 : TO MAKE SPECIAL
For: **DIGITAL IMAGE DISPLAY DEVICE (DIDD)** :

This is a decision on the petition filed February 10, 2005, under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement).

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

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

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Doris To
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NEIFELD IP LAW, PC
SUITE 1001
2001 JEFFERSON DAVIS HWY.
ARLINGTON VA 22202

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OCT 20 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Anthony A. Anthony et al.
Application No. 10/443,778
Filed: May 23, 2003
Attorney Docket No. X2YA0029U-US-C2

This is a decision on the petition filed February 26, 2004, under 37 CFR 1.181, to acknowledge priority and for the issuance of a corrected filing receipt, which is treated under 37 CFR1.182.

The petition is **GRANTED**.

Petitioner argues that a preliminary amendment amending the first paragraph of the specification and claiming the benefit of prior filed applications was filed September 12, 2003. The petition also includes the claim of having submitted an Inventor's Declaration which listed all prior filed applications corresponding to the amended specification. However, the Official Filing Receipt mailed October 7, 2003 for the instant application failed to include application 09/600,530 in the chain of priority.

A review of the file reveals that application 09/600,530(filed July 18, 2000) is a national stage application of PCT/US99/01040 (filed January 19, 1999) which is a continuation in part of application 09/561,283 (filed April 28, 2000) which is a continuation of 09/999,787 (filed October 24, 2001 and issued as Patent No. 6,606,011 on August 12, 2003) of which the instant application is a continuation.

PCT application PCT/US99/01040 filed July 19,1999 entered the national stage pursuant to 35 USC 371 by way of Application no. 09/600,530 on July 18, 2000. The problem with the Official Filing Receipt mailed October 7, 2003 and with application no. 09/561,283 claiming priority to application 09/600530 was that application no 09/561,283(filed April 28, 2000) was attempting to claim priority to a later filed application.

As explained in MPEP 1893.03(b) the "filing date" indicated in PALM for applications filed pursuant to 35 USC 371 is not the actual filing date of the application, but rather

the date the requirements under 35 USC 371 have been completed. The actual filing date is the date of the International Filing Date. Thus, the PALM records have been adjusted to reflect that 09/600, 530 is a National Stage Application of PCT/US99/01040 (filed January 19, 1999) and is thereby included in the chain of priority.

A corrected Official Filing Receipt is included with this decision.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: CORRECTED OFFICIAL FILING RECEIPT

IFW
2836

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2001 Jefferson Davis Highway
Suite 1001
Arlington, VA 22202

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AUG 17 2004
PATENT & TRADEMARK OFFICE

Tel: 703-415-0012
Fax: 703-415-0013
Email: rneifeld@Neifeld.com
Web: www.Neifeld.com

TRANSMITTAL LETTER AND AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Attorney Docket No.: X2YA0028U-US-C1
Application Serial No.: 10/443,788
Filed: 05/23/03
Title: Component Carrier
Inventor: Anthony ANTHONY
Group Art Unit: Unknown
Examiner: Unknown

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 (4:02pm)
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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_X2YA0010UUS_040813 RB

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

Filed: 9/9/2002

RECEIVED
APR 2 2 2004
OPLA

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RADER FISHMAN & GRAUER, PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

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AUG 29 2006
OFFICE OF PETITIONS

In re Application of	:	
Yukihiro Yasui, et. al.	:	
Application No. 10/443,790	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. SON-2666	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on June 26, 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 June 29, 2005. A Notice of Abandonment was mailed on April 25, 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 soft copies.

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

IFW
2836

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2001 Jefferson Davis Highway
Suite 1001
Arlington, VA 22202

OIPE JC139
AUG 17 2004
PATENT & TRADEMARK OFFICE

Tel: 703-415-0012
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Email: rneifeld@Neifeld.com
Web: www.Neifeld.com

TRANSMITTAL LETTER AND AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Attorney Docket No.: X2YA0027U-US-C1
Application Serial No.: 10/443,792
Filed: 05/23/2003
Title: Multi-Functional Energy Conditioner
Inventor: Anthony, Anthony
Group Art Unit: Unknown
Examiner: Unknown

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.

Respectfully Submitted,

8/17/04
Date

Richard A. Neifeld
Registration No. 35,299
Attorney of Record

31518
PATENT TRADEMARK OFFICE

Neifeld IP Law, PC
2001 Jefferson Davis Highway
Suite 1001
Arlington, VA 22202

Y:\Clients\X2YA\X2YA0027\X2YA0027U-US-C1\Drafts\Transmittal Letter_040816.wpd
Printed: August 17, 2004 (8:33am)

8-13-04 RB

UNITED STATES PATENT AND TRADEMARK OFFICE

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2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

Attorney Review of Decision: 8-2004

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OFFICE OF PETITIONS

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_X2YA0010UUS_040813 RB

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

Filed: 9/9/2002

RECEIVED
APR 2 2 2004
OPLA

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NEIFELD IP LAW, PC
SUITE 1001
2001 JEFFERSON DAVIS HWY
ARLINGTON, VA 22202

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AUG 27 2004
OFFICE OF PETITIONS

In re Application of :
Anthony A. Anthony, et al. :
Application No. 10/443,792 :
Filed: May 23, 2003 :
Attorney Docket No. X2YA0027U-US-C1 :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 8, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

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

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

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35

U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement for Application No. 09/600,530 along with a renewed petition under 37 CFR 1.78(a)(3), is required. Additionally, the PCT reference in the amendment to Application No. 09/600,530 should read "which is a national stage entry of PCT/US99/01040, filed January 16, 1999," instead of "filed as application no. PCT/US99/01040 on January 16, 1999.

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
Customer Window located at:

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

---

[1] *Note* 37 CFR 1.121

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

Any questions concerning this matter may be directed to Retta Williams at (703) 306-5594.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NEIFELD IP LAW, P.C.
4813 – B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

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OCT 20 2005

OFFICE OF PETITIONS

In re Application of :
Anthony A. Anthony, et al. :
Application No. 10/443,792 :
Filed: May 23, 2003 :
Attorney Docket No. X2YA0027U-US-C1 :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 17, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

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

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

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this 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 applications are entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229. 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 2836 for appropriate action on the amendment filed September 17, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 21 2004

OFFICE OF PETITIONS

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

In re Application of
Matthew Benjamin Studholme
Application No. 10/443,812
Filed: May 23, 2003
Attorney Docket No. 66055-037-7

: DECISION GRANTING
: PETITION

This is a decision on the petition filed March 23, 2004, styled as a petition under 37 CFR 1.53(e)(2) which is treated under 37 CFR 1.182 to establish prior receipt in the USPTO of items considered to be omitted.

The petition is **GRANTED**.

The application was filed on May 23, 2003. However, on March 17, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Items, "Notice", stating that the application had been accorded a filing date but that Page 23 of the specification (description and claims) appeared to have been omitted.

In response, on March 23, 2004, page 23 of the specification, the present petition, and a petition fee were filed. Petitioners argue that Page 23 was filed with the other application papers on May 23, 2003. In support, a copy of petitioners' postcard receipt was supplied March 23, 2004 with the instant petition. The postcard receipt shows an Office date stamp of May 23, 2003, and the above-identified application number, and acknowledges receipt of, *inter alia*, 23 pages of specification. Petitioners request that the application, including Page 23 of the specification, be accorded a filing date of May 23, 2003.

A review of the record reveals that no Page 23 of the specification has been located among the application papers deposited on May 23, 2003. However, the evidence is convincing that the application papers deposited on May 23, 2003, included Page 23 of the specification. Therefore, the application, including Page 23 of the specification, is entitled to a filing date of May 23, 2003.

The "Notice" mailed on March 17, 2004, is vacated.

In view of the above, the petition is granted. The petition fee will be refunded to petitioner's deposit account, No. 04-2223.

The application will be processed and examined using the copy of Page 23 supplied on March 23, 2004.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of May 23, 2003, using the application papers filed on that date, and the copy of Page 23 of the specification supplied on March 23, 2004.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 3/22/07

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 7,057,042.

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

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

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

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

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

Note your decision on the appropriated box.

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

Comments:

Several "corrections" submitted by applicants not necessary as no correction ~~present~~ needed. See col. 135, lines 22-27 + 28-34; col. 137, lines 8-14; col. 138, lines 7-12. In other places request to delete formula is OK but incomplete since new formula needed. See col. 136, lines 1-8 where "B_1 is" should not be deleted only formula + replaced by phenyl formula. Also, see col. 138, lines 12-17 + col. 138, lines 52-58 where pyridyl formula needs to be inserted.

SPE: Art Unit 1624

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

EB (3/22/07)

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

Date Mailed :

Patent No. :7,057,042
Inventor : Marlon D. Cowart, et al.
Patent Issued :June 6, 2006
Title :FUSED BICYCLIC ARFOMATIC COMPOUNDS THAT ARE USEFUL IN TREATING
:SEXUAL DYSFUNCTION

Re: Request for Certificate of Correction

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

Inspection of the application for the patent reveals, however, that in connection with the alleged error pertaining to the requested corrections of which applicant has referred to in correspondence of February 26, 2007; Several "corrections" submitted by applicants is not necessary as no correction is needed. See col. 135, lines 22-27 & 28-34; col. 137, lines 8-14; col. 138, lines 7-12. In other places request to delete formula is understood but incomplete since new formula is needed. See col. 136, lines 1-8 where "B_1 is" should not be deleted; only the formula and replaced by phenyl formula. Also see col. 138, lines 12-17 & co. 138, lines 52-58 where pyridyl formula needs to be inserted.

In view of the foregoing applicants request is hereby denied.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-

Abbot Laboratoraies
D-377 – AP6A/1
100 Abbott Park Road
Abbott Park,IL 60064-6008

CBN/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070521

DATE : May 21, 2007

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7,057,042

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:

E Bernhardt
EMILY BERNHARDT
PRIMARY EXAMINER
GROUP 1600

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

SPE: James Wilson **Art Unit** 1624

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OFFICE OF COUNSEL CODE 39
NAVAL SURFACE WARFARE CENTER
CARDEROCK DIVISION
9500 MACARTHUR BLVD
WEST BETHESDA MD 20817-5700

In re Application of	:
Matthew E. York	: DECISION GRANTING PETITION
Application No. 10/443,825	: AND WITHDRAWING THE
Filed: May 23, 2003	: HOLDING OF ABANDONMENT
Attorney Docket No. 84,093	:

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

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a response to the Notice of Allowance mailed January 21, 2005. This Office action set a statutory period of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on April 22, 2005. A Notice of Abandonment was mailed on May 20, 2005.

Petitioner states that he did not timely receive the Notice of Allowance. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been

received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2]

Here, petitioner has submitted a satisfactory docket record showing incoming mail for the relevant period, stated that the Notice of Allowance was not received, and attested to the fact that he searched his file jacket and docked records.

Accordingly, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The 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.

The application is being forwarded to Group Art Unit 3751 for re-mailing of the Notice of Allowance mailed January 21, 2005, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Office of Counsel Code 004
Naval Surface Warfare Center
Carderock Division
9500 MacArthur Blvd
West Bethesda MD 20817-5700

---

[1] See MPEP 711.03(c)(II).

[2] Id.

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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 H. TAYLOR
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of
Sarah E. Kim et al.
Application No. 10/443,831
Filed: May 23, 2003
Attorney Docket No.: 219.40604VX1

ON PETITION

This is a decision on the petition filed August 22, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application. The petition is treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **GRANTED.**

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 30, 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 June 18, 2005. Accordingly, a Notice of Abandonment was mailed April 5, 2005.

The file record discloses that the non-Final Office Action was mailed to what was believed to be the address of record. However, petitioner contends that it was not received. In support of this contention, petitioner provides copies of the non-Final Office Action mailed June 30, 2004 and the Notice of Abandonment mailed April 5,

---

[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)).

2005, both addressed to ANTONELLI, TERRY, STOUT & KRAUS, LLP. Petitioner also submits as proof of non-receipt, copies of a revocation and power of attorney filed August 15, 2003, by the assignee, in addition to copies of a request for withdrawal as attorney filed June 23, 2003. A review of the file reveals that both the June 2003 and the August 2003 filings are of record but neither had been acted upon and as a result, the correspondences were sent to an incorrect address/addressee.

The statement and attachments corroborate non-receipt of the non-Final Office Action.

In view of the facts set forth in the petition and a review of the file record, it is concluded that due to an error on the part of the USPTO, the non-Final Office Action was sent to the wrong address and that it was therefore never received by the proper party of record. Accordingly, the holding of abandonment is withdrawn. The petition fee in the amount of $1500 will be credited back to deposit account 02-2666.

This matter is being referred to Technology Center 2811 for appropriate action on the amendment filed August 22, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102-391

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Kazuki Goto, et al.	:	
Application No. 10/443,840	:	DECISION ON PETITION
Filed: May 23, 2003	:	TO WITHDRAW
Attorney Docket No. 21089/0206957-US0	:	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 24, 2007.

The request is **DSIMISSED** 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 June 19, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RAJ S. DAVE', PHD
DARBY & DARBY, PC
1500 K STREET, NW
SUITE 250
WASHINGTON, DC 20005-1714

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P.O. Box 1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

COPY MAILED

OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
David Lee Garrison et al	:	
Application No. 10/443,864	:	DECISION ON PETITION
Filed: May 23, 2003	:	TO WITHDRAW
Attorney Docket No. 3350-03B	:	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, 2005.

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

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki and those practitioners have been revoked by the assignee of the patent application on August 8, 2005 and November 23, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center 2164.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272- 3299.

for David Bucci
Petitions Examiner
Office of Petitions

cc: SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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Alexandria, VA 22313-1450
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dss

Mailed: 2-27-06

In re application of :
Jennifer M. Reiker et al. : DECISION ON
Serial No. 10/443,867 : PETITION
Filed: May 23, 2003 :
For: COMPOSITIONS SUITABLE FOR REMOVING PHOTORESIST, PHOTORESIST BY PRODUCTS AND ETCHING RESIDUE AND USE THEREOF :

This is a response to the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT filed August 05, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of April 25, 2005, be withdrawn since the applicants did timely pay the Issue Fee and Publication Fee on March 10, 2005.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the instant application file reveals that the Notice of Abandonment of April 25, 2005 was previously withdrawn on August 11, 2005 and the application was subsequently allowed and patented.

In view of the fact that the abandonment was previously withdrawn and the application subsequently allowed and patented the petition is **DISMISSED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Connolly Bove Lodge & Hutz LLP
1990 M Street, N.W.' Suite 800
Washington, D.C. 20036-3425

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/443,886		Akihiro Mannen	NIT-375

CONFIRMATION NO. 6183

WITHDRAWAL NOTICE

OC000000014795132

Mattingly, Stanger & Malur, P.C.
Suite 370
1800 Diagonal Road
Alexandrias, VA 22314

Date Mailed: 12/20/2004

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

The Notice of Abandonment mailed on 10/15/2004 was sent in error and is hereby withdrawn. A Filing Receipt is enclosed. The Office regrets any inconvenience the error may have caused.

A copy of this notice MUST be returned with the reply.

J Stokes

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

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MATTINGLY, STANGER, & MALUR P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAIL

MAY 1 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: MANNEN ET Al.
Application No. 10/443,886
Filed: May 23, 2003
For: A DISK ARRAY SYSTEM BASED ON DISKS WITH FIXED-LENGTH UNIT OF ACCESS

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 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 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), applicant must provide a detailed discussion of the reference documents. The applicant merely makes a single statement that none of the references disclose or render obvious the presently claimed invention. Then, he indicates that all of the independent claims now recite the generating of a validation code and the storing of the validation code and the original data in different parts of storage. However, he does not specifically indicate which of the feature or features is taught or missing from each of the references. The above discussion should be directed to how the language of **each of the independent claims** is specifically distinguishable and patentable from each reference provided in requirement (d) above. Furthermore, independent claim 1 does not set forth "generating of a validation code or the original data". Therefore, since the "original date is not specified, "the storing of the validation code and the original data in different parts of storage" is also not set forth in the claim. Claims 10 and 14 have the same deficiencies as claim 1; they merely discuss appending a validation code not generating one. The statement that the references shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

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.

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 5/12/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

JC

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 25, 2005

TO SPE OF : ART UNIT 2653 (*Exr. is Mark Blouin*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,901,602

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

Please complete this form and return with file, within 7 days to:
Palm location 7580, Certificates of Correction Branch – South Tower – 9A22
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Please see the claim changes. Your denial or approval decision is needed below.

sp STACY POWELL

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

_____

_____

_____

_____

_____

SPE — 2627 **Art Unit** — 9.12.6

FILED 11/3/03

CERTIFICATE OF MAILING

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

October 30, 2003
Date of Deposit

Henry L. Brinks, Reg. No. 17,013
Name of Applicant, Assignee or Registered Representative

Signature

October 30, 2003
Date of Signature

JAN 19 2005

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

Our Case No.: 4921/169

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Barnard Stewart Silver

Serial No.: 10/443,935

Filing Date: May 22, 2003

For: SWEETENER COMPOSITIONS CONTAINING FRACTIONS OF INULIN

Examiner: To Be Assigned

Group Art Unit No.: 1761

PETITION FOR ADVANCEMENT OF EXAMINATION UNDER 37 C.F.R. § 1.102(c)

Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

Barnard S. Silver, Applicant, through the undersigned, hereby requests advancement of examination of the above entitled patent application based on

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 16 2005

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

MAILED

MAR 16 2005

OFFICE OF THE DIRECTOR
TC 3600

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of
Susumu Kayamoto
Application No. 10/443,971
Filed: May 23, 2003
For: COMPRESSION ELASTIC COUPLING DEVICE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on November 22, 2004.

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

☐ Postcard receipt being dated _____.

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

☐ Certificate of Mailing/Transmission signed on _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

☒ Hand Delivery Receipt of the specific documents submitted dated April 2, 2004

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

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

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

SNM/jwk: 3/9/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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Woodcock, Washburn, LLP
CIRA Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104-2891

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OFFICE OF PETITIONS

In re Application of	:	
Laurence Hamid	:	
Application No. 10/443,977	:	DECISION ON PETITION
Filed: May 23, 2003	:	TO WITHDRAW
Attorney Docket No. IVPH-0092	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 10, 2008.

The request is **APPROVED**.

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

The request was signed by Michael P. Dunnam on behalf of all attorneys/agents associated with customer number 23377. All attorneys/agents of record associated with customer number 23377 have been withdrawn.

While the assignee attempted to intervene in the above-identified application, the Power of Attorney filed on July 21, 2006 was erroneously accepted and does not comply with the requirements of 37 CFR 3.73(b). 37 CFR 3.73(b)(1)(i), requires a statement 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 37 CFR 3.11. Therefore, in order to perfect the power of attorney filed on July 21, 2006, compliance with 37 CFR 3.73(b) must be satisfied.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed assignee. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

A non-final rejection was mailed on January 11, 2007. Failure to timely respond will result in the abandonment of this application.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: ActivCard Ireland, Ltd.
30 Herbert Street
Dublin 2, Ireland

cc: Perkins Coie
1201 Third Avenue
Suite 4800
Seattle, WA 98101

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
10/443,977	05/23/2003	Laurence Hamid	IVPH-0092

CONFIRMATION NO. 6347

POWER OF ATTORNEY NOTICE

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

OC000000028114209

Date Mailed: 02/05/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/10/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

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

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Application of
Albisetti
Application No. 10/443,986
Deposited: May 23, 2003
Attorney Docket No. 62751.000007
For: DISPENSER DEVICE FOR FITTING TO A RECEPTACLE PROVIDED WITH A VALVE

ON PETITION

This is a decision on the petition, filed September 8, 2003, requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed July 8, 2003. The petition will be treated under 37 CFR 1.53(e).

The petition under 37 CFR 1.53(e) is **DISMISSED**. Any further 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 application was deposited on May 23, 2003. On July 8, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioner the application had not been accorded a filng date because a specification, at least one claim, and drawings appeared to have been omitted.

In response to the Notice, petitioner filed the present petition. Petitioner requests that the application be accorded a filing date of May 23, 2003 on the basis that a specification, claims, and drawings were received in the Patent and Trademark Office (PTO) on May 23, 2003.

Unfortunately, the instant petition is incomplete. The supporting evidence cited in the petition, the stamped postcard receipt, cannot be located. Petitioner is requested to submit another copy of the stamped postcard receipt.

The application file will be retained in the Office of Petitions until the stamped postcard receipt is re-submitted.

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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MAY 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Albisetti :
Application No. 10/443,986 : ON PETITION
Deposited: May 23, 2003 :
Attorney Docket No. 62751.000007 :
For: DISPENSER DEVICE FOR FITTING TO A RECEPTACLE PROVIDED WITH A VALVE

This is a decision on the reconsideration petition, filed May 11, 2004, requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed July 8, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on May 23, 2003. On July 8, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice informing petitioner the application had not been accorded a filing date because a specification, at least one claim, and drawings appeared to have been omitted.

In the present petition, petitioner requests that the application be accorded a filing date of May 23, 2003 on the basis that a specification, claims, and drawings were received in the Patent and Trademark Office (PTO) on May 23, 2003. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing May 23, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 13 pages of specification, claims and an abstract, and 6 sheets of drawings.

The return postcard constitutes *prima facie* evidence that a specification, at least one claim, and drawings were filed on May 23, 2003. MPEP 503. Accordingly, the petition is **GRANTED**.

Pursuant to petitioner's authorization, the $130.00 petition fee submitted on September 8, 2003 will be credited to deposit account no. 50-0206.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **May 23, 2003**, using the 9 pages of specification, 3 pages of claims, 1 page of abstract, and 6 sheets of drawings submitted on September 8, 2003. OIPE will mail a filing receipt in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 0 8 2004

TECHNOLOGY CENTER 3600

IBM Corporation
Intellectual Property Law, Dept. 917
3605 Highway 52 North
Rochester, MN 55901-7829

In re Application of
Gordon James Smith, et al.
Application No. 10/444,010
Filed: May 22, 2003
For: VIRTUAL SIGNS FOR IMPROVING INFORMATION COMMUNICATED TO THE AUTOMOTIVE DRIVER

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on October 8, 2004, under 37 CFR 1.181.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Abandonment was mailed on September 20, 2004 because of applicants' failure to respond to the non-final Office action mailed December 18, 2003.

The petition indicates that a response was filed by mail on March 18, 2004. In support thereof, petitioner submits a copy of a response, which includes a signed Certificate of Mailing dated March 18, 2004. Petitioner further includes a copy of a postcard receipt dated March 22, 2004. Since the postcard receipt has a date stamp outside the period for reply, which ended March 18, 2004, and no extensions of time were purchased, applicants cannot rely on the postcard receipt and must rely on the Certificate of Mailing dated March 18, 2004 to show that the response was timely filed.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) <u>by the person who signed the certificate</u> attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by mail on the date indicated on the certificate, by the person who signed the certificate.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/rwg: 11/22/04

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Paper No. None

IBM Corporation
Intellectual Property Law, Dept. 917
3605 Highway 52 North
Rochester MN 55901-7829

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Application of
Gordon James Smith et al.
Application No. 10/444,010
Filed: May 22, 2003
Attorney Docket Number:
ROC920000040US2
Title: VIRTUAL SIGNS FOR IMPROVING INFORMATION COMMUNICATED TO THE AUTOMOTIVE DRIVER

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

This is a decision on the renewed petition filed on February 10, 2005 under 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 18, 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 19, 2004. A Notice of Abandonment was sent on September 20, 2004.

The original petition was filed on October 8, 2004, and was dismissed via the mailing of a decision on December 8, 2004, for failing to include a statement by one having personal knowledge of the facts recited therein, pursuant to 37 C.F.R. §1.8(b)(3).

With this renewed petition, the required statement has been provided.

As such, the petition under 37 CFR §1.181(a) is **GRANTED**. The holding of abandonment is hereby **WITHDRAWN**.

The Technology Center will be notified of this decision, so that the response to the non-final action, submitted with the original petition, can be processed.

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

Petitioner has twice submitted a petition fee in the amount of $130. It is noted that petitions which are filed under this section of the C.F.R. do not carry a petition fee. As such, the petition fees will be refunded to Petitioner's Deposit Account, as authorized in the renewed petition.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

DEC 14 2005

TECHNOLOGY CENTER 3600

Grant A. Johnson
IBM Corporation
Intellectual Property Law, Dept. 917
3605 Highway 52 North
Rochester, MN 55901-7829

In re Application of
Gordon J. Smith, et al.
Application No. 10/444,010
Filed: May 22, 2003

: **DECISION ON RENEWED PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

For: VIRTUAL SIGNS FOR IMPROVING INFORMATION COMMUNICATED TO THE AUTOMOTIVE DRIVER

This is a decision on the renewed Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on February 10, 2005.

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

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☒ Certificate of Mailing/Transmission signed on March 18, 2004 and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

☐ Originally sent response, filed _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

KJD/js: 7/29/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WATTS, HOFFMANN, FISHER & HEINKE CO., L.P.A.
STE. 1750
1100 SUPERIOR AVE.
CLEVELAND OH 44114

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JAN 06 2006

OFFICE OF PETITIONS

In re Application of
Robert J. Mitchell et al.
Application No. 10/444,019
Filed: May 22, 2003
Attorney Docket No. 16-401

ON PETITION

This is a decision on the petition filed November 8, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned December 3, 2005 for failure to timely pay the issue fee on or before December 2, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, petition fee and publication fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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Donald L. Bartels
Coudert Brothers, LLP
Two Palo Alto Square
3000 El Camino Real, Fourth Floor
Palo Alto, CA 94306-2121

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MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of
Shao-An Cheng, et. al.
Application No. 10/444,036
Filed: May 21, 2003
Attorney Docket No. 20270-04

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed December 17, 2003, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of inventors will be changed as follows:

1. Shao-An Cheng

2. Kwong-Yu Chan

The above-identified application is being forwarded to Technology Center Art Unit 1745 for examination, in due course.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

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

Frances Hicks
Lead Petitions Examiner

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 053105

THE MATTHEWS FIRM
2000 BERING DRIVE
SUITE 700
HOUSTON TX 77057

JUN 15 2005

In re Application of:	:	
Erickson et al.	:	
Serial No.: 10/410,732	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: April 10, 2003	:	
Attorney Docket No.: **ERICKSON-001**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 25, 2004.

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

The request meets all the above stated requirements. The request was signed by Robert M. Bowick, Jr., on behalf of himself and all the attorneys/agents of record. There is at least thirty (30) days remaining between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to Joy Charles-Erickson, 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

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

cc: Joy Charles-Erickson
957 NASA Road One #400
Houston, TX 77058

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

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

COPY MAILED

FEB 27 2008

OFFICE OF PETITIONS

In re Patent No. 7,199,305	:	DECISION ON APPLICATION
Cruchon-Dupeyrat et al.	:	FOR
Issue Date: April 3, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/444,061	:	AND
Filed: September 10, 2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 9683/259	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(b)," filed February 27, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred sixty-three (163) days to two hundred fifty-three (253) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **two hundred fifty-three (253)** days.

Prior to a decision being issued, the above-identified application matured into a patent with a patent term adjustment of one hundred sixty-three (163) days. For the reasons set forth in this decision, 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 fifty-three **(253)** days.

On November 28, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term

adjustment (PTA) to date is 163 days. On February 27, 2007, applicants timely submitted the instant application for patent term adjustment[1]. Applicants dispute the reduction of 151 days associated with the filing of a response after non-final Office action received April 17, 2006. Applicants point out that the original Office action was re-mailed and the period for response restarted on November 15, 2005. Further, although their response was filed outside of three months of the mailing date of the re-mailed Office action, the period of reduction under 37 CFR 1.704(b) is 61 days, not 151 days.

Applicants state that the application is not subject to a terminal disclaimer.

In this instance, applicants are correct that any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As their response was received outside of three months of the Letter Restarting Period for Response (the re-mailed Office action) by 61 days, the applicant delay within the meaning of §1.704(b) has been corrected to 61 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 253 days. No periods of adjustment or reduction accrued after the mailing of the notice of allowance.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred fifty-three **(253)** days.

---

[1] PALM records indicate that the Issue Payment was also filed on February 27, 2007.

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

Nancy Johnson

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 : 7,199,305 B2

DATED : April 3, 2007

INVENTOR(S) : Cruchon-Dupeyrat

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (163) days

Delete the phrase "by 163 days" and insert – by 253 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/9/09 **Paper No.:** —

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/444066 Patent No.: 7276249B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments:

Column 6, lines 34-40 constitute the brief description of the drawings with regard to Figure 1. The requested change to column 6, line 35 does not add new matter to the specification because Figure 1 accurately discloses that the x-axis is in hours. Therefore, changing the text of column 6, line 35 to replace "minutes" with "hours" does not add new matter to the specification, but merely makes the text consistent with what is depicted in Figure 1.

/Johann Richter/
SPE

1616

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JJGJR.: 03-04

Paper No: 5

LAVA GROUP LAW
BY SMITH & FROHWEIN, LLC
P.O. BOX 88148
ATLANTA GA 30356

COPY MAILED
MAR 2 6 2004
OFFICE OF PETITIONS

In re Application of
Hunter, et al. :
Application No. 10/444,079 : ON PETITION
Filed: 23 May, 2003 :
Attorney Docket No. 05001.1023(WT2-CIP3) :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 15 January, 2004

The petition is **DISMISSED**.

NOTE: Any request for reconsideration of this decision must be submitted (with fee) within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Any response (with fee) should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)" and may include an oath or declaration executed by the inventor.

There will be no reconsideration thereafter. Failure to respond within the time set forth above will result in abandonment of the application.

BACKGROUND

The record indicates:

- the application was filed on 23 May, 2003, without, *inter alia*, a fully executed oath or declaration; and

- on 15 July, 2003, the Office mailed a Notice to File Missing Parts;
- on 15 January, 2004, Petitioner Gregory Scott Smith (Reg. No.) filed the instant petition with fee (and request (and fee) for a four-month extension of time), with:

  --an oath/declaration signed by inventors Laurie McNeil for herself and the non-signing inventor Charles Eric Hunter (Mr. Hunter); and

  –a statement indicating that further evidence is provided in the accompanying declaration and supporting documents;
- however, while there is an indication that some materials were forwarded to Hunter, namely the oath/declaration, there is every indication that a copy of the entire application specification, description, claims, drawings (if required) was not sent to Mr. Hunter as required by statute and regulation.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by

any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

A reasonable effort must be made to ascertain a current or last known address.

And a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted.

This, it appears, Petitioner has failed to do.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1]

CONCLUSION

The materials submitted thus far do not clearly evidence that the entire application was sent to the alleged non-signing inventor. Petitioner should submit a copy of the transmittal letter as to the former and a copy of the appointment document as to the latter.

Therefore, the instant petition must be and hereby is **dismissed**.

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

By mail: (Effective 1 May, 2003)[2]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

---

[1] See: MPEP 409.03(b).

[2] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

By hand: Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
2011 South Clark Place
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at 703-305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-04

Paper No: 7

LAVA GROUP LAW
BY SMITH & FROHWEIN, LLC
P.O. BOX 88148
ATLANTA GA 30356

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JUN 1 0 2004
OFFICE OF PETITIONS

In re Application of
Hunter, et al. :
Application No. 10/444,079 : ON PETITION
Filed: 23 May, 2003 :
Attorney Docket No. 05001.1023(WT2-CIP3) :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 15 January, 2004

The petition is **DISMISSED as moot**.

BACKGROUND

The record indicates:

- the application was filed on 23 May, 2003, without, *inter alia*, a fully executed oath or declaration; and
- on 15 July, 2003, the Office mailed a Notice to File Missing Parts;
- the 15 January, 2004, petition of Petitioner Gregory Scott Smith (Reg. No. 40,819), inter alia, with an oath/declaration signed by inventor Laurie McNeil for herself and the non-signing inventor Charles Eric Hunter (Mr. Hunter) and statement was dismissed on 26 March, 2004, for failure to demonstrate that a copy of the entire application had been sent to Mr. Hunter at his last known address;
- the instant petition now evidences that the entire application was presented to Mr. Hunter and he signed the application.

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

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being forwarded to OIPE for further processing as necessary before being forwarded for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at 703-305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Frost Brown Todd, LLC
2200 PNC Center
201 E. Fifth Street
Cincinnati, OH 45202

COPY MAILED

JUL 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Charles E. Hunter, et al.	:	
Application No. 10/444,079	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. 05001.1023	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to a Restriction Requirement.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a "Response to Restriction"; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center 2600.

Marianne E. Jenkins
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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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

RECEIVED
DEC 23 2008
OFFICE OF PETITIONS

In re Application of	:	
Kwang Su Kim	:	
Application No. 10/444,085	:	DECISION ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. 2957-131	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 16, 2007, as required by the Notice of Allowance and Fee(s) Due mailed April 16, 2007. Accordingly, the date of abandonment of this application is July 17, 2007. A Notice of Abandonment was mailed August 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400.00 and publication fee of $300.00; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

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DEC 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Do Hyun Kang, et. al.	:	
Application No. 10/444,086	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. 2957-133	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on September 25, 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 March 24, 2006. A Notice of Abandonment was mailed on July 31, 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 $30 for ten (10) advance order soft copies submitted on September 25, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

JUN 2 2004

Office of the Director
Group 3600

Richard C. Litman
Litman Law Offices, LTD.
P.O. Box 15035
Arlington, VA 22215

In re application of
Leslie N. Bland
Application No. 10/444,116
Filed: May 23, 2003
For: RV SEWAGE LINE STABILIZING DEVICE

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on May 23, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Leslie N. Bland, indicating that Leslie N. Bland is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/vdb: 5/12/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

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APR 29 2004

OFFICE OF PETITIONS

BINGHAM MCCUTCHEN LLP
THREE EMBARCADERO CENTER, SUITE 1800
SAN FRANCISCO, CA 94111-4067

In re Application of	:
Scherpf, et al.	: DECISION REFUSING STATUS
Application No. 10/444,121	: UNDER 37 CFR 1.47(a)
Filed: May 22, 2003	:
Atty. Dkt. No.: 7033159001	:
For: PROCESS FOR MAKING FREE-	:
FLOWING, COATED, FROZEN FOOD	:

This decision is in response to the petition under 37 CFR 1.47(a), filed January 9, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed May 22, 2003 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed July 8, 2003 requiring an executed oath or declaration and a surcharge.

The required surcharge of $130.00 and petition fee of $130.00 have been charged to deposit account No. 50-2518.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition lacks item (1) set forth above. Petitioner has failed to establish that the inventors cannot be reached or refused to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, and oath or declaration).

Petitioner has provided no evidence that the non-signing inventors received a complete copy of the application papers (**specification, claims, drawings, and oath or declaration**) and thereafter refused to execute the oath or declaration. The declaration of Gary D. Lueck indicates that the declaration was sent to the non-signing inventors on several occasions and that to date the non-signing inventors have not executed the declaration.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to each non-signing inventor. Petitioner has failed to establish that the non-signing inventors received a copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration.

Any renewed petition should be accompanied by evidence to establish that each non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventors indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventors receive the application papers and requests to execute the oat or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BINGHAM MCCUTCHEN LLP
THREE EMBARCADERO CENTER, SUITE 1800
SAN FRANCISCO, CA 94111-4067

COPY MAILED

OCT 14 2004

OFFICE OF PETITIONS

In re Application of	:
Scherpf, et al.	: DECISION GRANTING
Application No. 10/444,121	: STATUS UNDER 37 CFR
Filed: May 22, 2003	: 1.47(a)
Docket No.: 7033159001	:
For: PROCESS FOR MAKING	:
FREE-FLOWING, COATED,	:
FROZEN FOOD	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed June 28, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioners have shown that inventors David H. Scherpf and Andrew Hampton have refused to sign the declaration after having been presented with the application papers.

Thus, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

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

ANDREW HAMPTON
15918 JACKSON DRIVE
OMAHA, NEBRASKA 68118

COPY MAILED
OCT 14 2004
OFFICE OF PETITIONS

In re Application of	:	
Scherpf, et al.	:	
Application No. 10/444,121	:	LETTER
Filed: May 22, 2003	:	
Docket No.: 7033159001	:	
For: PROCESS FOR MAKING	:	
FREE-FLOWING, COATED, FROZEN	:	
FOOD	:	

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 (571) 272-3205. 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 matter should be directed to the undersigned at (571) 272-3205.

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

DAVID H. SCHERPF
305 SOUTH OCEAN GRANDE DRIVE, NO. 104
POINTE VERDRA BEACH, FL 32802

COPY MAILED

OCT 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Scherpf, et al.	:	
Application No. 10/444,121	:	LETTER
Filed: May 22, 2003	:	
Docket No.: 7033159001	:	
For: PROCESS FOR MAKING	:	
FREE-FLOWING, COATED, FROZEN	:	
FOOD	:	

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 (571) 272-3205. 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 matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 1, 2006

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/444143 Patent No.: 6,948,988 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: All changes are typographical in nature and approved by the examiner.

SPE

3617
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,948,988 B2
APPLICATION NO. : 10/444,143
ISSUE DATE : September 27, 2005
INVENTOR : Yoshihiko Okabe

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

First Page; Foreign Patent Documents; Line 2

Please delete "12/0000" and insert therefore, --**12/1997**--

Column 3; Line 27:

After "FIG. 1", please add --.--

Column 3; Line 50:

Before "end", please delete "an"

Column 15; Line 3:

Please delete "structure," and insert therefore, --**structure**--

Column 16; Line 13 (Claim 1):

Please delete "commmunicating" and insert therefore, --**communicating**--

Column 16; Line 33 (Claim 4):

Please delete "claim 3," and insert therefore, --**claim 3**--

Continued on next page

MAILING ADDRESS OF SENDER:

OCT - 6 2006

William H. Shreve
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. **FS.20108US0A**

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,948,988 B2
APPLICATION NO. : 10/444,143
ISSUE DATE : September 27, 2005
INVENTOR : Yoshihiko Okabe

Column 16; Line 43 (Claim 5):
After "the", please add --**propulsion**--

Column 16; Line 67 (Claim 9):
Please delete "horizonally" and insert therefore, --**horizontally**--

Column 17; Line 26 (Claim 11):
Please delete "horizonally" and insert therefore, --**horizontally**--

Column 18; Line 13 (Claim 15):
Please delete "pressurizied" and insert therefore, --**pressurized**--

Column 18; Line 48 (Claim 19):
After "with", please add --**the**--

2853750\llm
081806

MAILING ADDRESS OF SENDER:

William H. Shreve
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. **FS.20108US0A**

10/444143

Cofc

Knobbe Martens Olson & Bear LLP

Intellectual Property Law

2040 Main Street
Fourteenth Floor
Irvine, CA 92614
Tel 949-760-0404
Fax 949-760-9502
www.kmob.com

OIPE IAP98
OCT 0 2 2006
PATENT & TRADEMARK OFFICE

William H. Shreve
wshreve@kmob.com

September 29, 2006

Certificate
OCT 0 5 2006
of Correction

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Title: HYDRAULIC TILT SYSTEM FOR MARINE PROPULSION DEVICE
Letters Patent No. 6,948,988 B2
Issued: September 27, 2005
Our Reference: FS.20108US0A

Dear Sir:

Enclosed for filing is a Certificate of Correction in connection with the above-identified patent.

As the errors cited in the Certificate of Correction were incurred through the fault of both the Applicant and the PTO, enclosed is our check in the amount of $100. Please charge any additional fees to our Deposit Account No. 11-1410.

Respectfully submitted,

Knobbe, Martens, Olson & Bear, LLP

William H. Shreve
Registration No. 35,678
Customer No. 20,995

10/03/2006 SSESHE1 00000037 6948988
01 FC:1811 100.00 OP

Enclosures

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081806

OCT - 6 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 30 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KOS PHARMACEUTICALS, INC.
1 CEDAR BROOK DRIVE
CRANBURY NJ 08512-3618

In re Application of	:
Daniel J. Bova	:
Serial No.: 10/444,145	: PETITION DECISION
Filed: May 23, 2003	:
Attorney Docket No.: 20718/1204135	:

This is a response to the petition under 37 CFR 1.59(b), filed September 26, 2006, to expunge information from the above identified application.

Petitioner requests that the Proprietary Information Disclosure Statement, filed September 14, 2005, 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.

This application is undergoing examination. As such the information provided is being reviewed by the examiner, but the petition cannot be granted at this time. 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 Disclosure Statements. It is noted that the confidential documents were inadvertently scanned as part of the larger IDS submitted. Applicant should have submitted two separate IDS documents, one for the proprietary material and one for other documents. The proprietary documents have been closed to public access.

The petition is **DISMISSED**. Applicants may resubmit the petition subsequent to allowance or other action being mailed in the application which closes prosecution. No additional petition fee will be required at that time.

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.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

JAMES J. TRUSSELL
OFFICE OF INTELLECTUAL PROPERT COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL, MN 55066-3427

MAR 10 2005

In re Application of:	:	
Denter	:	PETITION FOR CORRECTION OF
Serial No.: 10/444147	:	INVENTORSHIP
Filed: may 22, 2003	:	UNDER 37 CFR § 1.48(a)
Attorney Docket No.: 57856US004	:	

This is a decision on the petition filed February 10, 2005 to correct inventorship under 37 CFR 1.48(a).

The petition is granted.

In view of the papers filed February 10, 2005 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding the names:

Friedrich W. Denter
Norbert Gaertner
Hans-Dieter Otto

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Paula A. Bradley
Supervisory Patent Examiner,
Art Unit 2833

UNITED STATES 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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JUN 26 2006
OFFICE OF PETITIONS

Clark & Ebeling
101 Federal Building
Boston, MA 02110

In re Application of
Waer et al.
Application No. 10/444,158
Filed: May 23, 2003
Patent No. 6,946,465
Attorney Docket

: DECISION GRANTING PTA REQUEST

This decision is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT" timely [1] filed on November 23, 2005 requesting that the Patent Term Adjustment be changed from a determination of zero (0) days to a determination of 53 days.

Applicants' request is **GRANTED.** The Office will *sua sponte* issue a certificate of correction reflecting the proper amount of PTA as 53 days. In addition, the Office will correct the PTA determination as noted in PAIR to reflect this decision.

Applicants assert that the Office erred in not granting applicant any PTA for the failure to issue the application within four months of the payment of the issue fee and other requirements being satisfied under 37 CFR 1.702(a)(4). Applicants assert that the Office missed the requirement by a period of 72 days. Applicants acknowledge the 19 days of reduction under 37 CFR 1.704(c).

Applicants arguments are persuasive. Specifically, the Office issued the application 72 days beyond the 4-month requirement under 37 CFR 1.702(a)(4). Accordingly, the correct amount of PTA at the time of the issuance of the patent is 53 days (72-19=53) as stated by applicants.

After the mailing of this Office action, the Office will forward such application to the certificate of correction branch for a prompt issuance of the certificate of correction.

The Office has assessed the $200.00 fee. No other fees are required in determining this decision.

Any questions concerning this determination should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

[1] The certificate of mail date for the submission of the petition is November 21, 2005.

Application No.10/444,158

Kery Fries
Senior Legal Advisor
Office of Patent Legal Adm.
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted PAIR calculation
DRAFT certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,946,465 B2
DATED	:	Sep. 20, 2005
INVENTOR(S)	:	Waer 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 (0) days

Delete the phrase "by 0 days" and insert – by 53 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 5

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

COPY MAILED

APR 21 2004

OFFICE OF PETITIONS

In re Application of
Tseng et al.
Application No. 10/444,159
Filed: May 22, 2003
Attorney Docket No. PALM-3809, PSI
For: DUAL SIDED INPUT DEVICE FOR A HANDHELD COMPUTER

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed February 26, 2004.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers or cannot be located.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The petition fee of $130 has been charged to petitioner's deposit account.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

Dipti Vaghela
1000 Kiely Blvd. #25
Santa Clara, CA 95051

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APR 21 2004
OFFICE OF PETITIONS

In re Application of
Tseng et al.
Application No. 10/444,159
Filed: May 22, 2003
Attorney Docket No. PALM-3809, PSI
For: DUAL SIDED INPUT DEVICE FOR A HANDHELD COMPUTER

Letter

Dear Ms. Vaghela:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

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

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Peter R. Munguia	: DECISION ON REQUEST FOR
Patent Number	: 7609723	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/444,164	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1412** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EDWARD L. KELLEY
DBA INVENTION MANAGEMENT ASSOCIATES
241 LEXINGTON STREET
BLDG. 15 UNIT 1A
WOBURN, MA 01801

COPY MAILED

NOV 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Uri-Bin-Nun, et al.	:	
Application No. 10/444,194	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. IMA-0016-SCREENLAM	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed December 28, 2004, 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 above-identified application became abandoned at midnight on January 28, 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 (Restriction Requirement); (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed September 19, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3700, Art Unit 3744, for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 6

KEELING LAW FIRM
901 NORTH POST OAK ROAD
HOUSTON, TX 77024-3845

COPY MAILED

AUG 21 2003

OFFICE OF PETITIONS

In re Application of :
Robert Ogburn :
Application No. 10/444,195 : DECISION GRANTING PETITION
Filed: May 23, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(f), filed July 28, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (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 May 23, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 4, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being returned to Initial Patent Examination Division to await a response to the Notice of File Missing Parts of Nonprovisional application mailed July 11, 2003.

Sherry D. Brinkley
Sherry D. Brinkley
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Frances Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 17, 2006

TO SPE OF : ART UNIT 3653 Patrick H. Mackey

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/444,195 Patent No.: 6936784B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Antonio Johnson

Certificates of Correction Branch

703-308-9390 ext. 111

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ **SPE**

3653 **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

IBM Corporation
c/o Sally Redfern
2455 South Road, P369
Poughkeepsie NY 12601

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MAR 1 4 2008

OFFICE OF PETITIONS

In re Application of

Martin, et al.

Application No. 10/444,209

Filed: May 22, 2003

Attorney Docket No. TUC920020129US1

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), October 9, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1,440.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 30, 2007. The Notice set forth a three (3) month statutory period for reply. A proper response was received within the allowable period. Accordingly, this application became abandoned on August 31, 2007. A Notice of Abandonment was mailed September 28, 2007.

The issue fee, publication fee, and Form PTOL-85-b were received on October 9, 2007.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

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FEB 09 2007

OFFICE OF PETITIONS

In re Application of Herweck et al. :
Application No. 10/444,210 :
Filing Date: May 22, 2003 :
Attorney Docket No. ATA-359 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed November 16, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a non-final Office action on November 1, 2005.

A reply was not marched with the file. As a result, a Notice of Abandonment was mailed September 26, 2006.

Petitioner asserts a reply was in fact timely filed. In support of the petition, petitioner has submitted a date-stamped postcard receipt, indicating a 10 page amendment was received on January 20, 2006. A copy of the amendment accompanies the petition.

The original amendment filed January 20, 2006, was not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded the amendment was timely filed in the Patent and Trademark Office but not matched with the application file.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3738 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

KAPLAN & GILMAN, L.L.P
900 Route 9 North
Woodbridge, NJ 07095

In re Application of
Edward Goldberg
Application No. 10/444,225
Filed: May 23, 2003
For: FLUID FILED ATTACHMENT DEVICE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on December 27, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated _____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response, filed December 15, 2004, with a Certificate of Mailing dated December 13, 2004 and a request for a three-month extension of time has been found in the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

KJD/jwk: 3/9/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AVERILL & VARN
8244 PAINTER AVE.
WHITTIER, CA 90602

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NOV 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Jennings, Dale E.	:	
Application No. 10/444,239	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. 134/113	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 21, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal, the issue fee and the publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/01/06

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/444242** Patent No.: **7040897**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Cris L Rodriguez — **SPE**

3132 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

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APR 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Keith A. Carter et al	:	
Application No. 10/444,245	:	DECISION GRANTING PETITION
Filed: May 23, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. BP2761	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of December 4, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

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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ROBERT A SKRIVANEK JR
LOWRID LANDO & ANASTASI LLP
RIVERFRONT OFFICE PARK
ONE MAIN STREET ELEVENTH FLOOR
CAMBRIDGE, MA 02142

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SEP 29 2006
OFFICE OF PETITIONS

In re Application of :
Stuart A. Tison, et al. :
Application No. 10/444,249 : ON PETITION
Filed: May 23, 2003 :
Attorney Docket No.: MYKR1370-1 :

This is a decision on the petition, filed September 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 June 22, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2863 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).

OIPE
DEC 11 2006
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UNITED STATES PATENT AND TRADEMARK OFFICE

C2044-701510

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ALEXANDRIA, VA 22313-1450
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ROBERT A SKRIVANEK JR
LOWRID LANDO & ANASTASI LLP
RIVERFRONT OFFICE PARK
ONE MAIN STREET ELEVENTH FLOOR
CAMBRIDGE, MA 02142

Reviewed by Docketing

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SEP 29 2006
OFFICE OF PETITIONS

In re Application of :
Stuart A. Tison, et al. :
Application No. 10/444,249 : ON PETITION
Filed: May 23, 2003 :
Attorney Docket No.: MYKR1370-1 :

This is a decision on the petition, filed September 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 June 22, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2863 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).

OIPE IAP
DEC 11 2006
PATENT & TRADEMARK OFFICE

Docket No.: C2044-701510

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Stuart A. Tison et al.
Serial No:	10/444,249
Confirmation. No.:	5975
Filed:	May 23, 2003
For:	SYSTEM AND METHOD FOR MASS FLOW DETECTION DEVICE CALIBRATION
Examiner:	Demetrius R. Pretlow
Art Unit:	2863

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 7th day of December, 2006.

Adina Davis

Adina Davis

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

[X] Part B – Fee(s) Transmittal
[X] Copy of notice dated September 29, 2006 granting petition to withdraw from issue
[X] Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 395-7000.

A check is not enclosed. A copy of the notice granting the petition to withdraw the above-identified application from issue after payment of the issue fee is enclosed. Please apply the issue fee previously paid to the Notice of Allowance dated November 20, 2006, to which this transmittal is a response. If the fee required differs from the amount enclosed, the Commissioner is hereby authorized to charge any underpayment or to refund any overpayment to Deposit Account No. 50/2762. A duplicate of this sheet is enclosed.

Respectfully submitted,
Stuart A. Tison et al., Applicants

By: _____

Robert A. Skrivanek, Jr., Reg. No. 41,316
LOWRIE, LANDO & ANASTASI, LLP
Riverfront Office Park
One Main Street
Cambridge, MA 02142
(617) 395-7000

Date: December 7, 2006
786922.1

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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LAW OFFICE OF RAY R. REGAN, P.A.
P.O. BOX 1442
CORRALES NM 87048

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OFFICE OF PETITIONS

In re Application of :
Michael A. MARTINEZ :
Application No.10/444,251 :
Filed: May 23, 2003 :
Attorney Docket No. 2205.006 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 2008, to revive the above-identified application.

The petition is dismissed.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,500. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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 K. Reichle at (571) 272-6051.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Yorgos Marinakis
1600 Blackhawk River Dr NE
Rio Rancho, New Mexico 87144-6416

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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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F5 NETWORKS, INC.
C/O DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

MAILED

FEB 20 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Richard Roderick Master :
Application No.: 10/444,279 :
Filed: May 23, 2003 :
Attorney Docket No.: 08204/000S046US0 (10.066) :

This is a decision on the petition, filed February 19, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 14, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2619 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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GORDON E NELSON
PATENT ATTORNEY, PC
57 CENTRAL ST
PO BOX 782
ROWLEY MA 01969

COPY MAILED

MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Flam :
Application No. 10/444,323 : ON PETITION
Filed: May 23, 2003 :
Attorney Docket No. sparta01.015 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned June 27, 2007 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 26, 2007. The proposed reply submitted May 29, 2007 failed to place the application in condition for allowance. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed December 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a Request for Continued Examination (RCE), including fee submission in the form of a previously filed amendment; (2) the required petition; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center AU 2179 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.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 3

MAILED

OCT 0 6 2004

Technology Center 2100

Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025

In re Application of: Reed
Application No. 10/444,329
Filed: May 22, 2003
For: SELECTION INTERFACE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND M.P.E.P.§708.02(XI)

This is a decision on the petition to make special filed September 2, 2004 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

The petition is **DISMISSED**.

M.P.E.P. §708.02(XI), which sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(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 U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is generally directed to a (Internet website) selection system including a storage database and image window. The specification is directed to a user selection interface system comprising circular selectors linked to selectable characteristics, and a display linked to the selectors for display of an image wherein the interface

is linked to a database having stored image and other information corresponding to the selectable characteristics. In some preferred embodiments, the user selection interface provides links for merchandising functions (ordering, purchasing, inventories and shipping).

Petitioner does not establish a sufficient nexus between the disclosed and claimed invention and preventing "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 activities "that would be a criminal violation if committed within the jurisdiction of the United States or of any State", or preventing acts that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

As a result, no advancement in the technology of countering terrorism has been persuasively shown.

In addition, the Fee Transmittal form with the appropriate fee set forth in 37 CFR §1.17(h), referenced on page 1 of the petition, does not appear to be included with the submission, thus has not been matched with the file.

Accordingly, the petition is **DISMISSED**. The application will be returned to the examiner's docket 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.

10/1/04

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0885

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)
6898601	2005-05-24	10444341	2003-05-23	034509.0002Q

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

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
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	/Manoel Amado/	Date (YYYY-MM-DD)	2009-07-17
Name	Manoel Amado		

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. 6898601
Issue Date: May 24,2005
Application No. 10444341
Filed: May 23,2003
Attorney Docket No. 034509.0002Q

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 22,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 22,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 6

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

JAN 2 1 2004

OFFICE OF PETITIONS

In re Application of Martin Gall and Miguel Pagan Application No. 10/444,356 Filed: May 22, 2003 Attorney Docket No. 26448-519 Title: SUNSCREEN COMPOSITIONS AND METHODS OF USE THEREOF	DECISION ACCORDING STATUS UNDER 37 CFR § 1.47(a)

This is a decision on the "PETITION FOR FILING PATENT APPLICATION WHEN AN INVENTOR REFUSES TO EXECUTE UNDER 37 C.F.R. § 1.47(a)," filed December 19, 2003.

The petition is **GRANTED**.

The above-identified application was filed on May 22, 2003, with an unexecuted declaration. Martin Gall and Miguel Pagan were identified as joint inventors. Accordingly, on August 19, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration in compliance with § 1.63 and a surcharge for its late filing. This Notice set a period for reply of two months from the mailing date of the Notice, with extensions of time obtainable under § 1.136(a).

On December 19, 2003, rule 47 applicant responded with a declaration executed by joint inventor Gall on behalf of himself and on behalf of non-signing inventor Pagan; the late surcharge under § 1.16(e); the fee for extension of time for response within the second month; and the instant petition (and petition fee). Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Pagan refuses to properly execute the Combined Declaration and Power of Attorney.

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.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application. On

petition and by declaration of patent agent Matthew Pavao, and supporting documentary evidence, petitioner has shown that inventor Pagan was three times presented with the application papers by certified mail return receipt requested. The petition includes copies of the three return receipts signed by inventor Pagan. Declarant Pavao states that on July 10, 2003, inventor Pagan orally refused to execute any documents in connection with the application. Further, Pavao declares that inventor Pagan has not responded to any of the above-noted mailings of the application papers.

The petition includes a statement of the last known address of inventor Pagan. The declaration filed December 19, 2003, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MIGUEL PAGAN
107 SCHOOLHOUSE ROAD
PORT JERVIS, NY 12771

COPY MAILED

JAN 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Martin Gall and Miguel Pagan :
Application No. 10/444,356 : LETTER
Filed: May 22, 2003 :
Attorney Docket No. 26448-519 :
Title: SUNSCREEN COMPOSITIONS AND :
METHODS OF USE THEREOF :

Dear Mr. Pagan:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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TUE NGUYEN
40737 ENCYCLOPEDIA CIRCLE
FREMONT, CA 94538

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
James Sheats, et al. :
Application No. 10/444,395 :
Filed: May 23, 2003 :
Attorney Docket No. IC002 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b).**" This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Petitioner is advised that as of December 8, 2004, the Petition fee for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) is $750 for a small entity. Petitioner remitted $700 for the petition fee on January 14, 2005; therefore, the deficiency of $50 is due upon the filing of 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:

Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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496 OLIVE AVE.
FREMONT, CA 94539

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of :
James Sheats, et al. :
Application No. 10/444,395 : ON PETITION
Filed: May 23, 2003 :
Attorney Docket No. IC002 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 31, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 6, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 7, 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 future correspondence solely to the address of record.

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 filed on June 7, 2005; (2) the petition fee of $750; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed May 31, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 2800, Art Unit 2813 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061212

DATE : December 12, 2006

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction on Patent No.: 6,880,759

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The examiner's amendment (see the copy provided by applicant with the certificate of correction dated 9/28/2005 and 4/20/2006) was apparently never entered into the file. Since it appears as though the changes should have been made prior to allowance, the certificate of correction has been approved.

SPE: Art Unit 2876

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Mailed: 1-13-06

In re application of:	James Sheats	:	DECISION ON
Serial No.	10/444,435	:	PETITION
Filed:	May 23, 2003	:	
For:	LAMINATION AND DELAMINATION TECHNIQUE FOR THIN FILM PROCESSING	:	

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION filed on August 26, 2005. The petition requests that the abandonment be withdrawn since the applicant did not receive the Final Rejection mailed February 17, 2005.

DECISION

Since the petitioner asserts that the applicant did not receive the Final Rejection mailed February 17, 2005, the request is accepted as a petition under 37 C.F.R. § 1.181 (no fee) and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.02 - NEW PROCEDURE TMOG 1170 O.G. 114).

The evidence presented by the petitioner complies with the requirements set forth in MPEP § 711.03(c). The evidence presented is sufficient to establish that the Final Rejection mailed February 17, 2005 was not received at the correspondence address. The evidence provided includes a statement by the petitioner that the Final Rejection mailed February 17, 2005 was not received. Also provided is a copy of the application docket records where the FINAL REJECTION would have been posted had it been timely received. The instant petition also contains a statement attesting that a search of the file jacket was made, and the results of such a search revealed that the office communication was not received as is required by MPEP § 711.03(c).

Therefore any holding of abandonment for failure to timely file a proper response to the Office letter mailed on February 17, 2005 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the technical support staff for mailing of a new Final Rejection.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Tue Nguyen
496 Olive Ave.
Fremont CA 94539

caf

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AKA CHAN LLP / CISCO
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA CA 95050

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MAR 18 2008

OFFICE OF PETITIONS

In re Application of :
Iovine et al. :
Application No. 10/444,438 : ON PETITION
Filed: May 23, 2003 :
Attorney Docket No. CISCP809 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 21, 2008, 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 final Office action mailed August 8, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 9, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item(s) (1). The Amendment submitted to the Examiner on February 21, 2008 failed to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

The Advisory Action issued by the Examiner is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure :: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/444,438	Applicant(s) IOVINE ET AL.	
	Examiner JUNG PARK	Art Unit 2619	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *Addition & deletion of claims and adding new claims after Final Action raise new issue*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

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900 LAFAYETTE STREET
SUITE 710
SANTA CLARA CA 95050

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OFFICE OF PETITIONS

In re Application of	:	
Iovine et al.	:	
Application No. 10/444,438	:	DECISION ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. CISCP809	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed May 29, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item(s) (1). Although petition did file a Request for Continued Examination (RCE), the $810.00 RCE fee was not submitted. Only a one-month extension of time fee was submitted with the instant petition.

Further correspondence with respect to this matter should be addressed as follows:

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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).

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AKA CHAN LLP / CISCO
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA CA 95050

COPY MAILED

JUL 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Iovine et al.	:	
Application No. 10/444,438	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. CISCP809	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed June 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

Petitioner has now submitted the $810.00 Request for Continued Examination (RCE) fee.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2619 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 04/20/2010

Applicant	: Ronald Iovine	: DECISION ON REQUEST FOR
Patent Number	: 7596135	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/444,438	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1374** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONATHAN P. OSHA
ROSENTHAL & OSHA LLP
1221 McKINNEY STREET, SUITE 2800
HOUSTON, TX 77010

COPY MAILED

JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of	:
Masanori Nakamura et al	:
Application No. 10/444,452	: DECISION GRANTING PETITION
Filed: May 23, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04995.099001	:

This is a decision on the petition, filed June 6, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 8, 2003 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 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jonathan P. Osha
ROSENTHAL & OSHA L.L.P.
Suite 2800
1221 McKinney St.
Houston, TX 77010

COPY MAILED

SEP 29 2006

OFFICE OF PETITIONS

In re Application of
Nakamura et al.
Application No. 10/444,452
Filed: May 23, 2003
Attorney Docket No. 04995.099001

DECISION ON PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the "Petition to Perfect Claim for Foreign Priority" Under 37 C.F.R. 1.55(a)(2), filed June 2, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Japanese Application No. 2002 149442, filed May 23, 2002. The petition is properly treated as a petition under 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

The application was filed on May 23, 2003, and included an oath/declaration wherein applicant claimed priority to foreign Japanese Patent Application No. JP 2002-149442 filed May 23, 2002. Applicant subsequently filed a copy of the foreign priority document on September 22, 2003.

This Office issued a Priority Acknowledgment, acknowledging receipt of the foreign priority documents, on December 1, 2003.

This Office mailed a Notice of Allowance on March 8, 2004, and indicated therein that the Office had not received certified copies of the foreign priority document for Japanese application 2002-149442.

On March 19, 2004 Applicant filed a copy of his return-receipt postcard acknowledging receipt by this Office of a certified copy of Japanese Patent Application No. JP 2002-149442 on September 22, 2003.

Applicant files the instant petition to accept the priority claim to Japanese Patent Application No. JP 2002-149442.

In view of the above, the petition is granted.

The granting of the petition to accept the benefit claim to the prior-filed application 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 requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 2832 for examination in due course and for consideration by the examiner of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/444,452	05/23/2003	2832	1050	04995.099001	11	6	1

CONFIRMATION NO. 8265

CORRECTED FILING RECEIPT

OC000000020628869

Jonathan P. Osha
ROSENTHAL & OSHA L.L.P.
Suite 2800
1221 McKinney St.
Houston, TX 77010

Date Mailed: 09/28/2006

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)

Masanori Nakamura, Kumamoto, JAPAN;
Mitsuhiro Kawai, Osaka, JAPAN;
Hiromi Shima, Osaka, JAPAN;
Kazumi Sako, Kumamoto, JAPAN;
Toshifumi Sumino, Osaka, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number **22511**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-149442 05/23/2002
If Required, Foreign Filing License Granted: 07/25/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/444,452

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

HIGH-FREQUENCY RELAY

Preliminary Class

335

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15/09

TO SPE OF : ART UNIT 2123

SUBJECT : Request for Certificate of Correction for Appl. No.: 10444453 Patent No.: 7184942

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

ART UNIT 2123

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15/09

TO SPE OF : ART UNIT 2123

SUBJECT : Request for Certificate of Correction for Appl. No.: 10444453 Patent No.: 7184942

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

ART UNIT 2123

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL Paper No. 3

MAR 1 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

In re Application of :
Ronald OLCH :
Application No. 10/444,461 :
Filed: May 22, 2003 :
For: **SYSTEM AND METHOD OF OPTICAL DATA COMMUNICATION WITH MULTIPLE SIMULTANEOUS EMITTERS AND RECEIVERS** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 16, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition lacks a copy of each of the references most closely related to the subject matter encompassed by the claims, item (5).

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving 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.

The application is being forwarded to the group Central File and will await action in its regular turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SEP 0 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

In re Application of :

Ronald OLCH :
Application No. 10/444,461 :
Filed: May 22, 2003 :
For: **SYSTEM AND METHOD OF OPTICAL DATA COMMUNICATION WITH MULTIPLE SIMULTANEOUS EMITTERS AND RECEIVERS** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Request for Reconsideration filed April 8, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The Request for Reconsideration urges that applicants are no longer required to provide U.S. patent documents a part of an Information Disclosure Statement. Since all document considered relevant by petitioner are U.S. patent documents, petitioner is not required to submit copies

For the above stated reasons, the petition is **GRANTED**.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/24/08

TO SPE OF : ART UNIT 2138

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/444483 Patent No: 7076712 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ Approved — All changes apply.
- ☐ Approved In Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: All Changes are approved (Patent Office errors). /DT/

/Kevin L Ellis/ 1/11/10 — SPE

2117 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/24/08 **Paper No.:** —

TO SPE OF : ART UNIT 2138

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/444483 Patent No: 7076712 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for Issuing the above-Identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: All Changes are approved (Patent Office errors). /DT/

/Kevin L Ellis/ 1/11/10 — **SPE**

2117 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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E I Du Pont De Nemours and Company
Legal Patent Records Center
Barley Mill Plaza 25/1122B
4417 Lancaster Pike
Wilmington, DE 19805

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MAR 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Velliyur Nott Mallikarjuna Rao, et. al. :
Application No. 10/444,487 : ON PETITION
Filed: May 23, 2003 :
Attorney Docket No. FL1076 US NA :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 26, 2007, to revive the above-identified application.

The above application became abandoned for failure to timely reply to the non-final Office action mailed March 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 $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $1,050 for a three (3) months extension of time filed on October 26, 2007. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,050 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 1621, for further 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kelly K. Kordzik, Esq.
Winstead Sechrest & Minick
1201 Main Street
P.O. Box 50784
Dallas TX 75250-0784

COPY MAILED

APR 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Bao et al.	:	
Application No. 10/444,505	:	DECISION ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. 40940-P00105	:	
	:	

This is a decision on the petition filed January 13, 2005, to correct the assignment data on the Issue Fee Transmittal (Form PTOL-85(b)).

Effective June 25, 2004, correction of the assignee's name is by way of filing a request for certificate of correction and payment of a processing fee. Section 3.81(b) is revised to read "[a]fter 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 that a patent 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."

Moreover, the application issued as Patent No. 6,860,956, on March 1, 2005.

Accordingly, the petition is **dismissed**. No petition fee is necessary.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 02-04

Paper No. 5

THOMAS A. O'ROURKE
BODNER & O'ROURKE
425 BROADHOLLOW ROAD
MELVILLE NY 11747

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FEB 13 2004

OFFICE OF PETITIONS

In re Application of	:
Enrique David Sancho	:
Application No. 10/444,506	: DECISION REFUSING STATUS
Filed: 23 March, 2003	: UNDER 37 CFR 1.47(b)
For: SYSTEM METHOD AND APPARATUS	:
FOR PREVENTING FRAUDULENT	:
TRANSACTIONS	:

This is in response to the petition filed under 37 CFR 1.47(b) on 23 January, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 23 March, 2003, with a declaration signed by assignee SAFE3W, Inc., on behalf of the sole inventor, Enrique David Sancho.

Petitioner asserts that the inventor was employed with EGI Internet Ltd., predecessor in interest to Safe WWW, Inc. (by change of name Safe 3W, Inc.) and assigned his interest in a parent application, No. 09/500,601, of which the present application is a continuation in part, to petitioner. Petitioner has also presented a portion of the employment agreement between the inventor and Safe WWW, Inc.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (1), (2), and (4).

In regards to item (1), petitioners must supply proof that a copy of the application (specification including claims, drawings, if any, and the declaration) was sent or given to the non-signing inventor for review.[1] Petitioners should submit a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged, petitioners must show that the application papers were sent or given to the non-signing inventor. If the inventor refuses to sign the declaration in writing after being sent or given the application, a copy of that written refusal should be supplied with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The oath or declaration does not identify the inventor by name. Additionally, the oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the

---

[1] MPEP 409.03(d).

corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[2]

With regard to item (4), petitioners have not provided a statement of the inventor's last known address. While an address has been provided on the declaration, the inventor's name has not been provided on the declaration. As such, it is unclear whether the address provided on the declaration is the address of the nonsigning inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] MPEP 409.03(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
DW 02-04

Paper No. 7

THOMAS A. O'ROURKE
BODNER & O'ROURKE
425 BROADHOLLOW ROAD
MELVILLE NY 11747

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APR 16 2004

OFFICE OF PETITIONS

In re Application of	:
Enrique David Sancho	: DECISION ON PETITION
Application No. 10/444,506	: AND
Filed: 23 March, 2003	: DECISION REFUSING STATUS
For: SYSTEM METHOD AND APPARATUS	: UNDER 37 CFR 1.47(b)
FOR PREVENTING FRAUDULENT	:
TRANSACTIONS	:

This is in response to the renewed petition filed under 37 CFR 1.47(b) on 13 April, 2004. This is also a decision on the petition under 37 CFR 1.137(b)[1] filed on 23 January, 2004.

The petition is **DISMISSED**.

---

[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)).

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

Petition Under 37 CFR 1.137(b)

This application became abandoned on 15 September, 2003, for failure to file a timely response to the Notice to File Missing Parts mailed on 14 July, 2003, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained.

The present petition is accompanied by, *inter alia*, a check in the amount of $665.00 for the petition fee, a check in the amount of $524 for the filing fee, a check for $130.00 for the petition under 37 CFR 1.47(b), an oath or declaration, replacement drawings, an abstract.

The petition is dismissed because petitioners have not provided sufficient funds to cover the filing fees. Although the Notice mailed on 14 July, 2003, stated that $524.00 in additional fees were required, USPTO filing fees increased as of 1 October, 2003. Since the filing fees were paid after 30 September, 2003, they were required to be paid in the new amount. As such, a $12.00 fee deficiency for independent claims in excess of three is due. Any renewed petition must include the additional fee due.

Petition Under 37 CFR 1.47(b).

The Office acknowledges receipt of the renewed petition under 37 CFR 1.47(b). However, a grantable petition under 37 CFR 1.137 must be filed before the petition under 37 CFR 1.47(b) can be addressed on its merits. As such, the petition under 37 CFR 1.47(b) will be held in abeyance pending receipt of a grantable petition to revive the application.

The petition under 37 CFR 1.47 will remain in the file until such time as petitioner has filed a grantable petition to revive under 37 CFR 1.137.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 05-04

Paper No. 10

THOMAS A. O'ROURKE
BODNER & O'ROURKE
425 BROADHOLLOW ROAD
MELVILLE NY 11747

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MAY 0 5 2004

OFFICE OF PETITIONS

In re Application of	:
Enrique David Sancho	: DECISION ACCORDING STATUS
Application No. 10/444,506	: UNDER 37 CFR 1.47(b)
Filed: 23 March, 2003	: AND DECISION ON PETITION
For: SYSTEM METHOD AND APPARATUS	:
FOR PREVENTING FRAUDULENT	:
TRANSACTIONS	:

This is in response to the renewed petition filed under 37 CFR 1.137(b) on 26 April, 2004, which is also treated as a renewed petition under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petition Under 37 CFR 1.137(b)

This application became abandoned on 15 September, 2003, for failure to file a timely response to the Notice to File Missing Parts mailed on 14 July, 2003, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The petition filed on 23 January, 2004, was dismissed because insufficient funds had been provided to cover the filing fees.

The petition filed on 23 January, 2004, is accompanied by, *inter alia*, a check in the amount of $665.00 for the petition fee, a check in the amount of $524 for the filing fee, a check for $130.00 for the petition under 37 CFR 1.47(b), an oath or declaration, replacement drawings, an abstract. Additionally, on 26 April, 2004 (certificate of mailing date 22 April, 2004), petitioners provided the balance due of $12.00.

Petition Under 37 CFR 1.47(b)

Petitioner has shown, via the declaration of Kenneth Bob, President of Safe3W, that a copy of the application was provided to the non-signing inventor. The inventor, however, refused repeatedly during telephone calls to sign the declaration. Additionally, petitioners have shown proprietary interest by providing a copy of the employment agreement between the non-signing inventor and Rule 47(b) applicant. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64, and has demonstrated that such action is necessary to prevent irreparable damage.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG
& WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED

AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Sancho, et al.	:	
Application No. 10/444,506	:	DECISION ON PETITION
Filed:23 May, 2003	:	
Attorney Docket No. 2062.030US1	:	

This is a decision on the petition filed on 12 April, 2007, expressly requesting relief under 37 C.F.R §1.182 for what is averred to have been an error by the Office of Patent Application Processing (OPAP) in recording erroneously one or more priority claim(s) made on filing

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R §1.182 is **DISMISSED** without prejudice.

A request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.182."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

BACKGROUND

A search of the official file reveals that:

On 23 May, 2003, Petitioner deposited the instant application;

The record does not at this reading reflect the date of the mailing of the filing receipt—Petitioner avers that it was 7 September, 2004, however, Petitioner failed to provide a copy of the filing receipt with his petition, and a copy should be included should Petitioner renew his petition under 37 C.F.R. §1.182. Nonetheless, Petitioner now avers that the priority claim(s) to one or more provisional applications made on deposit of the application on 23 May, 003, was/were captured erroneously by the OPAP.

It is noted that a review of the claims for priority made on filing do not seem to set forth as to each and every claim the specific relationship(s) as between applications (e.g., the instant application as to Application No. 09/875,795, and so forth).

Thus, should Petitioner find it necessary to correct those priority claims, Petitioner is directed to the requirements of 37 C.F.R §1.78 (as to domestic priority) (*see*: *inter alia*, MPEP §201.11, §804.03), and §1.55 (as to foreign priority) (*see*: *inter alia*, MPEP §201.13 et seq., 201.14(a), et seq.). Petitioner also is directed to note the specific fee requirements and fee schedule associated with such petitions.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant petition is **dismissed** without prejudice pending Petitioner's clarification of the relief to be sought.

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

[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). See specifically, the regulations at 37 C.F.R. §10.18.

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PASS INC. (DELIZIO GILLIAM)
C/O DELIZIO GILLIAM, PLLC
15201 MASON ROAD
SUITE 1000-312
CYPRESS TX 77433

COPY MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Sancho, et al.	:	
Application No. 10/444,506	:	DECISION ON PETITION
Filed:23 May, 2003	:	
Attorney Docket No. 2062.030US1	:	

This is a decision on the petition filed on 16 October, 2008, expressly requesting relief under 37 C.F.R §1.182 for what is averred to have been an error by the Office of Patent Application Processing (OPAP) in recording erroneously one or more priority claim(s) made on filing

The petition under 37 C.F.R §1.182 is **DISMISSED** without prejudice, however, Petitioner again is reminded that he must seek relief pursuant to the provisions of 37 C.F.R §1.78 in this matter.

A request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.182."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

BACKGROUND

A search of the official file reveals that:

On 23 May, 2003, Petitioner deposited the instant application;

The record does not at this reading reflect the date of the mailing of the filing receipt—Petitioner avers that it was 7 September, 2004, however, Petitioner failed to provide a copy of the filing receipt with his petition, and a copy should be included should Petitioner renew his petition under 37 C.F.R. §1.182. Nonetheless, Petitioner now avers that the priority claim(s) to one or

more provisional applications made on deposit of the application on 23 May, 2003, was/were captured erroneously by the OPAP.

It is noted that a review of the claims for priority made on filing do not seem to set forth as to each and every claim the specific relationship(s) as between applications (e.g., the instant application as to Application No. 09/875,795, and so forth). Petitioner was reminded in the dismissal of 18 August, 2008, that, should Petitioner find it necessary to correct those priority claims, Petitioner should look to the requirements of 37 C.F.R §1.78 (as to domestic priority) (*see*: *inter alia*, MPEP §201.11, §804.03), and §1.55 (as to foreign priority) (*see*: *inter alia*, MPEP §201.13 et seq., 201.14(a), et seq.). Petitioner also was reminded of the specific fee requirements and fee schedule associated with such petitions.

On 16 October, 2008, Petitioner—apparently ignoring the explicit reminder as to the proper vehicle for relief set forth for Petitioner in the dismissal of 18 August, 2008—again filed a petition pursuant to 37 C.F.R §1.182.

A petition under 37 C.F.R. §1.78(a)(6) is 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 nonprovisional application which seeks to claim priority 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.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant petition is **dismissed** without prejudice pending Petitioner's clarification of the relief to be sought.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

[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). See specifically, the regulations at 37 C.F.R. §10.18.

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[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **September 24,2007**

TO SPE OF : ART UNIT **2834**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/444,534** Patent No.: **6930413 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: _____

Darren Schuberg — **SPE**
2834 — **Art Unit**

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)
6954148	2005-10-11	10444538	2003-05-23	152762

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	/Lee Eubanks/	Date (YYYY-MM-DD)	2009-12-16
Name	L. Lee Eubanks IV	Registration Number	58785

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6954148
Issue Date: October 11,2005
Application No. 10444538
Filed: May 23,2003
Attorney Docket No. 100019-3A/US

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed December 16,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 16,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FLEIT GIBBONS GUTMAN BONGINI & BIANCO PL
ONE BOCA COMMERCE CENTER
551 NW 77TH STREET SUITE 111
BOCA RATON FL 33487

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Hamada, et al.	:	
Application No. 10/444,608	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. JP920020081US1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(b), filed August 7, 2008.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition to revive under 37 CFR 1.137(b) is **GRANTED**.

The application was held abandoned due to failure to timely file a reply to the non-final Office action mailed August 16, 2007. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on November 17, 2007. The Office mailed a Notice of Abandonment on February 22, 2008.

Petition under 37 CFR 1.181:

Applicants request that the holding of abandonment be withdrawn on the basis that the Office action was not mailed to the address of record. In particular, the city was missing from the address. Applicants' argument has been considered, but is not persuasive. While a review of the Office action confirms that the city was missing from the address field, the zip code was included. Furthermore, there is no indication in the file that the Office action (or the Notice of Abandonment) was returned to the Office as undeliverable. As such, the presumption is that the Office action was delivered to the address of record.

Petition under 37 CFR 1.137(b):

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The petition fee of $1,540 has been charged to Deposit Account No. 09-0461, as authorized.

The matter is being forwarded to Group Art Unit 2623 for consideration of the Amendment filed August 7, 2008.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent Counsel
Huntsman Polyurethanes
10003 Woodloch Forest Drive
The Woodlands TX 77380

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of	:	
Eling, et al.	:	
Application No. 10/444,612	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. EUR 50856/USw	:	

This is a decision on the petition under 37 CFR §1.47,filed April 3, 2006, which is being treated as a petition under 37 CFR §1.183 requesting waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by all named inventors.[1]

The petition under 37 CFR §1.183 requesting waiver of 37 CFR §§ 1.67 and 1.63 is **granted**.

The petition under 37 CFR §1.47 is **dismissed as moot**.

In view of the January 18, 2006 written refusal by Inventor Berend Eling to sign the declaration e-mailed to him on January 11, 2006, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed April 3, 2006.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

Regarding fees, deposit account no. 03-2769 was charged a $200.00 petition fee. A Rule 183 petition is currently $400.00. Therefore, deposit account no. 03-2769 will be charged the $200.00 balance due.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being returned to Technology Center G.A.U. 1711.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: TOD T. TUMEY
CONLEY ROSE, P.C.
P.O. BOX 3267
HOUSTON, TX 77253-3267

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HOWSON AND HOWSON
ONE SPRING HOUSE CORPORATION CENTER
BOX 457
321 NORRISTOWN ROAD
SPRIG HOUSE PA 19477

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APR 12 2005

OFFICE OF PETITIONS

In re Application of	:	
John W. Tobias et al	:	
Application No. 10/444,616	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. GRM80BUSA	:	

This is a decision on the petition, filed April 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The examiner of Technology Center AU 3727 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

cc:
KAVITA B. LEPPING
VANABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND, TOWNSEND and CREW, LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

MAILED
APR 0 4 2005
Technology Center 2100

In re Application of : MASHIMA
Application No. 10/444,642
Filed: MAY 22, 2003
For: STORAGE CONTROL APPARATUS AND METHOD FOR CONTROLLING THE SAME

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII) & 37 C.F.R. 102(d)

This is a decision on the petition filed January 24, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

3/31/05

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

JC

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of	:
Yonemitsu et al	:
Serial No.: 10/444,661	: PETITION DECISION
Filed: May 23, 2003	:
Attorney Docket No.: 50026/039001	:

This is a response to the petition under 37 CFR 1.59(b), filed June 25, 2007, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that documents submitted June 25, 2007 as a Proprietary Information Disclosure Statements 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 **not** been paid. Applicants should note that this type of petition is one of 37 CFR 1.17(g) requiring a fee of $200.00, not 37 CFR 1.17(h) requiring a fee of $130.00 as indicated by applicants. Therefore, applicants' deposit account No. 03-2095 is being charged a fee of $70.00 to make up the difference already paid by applicants.

This is an examined application. 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 Disclosure Statements. As a result, the documents cannot be returned at this time.

The petition is **DISMISSED**. Applicants 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 with respect to this decision, please contact Marianne C. Seidel, 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, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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MIRUS CORPORATION
505 SOUTH ROSA RD
MADISON, WI 53719

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JUN 1 0 2005

OFFICE OF PETITIONS

In re Application of	:
David B. Rozeman et al	: DECISION ON PETITION
Application No. 10/444,662	: UNDER 37 CFR 1.78(a)(3)
Filed: May 23, 2003	:
Attorney Docket No. Mirus.035.01	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 1, 2005, which is being treated under 37 CFR 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for 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. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

A reference to add the prior-filed applications on page one following the first

sentence of the specification has been included in an amendment filed on April 1, 2005. However, the amendment is not acceptable as drafted since it improperly references continuity to a nonprovisional application which was filed after the filing of the instant application (namely, Application No. 10/619,778 filed July 15, 2003). Note, 35 U.S.C. § 120 which requires reference to a "prior-filed application." In view thereof, the claim for priority to nonprovisional Application No. 10/619,778, filed July 15, 2003, is improper.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a substitute amendment deleting the priority claim to nonprovisional Application No. 10/619,778 and a renewed petition 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: (703) 872-9306
ATTN: Office of Petitions

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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505 SOUTH ROSA RD
MADISON, WI 53719

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OFFICE OF PETITIONS

In re Application of	:
David B. Rozema et al	: DECISION ON PETITIONS
Application No. 10/444,662	: UNDER 37 CFR 1.78(a)(3) AND
Filed: May 23, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. Mirus.035.01	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 17, 2005, which is being treated under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant 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)(iii) and 1.78(a)(5)(iii). 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 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 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 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. 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 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 matter is being referred to Technology Center Art Unit 1614 for processing of the Request for Continued Examination (RCE) filed April 1, 2005 and for appropriate action on the amendments filed April 1, 2005 and June 17, 2005, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/05/10

TO SPE OF : ART UNIT 2457

SUBJECT : Request for Certificate of Correction for Appl. No.: 10444680 Patent No.: 7613784

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- • **Approved** — **All** changes apply.
- ❑ **Approved in Part** — Specify below which changes **do not** apply.
- ❑ **Denied** — State the reasons for denial below.

Comments: _____

/Ario Etienne/ _____ 2457 _____
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: John E.G. Matze	: DECISION ON REQUEST FOR
Patent Number	: 7613784	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/444,680	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1289** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: John E.G. Matze	: DECISION ON REQUEST FOR
Patent Number	: 7613784	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/444,680	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1289** 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. 5

MOLEX INCORPORATED
2222 WELLINGTON COURT
LISLE IL 60532

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OCT 0 8 2003

OFFICE OF PETITIONS

In re Application of
Kuang-Yung Hsieh
Application No. 10/444,682
Filed: May 23, 2003
Attorney Docket No. A3-126 US
For: CIRCUIT BOARD MOUNTED
ELECTRICAL CONNECTOR

: DECISION REFUSING
: STATUS UNDER
: 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed September 22, 2003 (certificate of mailing date September 18, 2003).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on May 23, 2003 without an executed oath or declaration. Accordingly, on July 22, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on September 22, 2003 (certificate of mailing date September 18, 2003), a declaration executed by Justine Shen, Secretary of a company in interest, for non-signing sole inventor Hsieh, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Ms. Shen accompanies the petition. Ms. Shen sets forth the last known address of the inventor and explains that Ms. Shen sent a letter to Mr. Hsieh and telephoned him, but she was not able to locate him because he moved to a new residence without leaving a forwarding address.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks items (1), and (5) set forth above.

As to item (1), Rule 47 applicant has failed to show that the inventor cannot be reached. Petitioner attempted to contact Mr. Hsieh at his last known address, but the attempt was unsuccessful because the addressee had moved. Petitioner's efforts to locate Mr. Hsieh do not demonstrate the required level of diligence to merit accordation of Rule 47 status to the above-identified application.

A showing of diligence is critical to obtaining Rule 47 status when it is alleged that an inventor cannot be located or reached. Petitioner must engage in further efforts to locate Mr. Hsieh. An affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied upon to establish that a diligent effort was made to locate the nonsigning inventor.

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, any inquiries of local telephone directory, or any extant national or regional registry, telegrams, searches of Internet databases, and documented inquiries of his last known employer etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration.** Petitioner has not stated what happened to the letter that was mailed to Mr. Hsieh. If it was returned, please send a copy of the envelope with any reconsideration petition. If it is typed in a foreign language, please provide a translation. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

As to item (5), Rule 47 applicant failed to show or provide proof that Molex Taiwan Ltd. has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventor and the Rule 47(b) applicant, a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

While the Added Page to the Declaration references an attached Taiwan Assignment document dated 24 May 2002, the undersigned could not find an assignment document in the application file. Please submit another copy of the 24 May 2002 assignment document with any reconsideration petition.

A review of Office financial records reveals that petitioner has not paid the $130 fee associated with filing a petition under 37 CFR 1.47(b). Pursuant to petitioner's authorization, deposit account no. 50-1873 will be charged $130.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MOLEX INCORPORATED
2222 WELLINGTON COURT
LISLE IL 60532

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of	:
Kuang-Yung Hsieh	: DECISION ACCORDING
Application No. 10/444,682	: STATUS UNDER
Filed: May 23, 2003	: 37 CFR 1.47(b)
Attorney Docket No. A3-126 US	:
For: CIRCUIT BOARD MOUNTED ELECTRICAL CONNECTOR	:

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed December 8, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor, Kuang-Yung Hsieh, cannot be located. Specifically, the declaration/statement of facts of Attorney Ya-Fen Xu establishes that the inventor did not attend court proceedings in a People's Republic of China case. His attorney refused to disclose his whereabouts. In addition, Ms. Justine Shen states that attempts to reach Mr. Hsieh at his last known address and telephone number were fruitless. In addition, Attorney Xu states that under People's Republic of China laws, Molex Taiwan has a right to apply for patent. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Regarding finances, deposit account no. 50-1873 was charged a $110.00 one month extension of time fee on December 11, 2003 (mailroom receipt date December 8, 2003). This fee is unnecessary as the reconsideration petition was filed within 2 months of the mail date of the October 8, 2003 decision on petition. It will be refunded to deposit account no. 50-1873.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 30, 2008

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/444686 Patent No.: 7305407 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571 270 9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: It is OK to enter the correction for the specification as requested by applicant.

APU MOFIZ
SUPERVISORY PATENT EXAMINER

PAGE 2/3 * RCVD AT 6/30/2008 2:10:24 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/40 * DNIS:2709990 * CSID:7033053718 * DURATION (mm-ss):01-30

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PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of Pramila A. Bhatia, et. al. Application No. 10/444,687 Filed: May 23, 2003 Attorney Docket No. 6933USO2	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 8, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 8, 2008. Accordingly, the date of abandonment of this application is January 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 4

DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

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NOV 21 2003

OFFICE OF PETITIONS

In re Application of :
Schum et al. :
Application No. 10/444,688 : ON PETITION
Deposited: May 22, 2003 :
Attorney Docket No.: 0412-P00927US3:
Title of Invention: METHOD AND :
APPARATUS FOR PROCESSING AND :
DETERMINING THE ORIENTATION OF :
DOCUMENTS

This is a decision on the petition to accord a filing date filed September 22, 2003, requesting that the above-identified application be accorded a filing date of May 22, 2003.

Application papers in the above-identified application were deposited on May 22, 2003. However, on July 25, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, 5 sheets of drawings, including figures 1-8 and the present petition were filed on September 22, 2003. The petition contends that the application as filed included 5 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of " 5 sheets of drawings" on May 22, 2003.

Applicant's postcard receipt is prima facie[2] evidence that drawings were received on May 22, 2003, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 5 sheets of drawings, including figures 1-8, were received on May 22, 2003, as shown in counsel's file, and later misplaced in the Office.

---

[1]See 35 U.S.C. 111(a)(4)

[2]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. See MPEP 503.

The petition is Granted.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on September 22, 2003, will be used for processing and examination purposes.

No petition fee is due.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of May 22, 2003**, using the 5 sheets of drawings supplied on September 22, 2003.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Christina T. Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

MAILED

MAY 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Julia Szekeres-Bartho, et al.	:	
Application No. 10/444,693	:	DECISION ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. A35817-PCT-USA-A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 25, 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 December 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, 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. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1643 for appropriate action by the Examiner in the normal course of business on the reply received April 17, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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DIW 02-04

Paper No. 7

SANDRA P. THOMPSON
BINGHAM MCCUTCHEON LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO CA 94111-4067

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FEB 13 2004
OFFICE OF PETITIONS

In re Application of	:
Mukherjee, Levert, and DeBear	: DECISION ACCORDING STATUS
Application No. 10/444,700	: UNDER 37 CFR 1.47(a)
Filed: 22 May, 2003	:
Atty Docket No. 30-4945 CIP DIV (4780)	:

This is in response to the petition filed under 37 CFR 1.47(a) on 12 December, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventors, Shyama Mukherjee and Donald DeBear. However, the non-signing inventors did not return an executed declaration listing them as joint inventors along with Joseph Levert.

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 correspondence address has been changed in accordance with the declaration filed on 26 September, 2003.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW 02-04

Shyama Mukherjee
2470 Pinto Court
Morgan Hill CA 95037

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FEB 13 2004

OFFICE OF PETITIONS

In re Application of
Mukherjee et al.
Application No. 10/444,700
Filed: 22 May, 2003
For: PLANARIZERS FOR SPIN ETCH PLANARIZATION OF ELECTRONIC COMPONENTS AND METHODS OF USE THEREOF

Dear Mr. Mukherjee:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SANDRA P. THOMPSON
BINGHAM MCCUTCHEON LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO CA 94111-4067

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Donald DeBear
528 Downing Avenue
San Jose CA 95128

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FEB 13 2004

OFFICE OF PETITIONS

In re Application of
Mukherjee et al.
Application No. 10/444,700
Filed: 22 May, 2003
For: PLANARIZERS FOR SPIN ETCH PLANARIZATION OF ELECTRONIC COMPONENTS AND METHODS OF USE THEREOF

Dear Mr. DeBear:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SANDRA P. THOMPSON
BINGHAM MCCUTCHEON LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO CA 94111-4067

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Paper No. 5

John J. Tomaszewski
35 Virginia Avenue
Rockville Centre NY 11570

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of	:
Anthony S. Pagoto et al.	:
Application No. 10/444,710	:
Filed: May 23, 2003	:
Attorney Docket No.: PAG002	:
Title: PERSONAL COMPUTER WIRE	:
MANAGEMENT SYSTEM	:

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b)[1], filed August 2, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed July 16, 2003, which set a shortened statutory period for reply of two (2) months. The notice stated that replacement drawings were required. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 17, 2003.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

With the instant petition, Petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

the filing of the petition fee, replacement drawings, and has made a statement which is being construed as the proper statement of unintentional delay.

The petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to the Technology Center 2800 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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MAR 29 2006

OFFICE OF PETITIONS

In re Application of
Yasushi Yakushigawa et al.
Application No. 10/444,717
Filed: May 23, 2003
Attorney Docket No. ISHDP167

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed March 2, 2006, 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 a prior-filed international PCT application (Application No. PCT/GB01/05204).

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 amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the priority claim is not in the proper form and must be in an amendment, not physically part of any other document as the response and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Additionally, the reference to add the prior-filed application should not include an incorporation by reference statement. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to

an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

In view of the above, the petition is **DISMISSED**.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Frances Hicks
Petitions Examiner
Office of Petitions

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BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of	:
Yasushi Yakushigawa et al.	: DECISION ON PETITION
Application No. 10/444,717	: UNDER 37 CFR 1.78(a)(3)
Filed: May 23, 2003	: and
Attorney Docket No. ISHDP167	: UNDER 37 CFR 55(c)

This is a decision on the renewed petition filed April 14, 2006, treated under 37 CFR 1.78(a)(3) and under 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of a prior-filed international PCT application (Application No. PCT/GB01/05204), and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment and declaration, respectively.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All 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.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on May 23, 2003, which is after November 29, 2000, and the intermediate PCT application was filed within 12 months of November 27, 2000, which is the earliest filing date of the foreign application to which benefit is claimed. The declaration filed on May 23, 2003 also identifies the foreign application for which priority is claimed.

A certified copy of the foreign patent document is included. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)- (d) is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120, 365(c) and 119(a)-(d) and 37 CFR 1.78(a)(1) and (a)(2) and 37 CFR 1.55 must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-

filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3721 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application and for consideration of the claim for priority under 35 U.S.C. § 119 for the benefit of the foreign application as set forth in the concurrently filed amendment and declaration, respectively.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/444,729	05/20/2003	2839	750	57139-5062	5	4	2

CONFIRMATION NO. 8763

CORRECTED FILING RECEIPT

OC000000012413756

ROD S. BERMAN, ESQ.
JEFFER, MANGELS, BUTLER & MARMARO LLP
Seventh Floor
1900 Avenue of the Stars
Los Angeles, CA 90067

Date Mailed: 04/21/2004

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)

Hiroyuki Miyoshi, Osaka, JAPAN;
Masao Kojima, Osaka, JAPAN;

Assignment For Published Patent Application

Shimano Inc.;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/661,973 09/14/2000 PAT 6,609,722

Foreign Applications

If Required, Foreign Filing License Granted: 08/04/2003

Projected Publication Date: 06/10/2004

Non-Publication Request: No

Early Publication Request: No

Title

Front suspension crown cover with connector and setting boss

Preliminary Class
280

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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OCT - 9 2003

Paper No. 4

In re Application of Mark Odachowski Serial No. 10/444,732 Filed: May 23, 2003 For: HAND OR AUTOMATIC DRIVEN TOOL FOR ATTACHING SCREWED ANCHORS	:	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed August 4, 2003, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Larry J. Guffey
World Trade Center, Suite 1800
401 East Pratt Street
Baltimore, MD 21202

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Docket Clerk, BP Legal, M.C. 5 East
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Warrenville IL 60555

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OFFICE OF PETITIONS

In re Application of	:	
Twu et al.	:	
Application No. 10/444,767	:	ON PETITION
Filed: 05/23/2003	:	
Attorney Docket No. 37,364-01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 15, 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). Petitioner obtained an extensions of time for response within the first month pursuant to the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on December 16, 2006. A Notice of Abandonment was mailed on March 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), the RCE fee and the submission required by 37 CFR 1.114; (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 1712 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.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Squire, Sanders & Dempsey, LLP
Two Renaissance Square
40 North Central Avenue
Suite 2700
Phoenix, AZ 85004-4498

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JAN 16 2009

In re Application of	:	
John C. Opie et al.	:	
Application No. 10/444,773	:	DECISION ON PETITION
Filed: May 24, 2003	:	TO WITHDRAW
Attorney Docket No. 032303.00005	:	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, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Alex Starkovich does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable. Therefore, there is no authority to sign the request to withdraw on behalf of the attorneys of record.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

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FEB 24 2009

OFFICE OF PETITIONS

In re Application of	:	
MOERCK, Rudi E. et al.	:	
Application No. 10/444,774	:	DECISION ON PETITION
Filed: May 23, 2003	:	TO WITHDRAW
Attorney Docket No. **10225/46 (A26a)**	:	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 16, 2008.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because the attorneys withdrawing by customer number 20872 must have been originally appointed by the same customer. The attorneys associated with customer 30764 were appointed by the revocation of power of attorney filed August 08, 2006.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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Paper No.

DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN TX 78759

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DEC 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Moerck et al.	:	
Application No. 10/444,774	:	DECISION ON PETITION
Filed: May 23, 2003	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
ALTAIR.LS015	:	
Title: RARE EARTH METAL	:	
COMPOUNDS METHODS OF MAKING,	:	
AND METHODS OF USING THE SAME	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 31, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (notice), mailed July 18, 2008, which set a shortened statutory period for reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were available. Accordingly, the above-identified application became abandoned on August 19, 2008. A notice of abandonment was mailed on March 31, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply

until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on August 31, 2009 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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BAKER BOTTS L.L.P.
2001 Ross Avenue
Dallas, TX 75201-2980

Mail Date: 04/21/2010

Applicant	: Luke K. Surazski	: DECISION ON REQUEST FOR
Patent Number	: 7590230	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/444,793	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1239** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Mark Chevalier	:	DECISION ON PETITION
Application No. 10/444,805	:	UNDER 37 CFR 1.137(b)
Filed: May 23, 2003	:	
Attorney Docket No. 49593.22.1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 18, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to reply properly and timely to the final Office Action mailed on June 29, 2005, which set a three (3) month shortened statutory period to reply. Petitioner obtained an extension of time for response within the first month. Accordingly, this application became abandoned on October 30, 2005.

In the present petition, petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a request for continued examination and a submission, paid the requisite fees, and made the proper statement of unintentional delay.

Petitioner submitted a $1,020.00 extension of time fee with the present petition. Pursuant to 37 CFR 1.136, a request for an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Therefore, the $1,020.00 extension of time fee is inappropriate and will be credited to petitioner's Deposit Account.

This matter is being referred to Technology Center Art Unit 3683.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Any questions regarding the status of the application or the examination process should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JOHN P. SUTTON
2421 PIERCE STREET
SAN FRANCISCO CA 94115-1131

SEP 19 2007

In re Application of: Cytanovich, Kathryn Serial No. 10/444,809 Filed: May 22, 2003 Docket: CYT Title: METHOD OF TEACHING READING	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed on June 21, 2007 under 37 CFR § 1.181. Petitioner requests that the Director review the final rejection mailed on February 21, 2007.

The petition is **dismissed.**

Background

On September 7, 2006 the examiner promulgated a non-final rejection under 35 U.S.C. §101. The examiner found the claimed invention to be "directed to non-statutory subject matter under the abstract idea exception." On November 27, 2006 the applicant submitted remarks regarding the "specific, substantial and credible utility" of the claimed method as well as the lack of evidentiary support for the rejection. On February 21, 2007 the examiner mailed a final rejection under 35 U.S.C. § 101. Again the examiner found the claimed invention to be an abstract idea, and therefore non-statutory subject matter. The examiner stated "upon review of the claims as a whole, there is no transformation nor does the claim produce a useful, concrete and tangible result." On May 11, 2007 the examiner conducted an interview with the applicant's representative. The examiner informed the representative that no decision on the patentability of the application could be made at that point in time. The examiner advised the representative of the various options available to them including, appeal, director review or continuation of the application. On June 21, 2007 the present petition was filed requesting Director review of the final rejection mailed February 21, 2007.

Discussion

A review of the record indicates that the petitioner and the examiner have arrived at a clear issue with respect to the utility of the invention under 35 U.S.C. § 101. The petitioner's position is that an applicant's assertion of utility creates a presumption of utility that is sufficient to satisfy the utility requirement. The petitioner believes that the examiner must present evidence to overcome

this presumption of utility. The examiner's position is that the claimed method is an "abstract idea because no concrete and tangible means for accomplishing the method are claimed." Therefore, the examiner found the claimed invention to constitute non-statutory subject matter under the judicially created abstract idea exception.

Following the final rejection, the petitioner filed the present petition requesting Director review under 37 CFR §1.181. With respect to petitions to the Director, the applicable section of 37 CFR § 1.181(a)(1) states:

> (a) Petition may be taken to the Director:
> (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court

In accordance with 37 CFR §1.181(a)(1), an applicant may properly petition the Director only where the matter to be petitioned is not subject to appeal. The M.P.E.P. defines matters that are in fact subject to appeal in §1201. The relevant section of M.P.E.P § 1201 states:

> The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of *prior art or other patentability issues*, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute.

The present petition filed on June 21, 2007 requests that the Director review the examiner's final rejection of the claims under 35 U.S.C. §101. Differences of opinions concerning the denial of a patent based on rejections under 35 U.S.C. §101 are considered to be patentability issues relating to the merits of the application. According to the M.P.E.P §1201 issues regarding the merits are appealable and therefore not appropriately raised in a Petition to the Director under 37 CFR §1.181.

The petitioner specifically request that the Director exercise his supervisory authority to set aside the final rejection as "arbitrary, capricious, an abuse of discretion and unsupported by substantial evidence." However, it should be noted that the examiner followed the proper procedures set forth in M.P.E.P §2106 with regards to statutory eligibility. The examiner utilized the procedures outlined in the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, published by the USPTO on October 26, 2005. The examiner also relied on relevant case law to support the rejection under 35 U.S.C. §101. Accordingly, the final rejection is not found to be arbitrary, capricious, an abuse of discretion or unsupported by substantial evidence for the examiner did follow proper procedure.

Decision

For the foregoing reasons the relief requested by the petitioner will not be granted. The final rejection under 35 U.S.C. § 101 constitutes appealable subject matter and will therefore not be decided by petition.

PETITION DISMISSED.

Any request for reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and must be submitted within TWO (2) MONTHS from the mail date of this decision. The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings (37 CFR 1.181(f)). No extension of time under 37 CFR 1.136(a) is permitted. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3725 for further processing. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571) 272-4856.

for Karen M. Young
Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY CA 94019

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Patent No. 6844838	:	
Issue Date: 01/18/2005	:	
Application No. 10/444813	:	NOTICE
Filed: 05/22/2003	:	
Attorney Docket No. HBES 1103-1	:	

This is a notice regarding the correspondence filed on October 16, 2007, regarding acceptance of a fee deficiency pursuant to 37 CFR 1.28(c).

The paper cannot be accepted for the following reason:

The paper is not properly signed. Specifically, the paper appears to have been signed on behalf of an assignee, but petitioners have not shown that the person signing the paper is authorized to act on behalf of the assignee.

37 CFR 3.73 states:

> (a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application or registration, unless there is an assignment.
>
> (b)
> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the

documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by 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).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

(c) For patent matters only:
(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.

(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

The paper has not been signed by a registered patent attorney or agent or by all of the applicants. If the paper is being signed on behalf an assignee, the assignee must establish its authority to take action in accordance with 37 CFR 3.71. Additionally, the person signing on behalf of the assignee must submit a statement under 37 CFR 3.73(b) showing that he or he is authorized to sign on behalf of the assignee.

While petitioner has provided a "POWER OF ATTORNEY, CHANGE OF CORRESPONDENCE ADDRESS, AND STATEMENT UNDER 37 CFR 3.73(b)," filed on October 20, 2007, the statement, signed by Steven Brown, Compliance Officer for ESS Technology, Inc., the statement is not signed by a person having apparent authority to sign on behalf of the assignee. Further, the paper does not state that the signer is authorized to act on behalf of the assignee.

Patentees should file a properly signed statement in accordance with 37 CFR 1.28(c) and within **one (1) month** of the mailing date of this Notice.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Building
Alexandria VA 22314

Receipt of the fee payment filed with the subject paper is acknowledged.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/96 Statement Under 37 CFR 3.73(b)

PTO/SB/96 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY CA 94019

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AUG 1 4 2008

OFFICE OF PETITIONS

In re Patent No. 6844838	:	
Issue Date: 01/18/2005	:	
Application Number: 10/444813	:	NOTICE
Filing or 371(c) Date: 05/22/2003	:	
Attorney Docket Number: HBES 1103-1	:	

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) 272-3231.

D Wood
Douglas I. Wood
Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,842,924	2005-01-18	10444831	2003-05-23	VSI/GEN

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	/ Alan Taboada /	Date (YYYY-MM-DD)	2009-04-13
Name	ALAN TABOADA	Registration Number	51359

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6842924
Issue Date: January 18,2005
Application No. 10444831
Filed: May 23,2003
Attorney Docket No. OTI 8630

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 13,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 13,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 4

HEWLETT-PACKARD COMPANY
Intellectual Property Admininstration
P.O. Box 272400
Fort Collins CO 80527-2400

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DEC 17 2003

OFFICE OF PETITIONS

In re Application of
Mehdi Bazoon
Application No. 10/444,835
Filed: May 22, 2003
Attorney Docket No. 200206913-1
Title: SYSTEM AND METHOD FOR AUTOMATICALLY REMOVING DOCUMENTS FROM A KNOWLEDGE REPOSITORY

DECISION ON PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 CFR §1.47(b)[1], filed November 3, 2003.

The above-identified application was filed on May 22, 2003. On July 30, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee), the surcharge associated with the late filing of an oath or declaration[2], and a declaration executed by the petitioner. It is noted that the petitioner is not listed as an attorney of record. To make timely this reply, a one-month extension of time was requested[3]. Accompanying the petition was a statement from the

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

2 The surcharge has been charged to petitioner's Deposit Account, as authorized in the petition.

3 The petition contains a certificate of mailing dated October 30, 2003.

petitioner, a copy of a letter sent to the non-signing inventor, and a portion of the inventor's employment agreement.

Petitioner has met requirements (1) – (3) and (5) – (7) above.

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. *As petitioner has set forth that the non-signing joint inventor cannot be found or reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* There is no indication that Rule 47 applicant attempted to verify non-signing inventor Bazoon's address or to determine his forwarding address and to send the application papers to that address for consideration by the inventor[4].

Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventors. Petitioner has made no effort to try to locate the inventor. No mention is made as to any search done for the non-signing inventor. All petitioner establishes is that he tried to telephone and e-mail the inventor "numerous times[5]." If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions[6].

As the petitioner is not of record, petitioner should submit a Power of Attorney form, which may be found at http://www.uspto.gov/web/forms/sb0081.pdf.

As such, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[7], hand-delivery[8], or facsimile[9]. **Please note that the later two have changed, as of December 1, 2003.**

---

4 See MPEP 409.03(d).
5 Petition, page 2.
6 See MPEP 409.03(d).
7 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
8 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202
9 (703) 872-9306.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Steve Perry
Thorpe, North, & Western, L.L.P.
PO Box 1219
Sandy, Utah 1219

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 4

HEWLETT-PACKARD COMPANY
Intellectual Property Admininstration
P.O. Box 272400
Fort Collins CO 80527-2400

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OFFICE OF PETITIONS

In re Application of
Mehdi Bazoon
Application No. 10/444,835
Filed: May 22, 2003
Attorney Docket No. 200206913-1
Title: SYSTEM AND METHOD FOR AUTOMATICALLY REMOVING DOCUMENTS FROM A KNOWLEDGE REPOSITORY

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition under 37 CFR §1.47(b)[1], filed February 10, 2004.

The above-identified application was filed on May 22, 2003. On July 30, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original instant petition on November 3, 2003, which was dismissed via the mailing of a decision on December 17, 2003 for failure to establish that diligent efforts were made to locate the non-signing inventor. With this renewed petition, in an attempt to establish joiner of the previously non-signing inventor, Petitioner has submitted a declaration which has been executed by the same.

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1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

Unfortunately, the declaration submitted with the renewed petition contains non-initialed and non-dated changes by the inventor[2]. As such, the declaration cannot be accepted. As such, the renewed petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Second renewed petition under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted above. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a). The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf. As set forth in the previous decision, the petitioner is not of record. As the petitioner is not of record, petitioner should submit a Power of Attorney form, which may be found at http://www.uspto.gov/web/forms/sb0081.pdf.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Steve Perry
Thorpe, North, & Western, L.L.P.
PO Box 1219
Sandy, Utah 1219

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2 MPEP 605.04(a).
3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.
5 (703) 872-9306, attention Office of Petitions, Attorney Paul Shanoski.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

HEWLETT-PACKARD COMPANY
Intellectual Property Admininstration
P.O. Box 272400
Fort Collins CO 80527-2400

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of Mehdi Bazoon Application No. 10/444,835 Filed: May 22, 2003 Attorney Docket No. 200206913-1 Title: SYSTEM AND METHOD FOR AUTOMATICALLY REMOVING DOCUMENTS FROM A KNOWLEDGE REPOSITORY	DECISION NOTING JOINDER AND DISMISSING SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(B) AS MOOT

This is in response to the second renewed petition under 37 CFR §1.47(b)[1], filed April 21, 2004.

The above-identified application was filed on May 22, 2003. On July 30, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the original instant petition on November 3, 2003, which was dismissed via the mailing of a decision on December 17, 2003 for failure to establish that diligent efforts were made to locate the non-signing inventor. With the renewed petition, in an attempt to

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

establish joiner of the previously non-signing inventor, Petitioner submitted a declaration which has been executed by the same. Unfortunately, the declaration submitted with the renewed petition contained non-initialed and non-dated changes by the inventor.

With the second renewed petition, an acceptable declaration has been submitted which has been executed by the formerly non-signing sole inventor.

This declaration has been reviewed and found in compliance with 37 §CFR 1.63.

In view of the joinder of the joint inventor, further consideration under 37 CFR §1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR §1.47(a).

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THERAVANCE INC
901 GATEWAY BLVD
SOUTH SAN FRANCISCO CA 94080

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OFFICE OF PETITIONS

In re Application	: DECISION ON APPLICATION
Marquess, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 10/444,847	: AND
Filed: May 23, 2003	: NOTICE OF INTENT TO ISSUE
Patent No. 6,878,686	: CERTIFICATE OF CORRECTION
Issued: April 12, 2005	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN PATENT (37 C.F.R. §1.705)", filed April 14, 2005. Patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from forty-nine (49) days to one hundred two (102) days.

The application for patent term adjustment is **GRANTED**.

The Patent Term Adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred two (102) days**.

On April 12, 2005, the above-identified application issued into patent No. 6,878,686. The patent stated that the patent term adjustment (PTA) is forty-nine (49) days. On April 14, 2005, patentee timely submitted an application for patent term adjustment, asserting that the correct number of days of PTA is one hundred two (102) days.

Patentees assert entitlement to a patent term adjustment of one hundred two (102) days under 37 C.F.R. §1.703(a)(6), on the basis that the patent issued more than four months after payment of the issue fee.

The Office determined a patent term adjustment of forty-nine (49) days based on an adjustment for PTO delay of forty-nine (49) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1).

A review of the application file reveals that the issue fee was paid on October 18, 2004. The instant patent did not issue until April 12, 2005. Accordingly, PTO delay of fifty-three (53) days should be assessed under 37 C.F.R. §1.703(a)(6).

In view thereof, the correct determination of patent term adjustment at the time of issuance of the patent is **one hundred two (102) days** (102 (49+53) days of PTO delay, reduced by 0 days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 50-0344, as authorized.

The application file is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **one hundred two (102) days**.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kay Ennis
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Draft Certificate of Correction

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER – BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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OFFICE OF PETITIONS

In re Application of	:	
Kenneth Douglas Vinson et al	:	
Application No. 10/444,851	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. 7297MD	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 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 January 19, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 20, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1731 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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10/444 853

Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:
SIRNA THERAPEUTICS, INC.
PCT No.: PCT/US02/15876
International Filing Date: 17 May 2002
Priority Date: 18 May 2001
Attorney's Docket No.: 02-312-PCT;600.019
For: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELIVERY

DECISION ON PETITION UNDER 37 CFR 1.10

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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NU VASIVE, INC.
4545 TOWNE CENTRE COURT
SAN DIEGO CA 92121

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of
Bret A. Ferree
Application No. 10/444,883
Filed: May 23, 2003
Attorney Docket No. BAF-14402/29

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 2005, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

This application became abandoned on September 26, 2004, for failure to reply timely to the nonfinal Office action mailed June 25, 2004, which set a three-month shortened statutory period for reply. A Notice of Abandonment was mailed on February 3, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition 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 Application No. 11/217,549, filed September 1, 2005.

The Office notes there is no indication in the record that Jonathan Spangler was ever empowered to prosecute this application or that a change of correspondence address was filed. As a courtesy, the Office will mail a copy of this decision to the address listed on the petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: Gifford, Krass, Groh, Sprinkle, Anderson & Citkowski, P.C.
280 N. Old Woodward Ave, Suite 400
Birmingham MI 48009-5394

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Suite 100
2900 Thomas Avenue S.
Minneapolis MN 55416

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AUG 15 2008

In re Application of	:	
Kucharczyk et al.	:	
Application No.: 10/444884	:	ON PETITION
Filing or 371(c) Date: 05/23/2003	:	
Title of Invention:	:	
CELL DELIVERY CATHETER	:	
AND METHOD	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 C.F.R. § 1.137(a), filed June 6, 2008. Petitioner requests alternative treatment of the petition under 37 CFR 1.137(b), for Revival of an Application for Patent Abandoned Unintentionally.

This Petition Under 37 C.F.R. § 1.137(a) is hereby **dismissed**.

This Petition Under 37 C.F.R. § 1.137(b) is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the Notice of Non-Compliant Appeal Brief (Notice), mailed September 21, 2007. The Notice 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 October 22, 2007. A Notice of Abandonment was mailed June 26, 2008.

The present petition under 37 CFR 1.137(a)

Petitioner files the present petition and states that the Notice was not received. Petitioner states that the Notice was addressed to the previous counsel, who did not forward the Notice to Petitioner. Petitioner includes a copy of what is believed to be a Change of Attorney form filed by previous counsel, but states that the form was either not filed or not entered in record of the present application. Petitioner avers that the failure to reply to the Notice was unavoidable because the Notice was not sent to Petitioner; previous counsel did not forward a copy of the

Notice to Petitioner. Petitioner requests alternatively that the petition be treated as a petition to revive an inadvertently late Brief on Appeal based upon the same facts.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) as set forth above. As to item (**3**), a showing of non-receipt of an Office communication may form the basis for revival of an application based upon unavoidable delay.

The MPEP provides:

> 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. For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied).

MPEP 711.03(c)

Analysis

Initially it is noted that a review of Office records for the present application reveal that no Change of Attorney Correspondence/Power of Attorney has been filed in this application on or about February 21, 2005. It is also noted that the Change of Attorney Correspondence/Power of

Attorney was filed by inventor John Kucharczyk only. Office records reveal that the inventors of record in the present application are John Kucharczyk, George T. Gilles, William C. Broaddus and Helen L. Fillmore. Office records further reveal that the inventors appointed the law firm of Beck & Tysver to prosecute the application.

37 CFR 1.32(b), states that a power of attorney must:
(1) Be in writing;
(2) Name one or more representatives in compliance with (c) of this section;
(3) Give the representative power to act on behalf of the principal; and
(4) Be signed by the applicant for patent (§ 1.41(b)) or the assignee of the entire interest of the applicant.

37 CFR 1.41(b) defines applicant "the inventor or joint inventors who are applying for a patent, or to the person mentioned in §§ 1.42, 1.43 or 1.47 who is applying for a patent in place of the inventor."

Petitioner is advised that the Power of Attorney filed with the petition and executed by less that all of the inventors, may NOT be entered. The following is provided:

> Papers giving or revoking a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(f) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney. (Emphasis supplied).

MPEP 402.10

Finally, the MPEP states that "[w]here an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). See 37 CFR 11.11. The notification should also include his or her telephone number." MPEP 601.03

Here, Petitioner files a copy of what is believed to be a Change of Attorney form filed by previous counsel; however, Petitioner provides no documentary evidence that supports a prompt filing of a proper change of correspondence address by the applicant or the applicant's attorney.

The Unavoidable Standard

As to item **(3)**, Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a

grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he 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 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Analysis

Again it is noted that Petitioner files a copy of what is believed to be a Change of Attorney form filed by previous counsel; however, as stated above, the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.

Conclusion

The evidence has been considered, and while the failure to timely file a proper power of attorney/change of correspondence address may be said to have been unintentional, Petitioner has failed to demonstrate that it was unavoidable. The petition is dismissed.

Petition under 37 CFR 1.137(b)

Applicant files the present petition, and an Appeal Brief in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 3767 for processing of the reply to the Notice filed with the petition on June 6, 2008, in the normal course of business.

The fee for the petition under 37 CFR 1.137(b) has been charged to Petitioner's deposit account as authorized in the Letter filed with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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Smith, Gambrell & Russell, LLP
Promenade II, Suite 300
1230 Peachtree Street, NE
Atlanta, GA 30309

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OFFICE OF PETITIONS

In re Application of:
Bobby Hsiang-Hua Chung, et. al.
Application No. 10/444,888
Filed: May 23, 2003
Attorney Docket No. 029260.005

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**.

The Office acknowledges receipt of the Request for Continued Examination (RCE) under 37 CFR 1.114 and the Amendment filed October 4, 2004, which is in response to the final Office action mailed July 13, 2004.

This file is being forwarded to Technology Center Art Unit 3713, for processing the RCE and for review of the amendment filed with the instant petition.

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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Paper No. 4

CHRISTIE PARKER & HALE, LLP
P.O. BOX 7068
PASADENA, CA 91109-7068

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NOV 03 2003

OFFICE OF PETITIONS

In re Application of
Fackrell Willis et al
Application No. 10/444,895
Filed: May 23, 2003
Attorney Docket No. 50142/RVW/M288

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 3671.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MAR 16 2005

TECHNOLOGY CENTER 3600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of
Steve Grove et al.
Application No. 10/444,916 :
Filed: May 22, 2003 :
For: SYSTEM AND METHOD FOR SUBMITTING AN OFFER TO PURCHASE OVER A NETWORK-BASED COMMERCE FACILITY :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must 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) 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);
C) 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;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

10/444,916

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), The statement included in the request, "Discontinuation of attorney client relationship," does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). The attorney may not discontinue the attorney client relationship on his own accord.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/slb: 01/13/05

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SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
GRAVES, Kenneth P. et al,	:	
Application No. 10/444,920	:	DECISION ON PETITION
Filed: May 23, 2003	:	TO WITHDRAW
Attorney Docket No. **GCSD-2318/61737**	:	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 23, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Schnader Harrison Segal & Lewis, LLP has been revoked by the assignee of the patent application on May 25, 2010. 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 the undersigned at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST**
255 S ORANGE AVENUE
SUITE 1401
ORLANDO FL 32801

UNITED STATES PATENT AND TRADEMARK OFFICE

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ZIMMER TECHNOLOGY - BAKER & DANIELS
111 EAST WAYNE STREET, SUITE 800
FORT WAYNE, IN 46802

Mail Date: 04/21/2010

Applicant	: Daniel F. Justin	: DECISION ON REQUEST FOR
Patent Number	: 7615081	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/444,927	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **196** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-02-08

TO SPE OF : ART UNIT 2862

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/444982** Patent No.: **7186039**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

PATRICK ASSOUAD
SUPERVISORY PATENT EXAMINER

SPE — **Art Unit** 2862

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Melanie McCollum
Oliff & Berridge, PLC
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Bhudev C. Das et al.	:	
Application No. 10/444,988	:	DECISION ON PETITION
Filed: May 27, 2003	:	TO WITHDRAW
Attorney Docket No. 116007	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie L. McCollum: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Melanie L. McCollum has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The address of record remains unchanged.

The attorneys/agents of record remains unchanged.

There is an outstanding Office action mailed June 15, 2006 that requires a reply from the attorneys/agents of record.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

BICH VAN NGUYEN
7969 BRIGHTLIGHT PLACE
ELLICOTT CITY, MD 21043

In re Application of
Bich Van Nguyen
Application No. 10/445,011
Filed: May 27, 2003
Attorney Docket No: SKIN-1

ON PETITION

This is a decision on the petition filed February 16, 2005, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on September 7, 2004, for failure to file a timely response to the non-Final Office Action mailed June 3, 2004. The office action set a three month shortened statutory period. Accordingly, a Notice of Abandonment was mailed on January 10, 2005.

Petitioner asserts that a response to the non-Final Office Action was timely filed and includes a copy of the response and one month extension of time request. Petitioner argues however that although the other identifiers were present on the response, an incorrect serial number was used in the communication of that response and therefore must not have been matched.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, petitioner is correct that other identifiable information was found to be on the papers filed as the response. As such, the papers were matched with the correct application and thus the response was timely. A review of the file reveals the response filed September 7, 2004 in the correct application file.

Accordingly, the Notice of Abandonment mailed January 10, 2005 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged. The extension of time fee filed with the instant petition is not necessary and will be refunded in due course since the extension of time fee filed with the September 7, 2004 response is of record.

This matter is being referred to Technology Center 3736 for treatment of the response filed September 7, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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BIRCH VAN NGUYEN
7969 BRIGHT LIGHT PLACE
ELLICOTT CITY MD 21043

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Bich Van Nguyen	:	
Application Number: 10/445011	:	DECISION ON PETITION
Filing Date: 05/27/2003	:	
Attorney Docket Number: SKIN-1	:	

This is a decision on the petition filed on 25 September, 2007, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 7 June, 2007, for failure to file a timely and proper reply to the final Office action mailed on 6 March, 2007, which set a three (3) month shortened statutory period for reply. On 5 June, 2007, an amendment after final rejection was filed. The amendment did not place the case in condition for allowance, however, and an Advisory Action was mailed on 26 June, 2007. The filing of the present petition precedes the mailing of Notice of Abandonment.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Petitioners have filed a Request for Continued Examination (RCE) and indicated that the previously filed amendment after final rejection is the submission required under 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 3735 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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Paper No. 4

MILLEN WHITE ZELANO & BRANIGAN PC
2200 CLARENDON BLVD
SUITE 1400
ARLINGTON VA 22201

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of Bouhadir, et al. Application No. 10/445,026 Filed: May 27, 2003 Attorney Docket No. UMICH-7 D1	: : : : :	DECISION GRANTING PETITION

This is a decision on the "Petition for Finding of Complete Application and Grant of Original Filing Date", filed August 25, 2002, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of May 27, 2003.

The application was filed on May 27, 2003, as a divisional application of application no. 09/830,955. However, on July 24, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", stating that the application had not been accorded a filing date because the application was deposited without drawings. In addition, the Notice advised applicant that the application was informal because it was deposited without an abstract.

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is <u>not</u> necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application

filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims, namely claims 17-21 and claims 27 - 28.

Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In view of the above, the "Notice of Incomplete Nonprovisional Application" mailed July 24, 2003, was mailed in error and is hereby **VACATED**.

The above-identified application is accorded a filing date of May 27, 2003, as requested in the petition.

Furthermore, MPEP § 201.06(c)(B) states that if an "application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification and/or drawing figure(s)...may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s)." Accordingly, the examiner will make the determination whether the drawings submitted on petition contain new matter.

Given the basis for granting this petition, no petition fee was necessary, and none has been charged.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of May 27, 2003, and for indication on the file wrapper label that "0" sheets of drawings were present on filing. Thereafter the application will be forwarded to the examiner to consider whether the drawings filed on petition contain new matter in light of the incorporation by reference of parent application no. 09/830,955.

Telephone inquiries specific to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

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OFFICE OF PETITIONS

In re Application of Bollepalli :
Application No. 10/445,074 : Decision on Petition
Filing Date: May 23, 2003 :
Attorney Docket No. 03234.0018U2 :

This is a decision on the petition under 37 CFR 1.182 filed October 20, 2006, requesting a change in the citizenship and name of the sole inventor.

The petition is **granted**.

The inventor has become a U.S. citizen since the filing of the application. Petitioner requests Office records show the inventor is a U.S. citizen. Office records have been changed to reflect the inventor's new citizenship.

Office records have been changed to show the inventors name as "Srinivas Bollepalli" rather than "Bollepalli Srinivas."

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

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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	TOT CLMS	IND CLMS
10/445,074	05/23/2003	1751	1682	03234.0018U2	56	4

CONFIRMATION NO. 9824
CORRECTED FILING RECEIPT
OC000000022773826
OC000000022773826

23859
NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

Date Mailed: 03/07/2007

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)

Srinivas Bollepalli, Marietta, GA;

Power of Attorney: The patent practitioners associated with Customer Number **23859**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/382,665 05/23/2002

Foreign Applications

If Required, Foreign Filing License Granted: 03/06/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/445,074

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Sulfonated conducting polymer-grafted carbon material for fuel cell applications

Preliminary Class

252

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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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Lippitt et al.	:	
Application No. 10/445,086	:	
Filed: May 27, 2003	:	DECISION ON
Title of Invention:	:	PETITION
METHOD OF MAKING A MEDICAL GRASPER	:	

This is a decision in response to the correspondence filed November 4, 2005, alleging non-receipt of the Notice of Allowance and issue Fee Due, and asserting that the delay in paying the issue fee was unintentional. The correspondence is treated as a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment based upon non-receipt of the office communication, and alternatively as a petition to revive the patent application based upon an unintentionally delayed payment of the issue fee under 37 CFR 1.137(b).

The Petition under 37 CFR 1.181(a) is hereby **dismissed**.

The Petition under 37 CFR 1.137(b) is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability ("Notice"), mailed April 4, 2005. The Notice(s) set a non-extendable three (3) month period

for reply. No reply having been received, the application became abandoned on July 5, 2005. A Notice of Abandonment was mailed September 26, 2005.

Petition under 37 CFR 1.181(a)

Applicant files the instant petition wherein Applicant avers that non-receipt of the Notice.

Applicant is advised that an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.

2. A copy of the file jacket or 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 Applicant's statement.

Accordingly, Applicant's assertion, that the Office action was not received, is insufficient to justify withdrawing the holding of abandonment. Applicant must also attest to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and provide a copy of the docket record (or file jacket) where the non-received Notice would have been entered had it been received and docketed.

Petition under 37 CFR 1.137(b)

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed); (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (**1**).

As to item (1), Applicant has not submitted a proper reply to the Notice of Allowability. The Notice of Allowability required corrected drawings, including changes requires by the Examiner's Amendment. Applicant may view the Notice on the PAIR system.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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United States Patent and Trademark Office
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P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Lippitt et al.	:	
Application No. 10/445,086	:	
Filed: May 27, 2003	:	DECISION ON
Title of Invention:	:	PETITION
METHOD OF MAKING A MEDICAL GRASPER	:	

This is a decision in response to the Renewed Petition Under 37 CFR 1.181(a) and 37 CFR 1.137(b) for Unintentionally Delayed Payment of the Issue Fee.

The Petition under 37 CFR 1.181(a) is hereby **granted**.

The Petition under 37 CFR 1.137(b) is hereby **dismissed as moot**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability ("Notice"), mailed April 4, 2005. The Notice(s) set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on July 5, 2005. A Notice of Abandonment was mailed September 26, 2005.

Applicant filed a petition under 37 CFR 1.181 on November 4, 2005, to withdraw the holding of abandonment based upon non-receipt of the office action, or in the alternative under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

The petition under under 37 CFR 1.181 was dismissed, and the petition under 37 CFR 1.137(b) was held in abeyance pending final resolution of the petition under 37 CFR 1.181.

The instant Renewed Petition under 37 CFR 1.181

With the instant petition, Petitioner has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

A refund of the fee for the petition under 37 CFR 1.137(b) has been credited to deposit account 23-1925 as authorized in the Transmittal Form filed with the petition on November 4, 2005.

The application will be referred to Publishing Division for processing of the response/drawings and for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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P.O. Box 10395
Chicago, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Lippit et al.	:	DECISION ON REQUEST FOR
Pat. Num.: 7,210,210	:	RECONSIDERATON OF
Issue Date: 05/01/2007	:	PATENT TERM ADJUSTMENT
Application No. 10/445086	:	and
Filed: 05/27/2003	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number:	:	CERTIFICATE OF CORRECTION
10922/173	:	

This is a decision on the "Application for Patent Term Adjustment and Request for Review of Patent Term Adjustment", filed April 27, 2007

The request for Reconsideration of patent term adjustment ("PTA") under 37 CFR 1.705(d) is hereby **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 thirty-three **(233)** days.

On May 1, 2007 the above-identified application matured into U.S. Patent No. 7,210,210. The Patent issued with a revised Patent Term Adjustment of three hundred eighty-four (384) days. The instant request for reconsideration filed April 27, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). Patentees dispute the reductions totalling two hundred forty-three (243) days for applicant delay. Patentees state that because the Office granted their petition to withdraw the holding of abandonment they should not have been charged 243 days of delay. In addition, patentees disclose that the PTO should have been charged less delay for failure to issue the patent within four months of the payment of the issue fee.

On Applicant delay

With respect to the 243 days of reduction for applicant delay, patentees' arguments have been considered and found partly persuasive. A period of reduction of 123 days was entered pursuant to 37 CFR 1.704(b) for applicant taking in excess of three months to pay the issue fee after the mailing of the notice of allowance on April 4, 2005. However, patentees on petition filed August 3, 2006 made a persuasive showing that the notice of allowance was never received. (See decision granting petition to withdraw holding of abandonment mailed September 29, 2006). Under the circumstances, entry of the period of reduction of 123 days is not warranted and is being removed.

It is noted that the Notice of Abandonment was mailed on September 26, 2005. As the petition to withdraw the holding of abandonment was filed within two months, on November 4, 2005, entry of a period of reduction pursuant to 37 CFR 1.704(c)(4)[1] was properly not entered.

With respect to the period of reduction of 120 days, patentees filed corrected drawings on August 3, 2006. The filing of the corrected drawings resulted in a delay of 120 days attributed to Patentees under 37 CFR 1.704(c)(10), which states

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
> (ii) Four months;

There is no dispute that the corrected drawings were filed after the mailing of the notice of allowance. Regardless of whether the Notice was received, the drawings were filed after the mailing. The Office therefore correctly attributed the delay of 120 days (four months). Patentees are reminded that it was Patentees' responsibility to file correct drawings in the first instance. The period of reduction for Patentee's delay under 37

[1] 37 CFR 1.704(c)(4) establishes failure to file a petition to withdraw a holding of abandonment or to revive an application within two months from the mailing date of a notice of abandonment as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

CFR 1.704(c)(10) is correctly calculated as one hundred twenty (120) days.

On Office delay

The Office delay of 423 days, however, was incorrectly calculated under 37 CFR § 1.702(a)(4), for failure to

> issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

Here, all outstanding requirements were satisfied with the filing of corrected drawings on August 3, 2006. Under 37 CFR § 1.702(a)(4), the period of delay began after four months after the date on which the corrected drawings, filed August 3, 2006, were filed. The correct period of Office delay under 37 CFR § 1.702(a)(4), began on December 4, 2006, and ended on May 1, 2007, for a total of one hundred forty-nine (149) days. The period of adjustment of 423 days is being removed and the period of adjustment of 149 days entered.

In this instance, the application for patent was filed May 27, 2003, and the patent issued May 1, 2007. Therefore, the delay pursuant to 37 CFR 1.702(b) is three hundred thirty-nine (339) days. However, patentees are advised that any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent, will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay totalling 339 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 353 days attributable to grounds specified in §§ 1.702(a)(1) and (a)(4). Thus, no additional period of adjustment was entered beyond the 353 days.

In view thereof, the patent should have issued with a revised patent term adjustment of 233 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **TWO HUNDRED THIRTY-THREE (233) DAYS**.

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods, at (571) 272-3232.

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 : 7,210,210 B2

DATED : **May 1, 2007**

INVENTOR(S) : Lippitt et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 384 days

Delete the phrase "by 384 days" and insert – by 233 days--

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Needle & Rosenberg, P.C.
Suite 1000
999 Peachtree Street
Atlanta, GA 30309-3915

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OFFICE OF PETITIONS

In re Application of	:	
Srinivas Bollepalli	:	
Application No. 10/445,090	:	DECISION ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. 03234.0017U2	:	

This is a decision on the petition under 37 CFR 1.182, filed, October 20, 2006, to change the name of inventor "Bollepalli Srinivas" to "Srinivas Bollepalli".

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, was previously mailed on November 21, 2006.

This application is being referred to the Office of Publications to await a response to the Notice of Allowance and Fee(s) Due mailed October 4, 2006.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

ONE WORLD TRADE CENTER, SUITE 1600
121 S.W. SALMON STREET
PORTLAND, OREGON 97204

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AUG 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Tejendra M. Singh :
Application No. 10/445,098 :
Filed: May 23, 2003 :
Attorney Docket No. 3533-61764

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 1700.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OIPE JC117
FEB 0 9 2004
PATENT & TRADEMARK OFFICE

Paper No. 10

ATTN: PATENT DEPARTMENT
KYOCERA WIRELESS CORP.
P.O. BOX 928289
SAN DIEGO, CA 92192

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OCT 0 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Tran, et al.	:	
Application No. 10/120,603	:	ON PETITION
Filed: April 9, 2002	:	
Attorney Docket No. UTL 00192	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 26, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before June 25, 2003. Accordingly, this application became abandoned on June 26, 2003. A Notice of Abandonment was mailed on July 30, 2003.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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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
10/445,107	05/23/2003	2821	1054	UP1 00192	8	25	4

CONFIRMATION NO. 2135

CORRECTED FILING RECEIPT

OC000000012004780

Kyocera Wireless Corp.
Attn: Patent Dept.
PO Box 928289
San Diego, CA 92192-8289

Date Mailed: 03/02/2004

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)

Jay Jenwatanavet, San Diego, CA;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/120,603 04/09/2002 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 08/18/2003

Projected Publication Date: 03/25/2004

Non-Publication Request: No

Early Publication Request: No

Title

Inverted-F antenna

Preliminary Class

343

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

EDWARD C. KWOK
MACPHERSON KWOK CHEN & HEID LLP
2001 GATEWAY PLACE, SUITE 195E
SAN JOSE CA 95110

In re Application of	:	
Jovanovic, et al.	:	
Application No. 10/445,111	:	DECISION ON PETITION
Filed: 23 May, 2003	:	
Attorney Docket No. M-15085 US	:	

This is a decision on the petition filed 22 September, 2003, and styled "Response to Notice to File Corrected Application Papers" requesting that the heretofore absent Fig. 20 be accorded a filing date of 23 May, 2003, and considered under the provisions of 37 C.F.R. §1.53.

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.

BACKGROUND

The application was deposited with the Office on 23 May, 2003.

On 17 July, 2003, the Office mailed a Notice to File Corrected Application Papers–Filing Date Granted, indicating, *inter alia*:

- Petitioner's drawings did not conform to regulatory requirements and new drawings were required; and
- Fig. 20, as described in the specification was missing from the application as deposited.

The Notice reminded Petitioner that the alternatives available under the Rules of Practice were to:

- submit evidence of actual deposit of the missing Fig. 20 at the time the application was deposited with the Office; or
- submit the missing Fig. 20 and accept the date of that submission as the filing date of the application.

For reasons unexplained, Petitioner has done neither. Rather, Petitioner has submitted the missing Fig. 20, and acknowledged that: "Figure 20 described in the specification was inadvertently omitted when the nonprovisional application papers were deposited in the U.S. Patent and Trademark Office."

Notwithstanding his acknowledgment, Petitioner contends, erroneously, that the entire application–including Fig. 20–may now obtain a 23 May, 2003, filing date.

ANALYSIS

A review of the application papers reveals that the application in fact was filed and received in the Office on 23 May, 2003, and that at the deposit Fig. 20 was missing from the application.

This, of course, is consistent with Petitioner's acknowledgment.

Accordingly, the "Notice of Omitted Item(s)" mailed on 17 July, 2003, was correct in stating that Fig. 20 described in the specification had been omitted. Therefore, the notice of omission included in the Notice to File Corrected Application Papers was properly included and mailed, and it will not be withdrawn.

Accordingly, the petition under 37 C.F.R. §1.53(b) is **dismissed**, and the petition fee is charged to Deposit Account 50-2257 as authorized. (Because the 22 September, 2003, petition was not due to an error on the part of the Office, the petition fee authorized has been charged and will not be refunded.)

In the interest of time, Petitioner may wish to submit a preliminary amendment removing references to Fig. 20, or, alternatively, with the figure as an amendment and requesting entry of that figure by the Examiner.

CONCLUSION

The petition under 37 C.F.R. §1.53 is **dismissed**, and Fig. 20 is not accorded a 23 May, 2003, filing date.

The application is being forwarded to OIPE for such processing as is necessary consistent with this decision. Thereafter the file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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Paper No. 4

Harness, Dickey, and Pierce, P.L.C.
P. O. Box 828
Bloomfield Hills, MI 48303

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NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of Tadaharu Kato Application No. 10/445,122 Filed: May 23, 2003 Attorney Docket No. 2552-000048	: : : : :	DECISION GRANTING PETITION

This is a decision on the petition filed September 11, 2003, which is being treated as a petition under 37 CFR 1.53(e) requesting that the above-identified application be accorded a filing date of May 23, 2003.

The petition is **GRANTED**.

The application was filed on May 23, 2003. However, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" on August 20, 2003 stating that the drawings appear to have been omitted, and as such, a filing date had not been accorded to the instant application papers..

Petitioner has a copy of a postcard receipt acknowledging receipt of 40 pages of specification and 9 sheets of Formal Drawings (showing Figures 1-9b) on May 23, 2003. In view thereof, the petition fee submitted with the instant petition is unnecessary. The 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 a filing date of May 23, 2003,** using the copies of the 9 sheets of drawings filed on September 11, 2003 and an indication that 9 sheets of drawings were present on filing.

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HAEMONETICS CORPORATION
400 WOOD ROAD
BRAINTREE, MA 02184-9114

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JAN 1 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael Ragusa	:	
Application No. 10/445,733	:	ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No. 1611/190	:	

This is a decision in response to the petition, filed October 3, 2008, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED** because it is unsigned. It appears that the petition was intended to be signed by the attorney of record, John F. Perullo.

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.

Further, 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)(II)(C) and (D).

The petition lacks the unintentional delay statement noted in item (3) since the petition containing the statement of unintentional delay is not signed.

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 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 any omissions noted above.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By Internet: EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 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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Paper No. 4

MAIL

NOV - 6 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH CA 92660

In re Application of:
HIOK NAM TAY
Application No. 10/445,143
Filed: May 23, 2003
For: **IMAGE SENSOR WITH DARK SIGNAL REDUCTION**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed September 5, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) submit a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b)-(c), how the claimed subject matter is patentable over the references.

The petition does not meet requirements (4) and (5) listed above.

Accordingly, the petition is **DENIED**.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. No further petition fee is required.

The application is being forwarded to the group Central Files and will await action in its regular turn.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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MAIL

Paper No. 6

MAR 25 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH CA 92660

In re Application of)
Hiok Nam Tay)
Application No. 10/445,143)
Filed: May 23, 2003)
For: **IMAGE SENSOR WITH DARK SIGNAL REDUCTION**)

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the supplemental petition filed on January 2, 2004. The supplemental petition is treated as a request for reconsideration of the original Petition (supplemented by the submission of January 2, 2004) pursuant to Manual of Patent Examination Procedure §708.02, section VIII, request for accelerated examination,.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner has met all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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MAY 21 2004

EZRA SUTTON, PA
PLAZA 9
900 ROUTE 9
WOODBRIDGE NJ 07095

In re Application of	:
Isidore Bale	:
Serial No.: 10/445,148	: PETITION TO MAKE SPECIAL
Filed: May 23, 2003	:
Attorney Docket No.: ALKALINE 3.0-001	:

This is in response to applicants' petition filed May 23, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted: Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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JAN - 8 2004

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JAN - 8 2004

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OFFICE OF THE DIRECTOR
TC 3600

KELLY BAUERSFELD LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

Paper No. 4

In re application of
Erwin Cheldin
Application No. 10/445,172
Filed: May 20, 2003
For: GOLF BAG WITH DETACHABLE WHEEL ASSEMBLY

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on May 20, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age. The delay in deciding this petition is sincerely regretted.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a statement from the applicant stating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3686

SNM/cps 12/31/03

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KELLY LOWRY & KELLEY
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

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MAR 1 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Erwin Cheldin	:	
Application No. 10/445,172	:	ON PETITION
Filed: May 20, 2003	:	
Attorney Docket No. ERKIE-42647	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 15, 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 Notification of Non-Compliance With 37 CFR 1.192(c) (Notice) mailed October 29, 2004. 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 December 30, 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 18, 2005 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 3618.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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Kevin L. Russell
Suite 1600
601 SW Second Ave.
Portland OR 97204-3157

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OFFICE OF PETITIONS

In re Patent No. 7,057,404
Issue Date: June 6, 2006
Application No. 10/445,174
Filed: May 23, 2003
Attorney Docket No. 1016.2004

ON PETITION

This is a decision on the petition filed February 28, 2008, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Cascade Microtech, Inc."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records do not disclose that an assignment to Cascade Microtech, Inc. was recorded on before the date of issuance of this patent. Also, the petition does not state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent. Accordingly, since the assignment was not submitted for recordation before issuance of this patent, issuance of a certificate of correction would not be proper.

Furthermore, since the petition has been processed, the processing fee set forth in § 1.17(i) ($130.00) has been charged to deposit account no. 03-1550 as authorized in the petition.

Telephone inquiries concerning this decision on petition should be directed to Christopher Bottorff at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN ME 04444-0726

In re Application of	:	
Masaaki Harasawa et al	:	
Application No. 10/445,182	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. 4530/CON	:	

This is a decision on the petition, filed April 20, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 10, 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 2833 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 4

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

In re Application of
Tosaka, et al.
Application No.10/445,189
Filed: May 27, 2003
Attorney Docket No. 116002

DECISION GRANTING PETITION

This is a decision on the petition filed October 10, 2003, requesting that the above-identified application retain the presently accorded a filing date of May 27, 2003, with page 35 of the specification as part of the original disclosure.

On May 27, 2003, the above-identified application was filed. On August 22, 2003, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of May 27, 2003, however, page 35 of the specification appeared to have been omitted. Relative to the omitted item, the Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on October 10, 2003, applicants filed the present petition and a copy of an Office date-stamped postcard showing that, among other items, 39 pages of the specification were received on May 27, 2003.

Upon review of the record, page 35 of the specification has not been located among the application papers. However, the evidence is convincing that the application papers deposited May 27, 2003, included page 35, which was subsequently misplaced by the Office. Therefore, the application, including page 35 of the specification, was complete on filing and entitled to the presently accorded filing date of May 27, 2003.

Accordingly, the petition is granted; the Notice is vacated, accordingly. The petition fee of $130.00 will be refunded in due course.

The executed declaration filed October 10, 2003, is noted and made of record.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of May 27, 2003, using the 39 pages of specification filed May 27, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,420,783 B2
Serial No. : 10/445,208
Inventor(s) : Byun et al.
Issued : September 2, 2008
Title : **SLIM ACTUATOR AND SLIM MICRO-DRIVE APPARATUS COMPRISING THE SAME**
Docket No. : **030681-515**

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.

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.

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**

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

ecw

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PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Emma Amelia Durand et al	:	
Application No. 10/445,245	:	
Filed: May 27, 2003	:	
Attorney Docket No. P 0300760	:	

This is a decision on the petition, filed November 17, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3643 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

FAX RECEIVED
CANCELLED
FEB 08 2005

OFFICE OF PETITIONS
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FEB 08 2005
OFFICE OF PETITIONS

In re Application of :
Srinivas Bollepalli et al :
Application No. 10/445,273 : ON PETITION
Filed: May 23, 2003 :
Attorney Docket No. 03234.0016U2 :

This is a decision on the petition, filed January 18, 2005, to change one of the named inventors.

The petition is granted.

The name of one of the named inventors will be changed from "Bollepalli Srinivas" to "Srinivas Bollepalli."

A copy of the corrected filing receipt is enclosed.

Telephone inquiries concerning this matter may be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1754 for examination in due course.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Lumen Intellectual Property Services, Inc.
2345 Yale Street, 2nd Floor
Palo Alto, CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
Mark J. Bly, et al.	:	
Application No. 10/445,276	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. S02-081	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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PAPER NO. 6

KRIEGSMAN & KRIEGSMAN
665 FRANKLIN STREET
FRAMINGHAM, MA 01702

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OFFICE OF PETITIONS

IN RE APPLICATION OF
ALAN MICHAEL GULACHENSKI ET AL
APPLICATION NO. 10/445,283
FILED: MAY 23, 2003
ATTORNEY DOCKET NO: 82084

: DECISION NOTING JOINDER OF
:INVENTOR AND DISMISSING OF
:PETITION UNDER 37 CFR 1.47(A)
:AS MOOT

THIS IS IN RESPONSE TO THE PETITION UNDER 37 CFR 1.47(A), FILED DECEMBER 22, 2003 AND IN RESPONSE TO THE PAPERS FILED ON JANUARY 26, 2004, WHICH INCLUDED A DECLARATION SIGNED BY PREVIOUSLY NONSIGNING INVENTOR GULACHENSKI IN COMPLIANCE WITH 37 CFR 1.63.

IN VIEW OF THE JOINDER OF THE INVENTOR, FURTHER CONSIDERATION UNDER 37 CFR 1.47(A) IS MOOT; THIS APPLICATION DOES NOT HAVE ANY RULE 1.47(A) STATUS AND NO SUCH STATUS SHOULD APPEAR ON THE FILE WRAPPER. THIS APPLICATION NEED NOT BE RETURNED TO THIS OFFICE FOR ANY FURTHER CONSIDERATION UNDER 37 CFR 1.47(A).

IT IS NOTED THAT THE DECLARATION CONTAINS ALTERATIONS. ACCORDINGLY, PETITIONER SHOULD SUBMIT A SUBSTITUTE DECLARATION OR AT SUCH TIME AS MAY BE REQUIRED BY THE EXAMINER.

THIS APPLICATION IS BEING FORWARDED TO TECHNOLOGY CENTER AU 2818 FOR EXAMINATION IN DUE COURSE.

INQUIRIES RELATED TO THIS DECISION MAY BE ADDRESSED TO THE UNDERSIGNED AT (703) 305-8680.

Frances Hicks
FRANCES HICKS
LEAD PETITIONS EXAMINER
OFFICE OF PETITIONS
OFFICE OF THE DEPUTY COMMISSIONER
FOR PATENT EXAMINATION POLICY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 4

OGILVY RENAULT
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A 2Y3 CA CANADA

COPY MAILED

NOV 19 2003

OFFICE OF PETITIONS

In re Application of Nicholas Villeneuve Application No. 10/445,315 Filed: May 27, 2003 Attorney Docket No. 13747-47US CMB/al	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to petition under 37 CFR 1.47(b), filed March 25, 2003 (Certificate of Mailing dated March 21, 2003).

The petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 27, 2003, without an executed oath or declaration or the statutory basic filing fee. Accordingly, on July 23, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, a surcharge for its late filing, and the statutory basic filing fee. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(b) on October 23, 2003, and included an authorization to charge both the petition fee, the surcharge for late filing of the declaration, and the statutory basic filing fee to his deposit account. Accordingly, the $130 petition fee, $65 surcharge for late filing of the declaration, and $385 statutory basic filing fee have been charged to Deposit Account No. 19-5113. In addition, as Rule 47 applicant also included a general authorization to charge any necessary fees to his deposit account, the $55 fee for a one month extension of time, necessary to make the petition timely, has also been charged to the deposit account.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

There is no indication that applicant has submitted an **executed** declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 CFR 1.63. As set forth in MPEP 409.03(b), the "37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175." The declaration must be executed, and must identify the full name, residence, post office address, and citizenship of the nonsigning inventor. In addition, the title or position of the person signing must be stated if signing on behalf of a corporation. A corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 409.03(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

OGILVY RENAULT
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A 2Y3 CA CANADA

COPY MAILED

APR 2 2 2004

OFFICE OF PETITIONS

In re Application of Nicholas Villeneuve Application No. 10/445,315 Filed: May 27, 2003 Attorney Docket No. 13747-47US CMB/al	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed January 20, 2004.[1]

The renewed petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 27, 2003, without an executed oath or declaration or the statutory basic filing fee. Accordingly, on July 23, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, a surcharge for its late filing, and the statutory basic filing fee. This Notice set a two-month period for reply.

---

[1] This petition was apparently lost by the Office. Petitioner filed a copy via facsimile on April 14, 2004, together with a USPTO stamped and itemized receipt, showing that the petition was previously filed on January 20, 2004. January 20, 2004 was the last day petitioner could timely reply without an extension of time, as January 19, 2004 was a federal holiday. See 37 CFR 1.7(a).

In reply, applicant filed a petition under 37 CFR 1.47(b) on October 23, 2003, and included an authorization to charge the petition fee, the surcharge for late filing of the declaration, the statutory basic filing fee, and an extension of time to his deposit account. However, the petition was dismissed in a decision mailed on December 23, 2003, because petitioner did not submit an executed oath or declaration.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

As to requirement (2), petitioner has not submitted an oath or declaration in compliance with 37 CFR 1.63.

> Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).[2]

Here, while the declaration states the title of Brian Barry, the person signing the declaration on behalf of the corporation, the declaration does not state Barry's residence, post office address, or citizenship.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

---

[2] MPEP 409.03(b).

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UNITED STATES PATENT AND TRADEMARK OFFICE

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SWABEY OGILVY RENAULT
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APR 3 0 2004
A.M. 7 8 9 10 11 12 1 2 3 4 5 6 P.M.

Paper No. 6

REQ. FOR RECONSIDERATION OF PETITION:
DUE ON JUN 2 2 2004

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APR 2 2 2004
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JUN 2 5 2004
OFFICE OF PETITIONS

OGILVY RENAULT
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A 2Y3 CA CANADA

RECEIVED
JUN 2 5 2004
OFFICE OF PETITIONS

In re Application of
Nicholas Villeneuve
Application No. 10/445,315
Filed: May 27, 2003
Attorney Docket No. 13747-47US
CMB/al

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed January 20, 2004.[1]

The renewed petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 27, 2003, without an executed oath or declaration or the statutory basic filing fee. Accordingly, on July 23, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, a surcharge for its late filing, and the statutory basic filing fee. This Notice set a two-month period for reply.

---

[1] This petition was apparently lost by the Office. Petitioner filed a copy via facsimile on April 14, 2004, together with a USPTO stamped and itemized receipt, showing that the petition was previously filed on January 20, 2004. January 20, 2004 was the last day petitioner could timely reply without an extension of time, as January 19, 2004 was a federal holiday. See 37 CFR 1.7(a).

In reply, applicant filed a petition under 37 CFR 1.47(b) on October 23, 2003, and included an authorization to charge the petition fee, the surcharge for late filing of the declaration, the statutory basic filing fee, and an extension of time to his deposit account. However, the petition was dismissed in a decision mailed on December 23, 2003, because petitioner did not submit an executed oath or declaration.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

As to requirement (2), petitioner has not submitted an oath or declaration in compliance with 37 CFR 1.63.

> Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).[2]

Here, while the declaration states the title of Brian Barry, the person signing the declaration on behalf of the corporation, the declaration does not state Barry's residence, post office address, or citizenship.

Further correspondence with respect to this matter should be addressed as follows:

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Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

---

[2] MPEP 409.03(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

OGILVY RENAULT
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MONTREAL QC H3A 2Y3 CA CANADA

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of Nicholas Villeneuve Application No. 10/445,315 Filed: May 27, 2003 Attorney Docket No. 13747-47US CMB/al	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed January 20, 2004.[1]

The renewed petition under 37 CFR 1.47(b) is **GRANTED**.

The above-identified application was filed on May 27, 2003, without an executed oath or declaration or the statutory basic filing fee. Accordingly, on July 23, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, a surcharge for its late filing, and the statutory basic filing fee. This Notice set a two-month period for reply.

---

[1] This petition was apparently lost by the Office. Petitioner filed a copy via facsimile on April 14, 2004, together with a USPTO stamped and itemized receipt, showing that the petition was previously filed on January 20, 2004. January 20, 2004 was the last day petitioner could timely reply without an extension of time, as January 19, 2004 was a federal holiday. See 37 CFR 1.7(a).

In reply, applicant filed a petition under 37 CFR 1.47(b) on October 23, 2003, and included an authorization to charge the petition fee, the surcharge for late filing of the declaration, the statutory basic filing fee, and an extension of time to his deposit account. However, the petition was dismissed in a decision mailed on December 23, 2003, because petitioner did not submit an executed oath or declaration. Petitioner filed a renewed petition on January 20, 2004. However, this petition was also dismissed in a decision mailed April 22, 2004.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that all of the inventors cannot be reached or refuse to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; and (6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.

The instant petition has been reviewed and found to be in compliance with 37 CFR 1.47(b). The declaration filed with the petition, together with the earlier filed declaration, has been determined to be in compliance with 37 CFR 1.63.

This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the 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 forwarded to the Office of Initial Patent Examination for preexamination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NICHOLAS VILLENEUVE
1314 ST GEORGES
CHARLESBOURG
QUEBEC CANADA
G2L 1L4

COPY MAILED

JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Nicholas Villeneuve :
Application No. 10/445,315 :
Filed: May 27, 2003 : LETTER
Title: Apparatus and Method for :
Inspecting Optical Fiber End Face :

Dear Mr. Villeneuve:

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 Congo
Petitions Attorney
Office of Petitions

C. Marc Benoit (514)847-4462
Ogilvy Renault
1600 - 1981 McGill College Avenue
Montreal, Quebec H3A 2Y3

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AUG 30 2005

TECHNOLOGY CENTER 3600

G.E. Ehrlich (1995) LTD.
C/o Anthony Castorina
Suite 207
2001 Jefferson Davis Highway
Arlington, VA 22202

In re Application of Anat Canning Application No. 10/445,331 Filed: May 27, 2003 For: CROSSPLOT ANALYSIS OF A.V.O. ANOMOLIES IN SEISMIC SURVEYING	: : : :	PETITION TO ACCEPT COLOR DRAWINGS/PHOTOGRAPHS

This is a decision on applicant's petition under 37 CFR 1.184(A)(2) Filed June 28, 2005 to accept color drawings/photographs.

For the acceptance of color drawings in accordance with 37 CFR 1.184(A)(2), a petition is required which fulfills the following requirements:

(i) The appropriate fee set forth in 1.17(h),
(ii) three (3) sets of color drawings/photographs, and
(iii) amending the specification to contain the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings: "The file of this patent contains at least one drawing executed in color photography. Copies of this patent with color photographs will be provided by the Patent and Trademark Office upon request and payment of necessary fee."

Having met the requirements of 37 CFR 1.184(A)(2), the petition is **GRANTED**.

Any questions or comments with respect to the decision should be forwarded to Supervisory Patent Examiner, Jack Keith at the number listed below.

Jack Keith
Supervisory Patent Examiner
Art Unit 3663
(571) 272-6878

jwk: 8/17/05

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:		§	
	Anat CANNING	§	
Serial No.:	10/445,331	§	
Filed:	27 May 2003	§	Group Art Unit: 3663
For:	IMPROVEMENTS TO CROSSPLOT ANALYSIS OF A.V.O. ANOMOLIES IN SEISMIC SURVEYING	§	
		§	Attorney Docket: **25346**
Examiner:	Scott A. Hughes	§	

OIPE JC81 JUN 28 2005 PATENT & TRADEMARK

PETITION TO ACCEPT COLOR DRAWINGS/PHOTOGRAPHS

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

1. This Petition is for the acceptance of color drawings/photographs, both black and white and color, in this case.

2. Attached hereto are three (3) sets of color photographs on DIN size A4 sheets (21.0 by 29.7 cm) for examination, copying and archival purposes.

3. Please amend the specification by inserting the following language as the first paragraph of the specification beginning at Brief Description of the Drawings (page 13 at line 22):

--The file of this patent contains at least one drawings executed in color photograph. Copies of this patent with color photograph(s) will be provided by the Patent and Trademark Office upon request and payment of necessary fee. --

4. Please charge $ 130.00 and any additional fees, if required, to Deposit Account No. **50-1407**.

Respectfully submitted,

Martin O. Moynihan

Martin Moynihan
Registration No. 40,338

Date: June 20, 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

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA MN 55343-9185

COPY MAILED

JAN 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Davidson et al.	:	
Application No. 10/445,332	:	ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No. S63.2-12099-US02	:	

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 a Response to Restriction Requirement; (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 3700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD CO 80226

COPY MAILED
NOV 21 2006
OFFICE OF PETITIONS

In re Application of	:	
COLE	:	
Application No. 10/445,367	:	DECISION ON PETITION
Filed: May 23, 2003	:	TO WITHDRAW
Attorney Docket No. 1870	:	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 01, 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 Michael R. Henson on behalf of all attorneys of record who are associated with Customer Number 24262. All attorneys/agents associated with the Customer Number 24262 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Eric B. Cole
43535 Butler Place
Leesburg, VA 20176

cc: Sytex, Inc.
c/o Barbara Loscalzo
Vice President and General Counsel
Lockheed Martin Information & Technology Services
2339 Route 70 West
Cherry Hill, NJ 08002

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
10/445,367	05/23/2003	Eric B. Cole	1870

CONFIRMATION NO. 8859

OC000000021305645

24264
MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD, CO 80226

Date Mailed: 11/21/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006.

- 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.

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Wen-Chang Wu
235 Chung-Ho
Box 8-24
Taipei TW TAIWAN

COPY MAILED

SEP 14 2005

OFFICE OF PETITIONS

In re Application of
Wen-Chang Wu
Application No. 10/445,419
Filed: May 28, 2003
Attorney Docket No. AP3030-GVF2BA86

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed August 26, 2005, to revive the above-identified application.

This petition is hereby **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to timely file a reply to the Office Action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed February 23, 2004 which set a two (2) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 24, 2004. A Notice of Abandonment was mailed September 7, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (1).

A courtesy copy of the Office Action is enclosed.

Further Correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

enclosure

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Wen-Chang Wu
235 Chung-Ho
Box 8-24
Taipei TW TAIWAN
AIRMAIL

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MAR 1 4 2006
OFFICE OF PETITIONS

In re Application of Wen-Chang Wu Application No. 10/445,419 Filed: May 28, 2003 Attorney Docket No. AP3030-GVF2BA86	: : : : :	DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), filed November 1, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the Office Action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed February 23, 2004 which set a two (2) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 24, 2004. A Notice of Abandonment was mailed September 7, 2004. A petition was dismissed on September 14, 2005.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

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AUG 2 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Mark S. Cushman et al	:	
Application No. 10/445,430	:	NOTICE
Filed: May 27, 2003	:	
Attorney Docket No. 3220-72915	:	

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 1626 for examination in due course.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BRUCE H. TROXELL
5205 LEESBURG PIKE, SUITE 1404
FALLS CHURCH VA 22041

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JUL 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Ku, Shih-Chang	:	
Application No. 10/445,435	:	ON PETITION
Filed: May 28, 2003	:	
Attorney Docket No. 3167-124	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 21, 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 April 23, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 24, 2004. A Notice of Abandonment was mailed January 11, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Ku, Shih-Chang	:	
Application No. 10/445,435	:	ON PETITION
Filed: May 28, 2003	:	
Attorney Docket No. 4443-0279PUS1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 15, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2800 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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ANTHONY EDW. J CAMPBELL
P.O. BOX 160370
AUSTIN, TX 78716

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MAR 04 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,821,185 :
Issue Date: November 23, 2004 :
Application No. 10/445,440 :
Filed: May 28, 2003 :
Patentee(s) Euta D. Francis :

This is a decision on the petition under 37 CFR 1.378(c), filed December 9, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Euta D. Francis
5802 Snyder Avenue
Brooklyn, NY 11203

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LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Patent No. 6,880,553	:	
Issue Date: April 19, 2005	:	
Application No. 10/445,460	:	NOTICE
Filed: May 27, 2003	:	
Attorney Docket No. U014622-0	:	

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) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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Paper No. 8

JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933

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JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Castelli et al. :
Application No. 10/445,471 :
Filed: May 27, 2003 : ON PETITION
Title of Invention: :
NUTRITIONAL SUPPLEMENT BASED :
BLACKCURRENT SEED OIL :

This is a decision in response to the Petition under 37 CFR 1.137(b), filed April 26, 2004 (Certificate of Mailing dated April 23, 2004), to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed August 14, 2003, which set a two (2) month period for reply.

Applicant putatively filed a response to the Notice on November 17, 2003; and this Office mailed a Notice of Incomplete Reply in response to the putative filing, on March 23, 2004; however, no response to the August 14, 2003 Notice could be located among the application papers in the file[1].

Accordingly, the application became abandoned October 15, 2003.

With the instant petition, Applicant has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The reply to the Notice to File Corrected Application Papers is filed with the instant petition. Accordingly, the petition is granted.

[1] Assuming that a response was filed, and the front of the file jacket indicates that correspondence was filed on November 17, 2003, and further assuming that the correspondence failed to satisfy the Notice to File Corrected Application Papers, mailed August 14, 2003, the period for reply to the Notice to File Corrected Application Papers, mailed August 14, 2003, continued to run from the mail date of the Notice to File Corrected Application Papers, as indicated in the Notice of Incomplete Reply, mailed March 23, 2004.

Applicant has also filed a request for a four (4) month extension of time; however, under 37 CFR 1.136)a), a maximum of five (5) months of extensions of time may be obtained. In this instance (because the reply period was not set by statute), applicant had available five (5) months to extend the period for reply. Therefore, the maximum period for reply to the Notice to File Corrected Application Papers would have been March 14, 2004. Applicant filed the instant extension of time request on April 23, 2004, after the maximum period for reply had expired, whereby extensions of time were no longer available as the application had become abandoned.

The four (4) month extension of time fee has been refunded to deposit account 10-0750 as authorized in the instant petition.

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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OSTROLENK FABER GERB & SOFFEN
ATTORNEYS AT LAW
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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DEC 0 2 2004

OFFICE OF PETITIONS

In re Patent No. 6,713,937	:	
Issue Date: March 30, 2004	:	
Application No. 10/445,472	:	ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No. IR-2500DIV	:	

This is a decision on the petition under 37 CFR 1.182, filed October 6, 2004, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3220. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. This matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Krystal Paige, Crystal Park 3-910 (FAX 746-4642)

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EUGENIO J. TORRES
221 PLAZA BUILDING
PONCE DE LEON, SUITE 403
SAN JUAN, PR 00917

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AUG 10 2007

OFFICE OF PETITIONS

In re Application of	:	
MORALES-CENTENO	:	
Application No.: 10/445,478	:	DECISION ON PETITION
Filing Date: May 27, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: (none)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 3, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 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 and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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NOTARO & MICHALOS P.C.
Suite 110
100 Dutch Hill Road
Orangeburg NY 10962-2100

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JUN 03 2004

OFFICE OF PETITIONS

Applicant: Knecht et al.
Appl. No.: 10/445,486
Filing Date: May 22, 2003
Title: DEVICE, SYSTEM, AND METHOD FOR ASPIRATING LIQUIDS FROM SPE PLATES
Attorney Docket No.: J646-015 US
Pub. No.: US 2003/0223912 A1
Pub. Date: December 4, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on January 13, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error on the front page of the publication wherein the second inventor's residence is omitted.

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 mistake in the publication made by the Office:

The instant request identifies an error in the publication, however the mistake is not a material mistake because the technical disclosure and the claims are understandable. The error identified by applicant is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error 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 residence of the second inventor has been corrected in the Office electronic records.

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The 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(b), 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

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

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JAN 30 2007

OFFICE OF PETITIONS

In re Application	:	
Popp, et al.	:	
Application No. 10/445,487	:	DECISION ON APPLICATION
Filed: May 28, 2003	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 25002	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed November 21, 2006. Applicant request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred seventy-four (274) days to three hundred thirty-six (336) days.

The application for patent term adjustment is **DISMISSED**.

On August 23, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred seventy-four (274) days. On November 21, 2006, Applicant timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is three hundred thirty-six (336) days.

---

[1] Applicants filed the instant application for patent term adjustment together with the payment of the issue fee.

Applicants state that the the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of two hundred seventy-four (274) days based on an adjustment for PTO delay of three hundred thirty-six (336) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by sixty-two (62) days of applicant delay.

Without offering a reason why, applicants argue that they should not have been assessed sixty-two (62) days of delay for filing an IDS on September 28, 2005. The Office mailed an Office action on June 29, 2005. Applicants timely filed a reply on July 28, 2005. However, subsequent to the reply, applicants filed the IDS on September 28, 2005. The IDS did not contain the statement required by 37 C.F.R. § 1.704(d). According, the assessment of sixty-two (62) days of delay for filing this supplemental reply or other paper under § 1.704(c)(8) was proper.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred seventy-four (274) days** (336 days of PTO delay, reduced by 62 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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Paper No. 4

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OCT 0 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES CA 90071-2611

In re Application of
Azuma Kano, et al.
Application No. 10/445,490
Filed: May 27, 2003
For: METHOD AND APPARATUS FOR INTERACTIVE AUDIENCE PARTICIPATION AT A LIVE SPECTATOR EVENT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 30, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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APR 10 2006
OFFICE OF PETITIONS

In re Application of :
Akira Arai, et al. :
Application No. 10/445,509 : ON PETITION
Filed: May 27, 2003 :
Attorney Docket No.: 9319A-000221/DVA :

This is a decision on the petition, filed April 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 25, 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 2852 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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APR 10 2006
OFFICE OF PETITIONS

Date : April 10, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Akira Arai, et al.
Application No. : 10/445,509
Filed : May 27, 2003

The above-identified application has been assigned Patent No. 7,025,897 and an issue date of April 11, 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 April 11, 2006:

> "All reference to Patent No. 7,025,897 to AKIRA ARAI, ET AL. of JAPAN for MAGNETIC MATERIAL MANUFACTURING METHOD, RIBBON-SHAPED MAGNETIC MATERIALS, POWDERED MAGNETIC MATERIAL AND BONDED MAGNETS appearing in the Official Gazette of April 11, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (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 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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SEP 21 2004

In re Application of	:
George J. Green, Jr.	: DECISION ON PETITION
Application No. 10/445,551	:
Filed: May 27, 2003	:
Attorney Docket No. 03 PAT 189	:

This is a decision on the petition to make special filed on May 27, 2003. The petition is based upon the practice described in MPEP § 708.02(IV) "Applicant's Age." Therefore, no petition fee is required. It is noted that a petition invoking supervisory authority under 37 CFR 1.181 was filed on July 6, 2004. That petition triggered a review of this Image File Wrapper (IFW) application, and resulted in discovery of the pending petition to make special. It is regretted that the petition to make special was not earlier brought to the undersigned's attention.

The petition is granted.

The petition invoking supervisory authority is dismissed as moot.

The petition to make special based upon the practice in the above mentioned MPEP section is deemed to satisfy all of the requirements thereof. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3753 is being informed of this decision, and will advise the examiner to take future action consistent therewith.

PETITION TO MAKE SPECIAL GRANTED.

PETITION INVOKING SUPERVISORY AUTHORITY DISMISSED.

Stephen Marcus, Special Program Examiner
Technology Center 3700

Alworth Law & Engineering
505 Cumberland Road
Tyler, TX 75703-9324

RECEIVED
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JUN 0 8 2005

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. 1.8(A)

I herby certify that this correspondence is being forwarded by facsimile to facsimile number 703-308-6916, c/o Patent Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Date: Sept 7, 2004 Signed: Sharanda Mozart
Sharanda Mozart

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF DOCKET NO. 84426.007

Hucker et al.

SERIAL NO.: 10/445,552 EXAMINER: Tam M. Nguyen

FILED: November 2, 2001 ART UNIT: 1764

TITLE: Process for Reduction of Emissions in Asphalt Production

PETITION TO MAKE SPECIAL

Office of Patent Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Constance Gall Rhebergen, state the following:

I am the attorney of record for the above-identified application.

I hereby request for the above-identified application to be made special on the grounds that the Applicant is more than 65 years of age, as evidenced by the Statement of Applicant attached hereto.

Respectfully submitted,

Constance Gall Rhebergen

Constance Gall Rhebergen
Reg. No. 41,267
Attorney for Applicant

Date: Sept 7, 2004

PETITION GRANTED

R Crispino

Richard Crispino
Special Program Examiner
TC1700
JUN 14 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

Legal Affairs Department
Patent Counsel
APPLIED MATERIALS, Inc.
P.O. Box 450A
Santa Clara, CA 95052

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DEC 12 2007
OFFICE OF PETITIONS

In re Application of :
Hiroji Hanawa, et. al. :
Application No. 10/445,588 :
Filed: May 27, 2003 :
Attorney Docket No. 4554D01/2616-024DIV1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), on December 20, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Restriction/Election Requirement mailed September 8, 2005. A Notice of Abandonment was mailed on August 9, 2006.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Further, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) an election; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1763, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Kevin Pontius
Roberts, Mardula & Wertheim, LLC
11800 Sunrise Valley Dr.
Suite 1000
Reston, VA 20191

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Ross J. Oehler
Aventis Pharmaceuticals Inc.
1041 Route 202-206
Mail Code: D303A
Bridgewater, NJ 08807

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APR 17 2006
OFFICE OF PETITIONS

In re Application of	:
Kleemann et al.	:
Application No. 10/445,618	: DECISION GRANTING PETITION
Filed: May 27, 2003	:
Attorney Docket No. DEAV2002/0092 US	:

This Office action is in response to applicant's submission of "PETITION TO CORRECT PATENT TERM ADJUSTMENT UNDER 37 CFR1.705(b)" timely[1] filed on March 15, 2006 requesting that the Office adjust the determination at the time of the notice of allowance from a determination of 0 days to an adjustment of fifty-one (51) days at the time of the mailing of the notice of allowance.[2]

Applicants request is **GRANTED**. The Office will adjust the PTA determination reflected in PAIR to grant 51 days.

Applicants assert that the Office erred in the assessment of a seventy-four (74) day reduction for the over three-month reply to a non-final rejection that was mailed to applicant on June 24, 2004. Applicants assert that the Office erred in assessing the reduction under 37 CFR 1.704(b) because the re-submission of the response on December 7, 2004 was a courtesy copy of the response that was actually filed on September 24, 2004 in response to an Office action mailed on June 24, 2004. Applicant met the three month requirement. In addition, applicant assert that the Office failed to provide applicants with twenty-nine additional days of PTA for the response to the September 24, 2004 reply by applicant. Applicants assert that the Office should have responded to the reply under 37 CFR 1.702(a)(2) by January 24, 2004 but did not until February 22, 2005, a twenty-nine (29) day delay. Moreover, applicants believe that the twenty-two (22) days granted

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[1]Issue fee paid on 3/15/2006.

[2]The Office notes that the entry of the PTA decision must have been an incorrect PALM entry. The Office notes that after the Petition was filed on July 13, 2005 applicant filed an RCE on July 27, 2005 and accordingly, the application was no longer under allowance.

for the overdue response to the RCE should have been (23) twenty-three days rather than twenty-two (22) days as provided in the determination. Accordingly, overall applicants assert that the Office delayed by a period of 52 days and applicant did not fail to engage in any reasonable efforts to conclude prosecution of the application.

Applicants arguments are persuasive. Upon review of the file history, applicants dates asserted in this "petition" are accurate. In addition, applicants mathematical calculation of Office delay is accurate as well. The Office delayed under 37 CFR 1.702(a)(2) by a period of 52 days. Applicants' responses were all timely filed and there no reductions under 37 CFR 1.704. Accordingly, fifty-two (52) days is the correct determination at the time of the mailing of the notice of allowance.

After the mailing of this Office action, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. Any delays in the Office failure to issue the application within four months of the payment of the issue fee will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance

The Office has assessed the $200.00 fee under 37 CFR 1.18(e). No additional fees are required by this decision.

Any questions concerning this decision should be directed to Kery A. 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: 4/14/2006

PALM INTRANET

Time: 17:07:41

PTA Calculations for Application: 10/445618			
Application Filing Date:	05/27/2003	PTO Delay (PTO):	22
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	74
Post-Issue Petitions:	0	Total PTA (days):	52
PTO Delay Adjustment:	104		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
68	04/14/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	30		
67	04/14/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	74		
61	12/19/2005	MAIL NOTICE OF ALLOWANCE	22		53
60	12/15/2005	ISSUE REVISION COMPLETED			
59	12/15/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	12/16/2005	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
58	12/16/2005	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
57	09/26/2005	NOTICE OF ALLOWABILITY			
56	08/11/2005	DATE FORWARDED TO EXAMINER			
55	07/27/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
54	08/11/2005	DATE FORWARDED TO EXAMINER			
53	07/27/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
52	08/11/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
51	07/26/2005	WORKFLOW - REQUEST FOR RCE - FINISH			
50	07/13/2005	PETITION ENTERED			
49	07/26/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
48	07/20/2005	RECEIPT INTO PUBS			
47	06/02/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
46	05/09/2005	EXPORT TO INITIAL DATA CAPTURE			
45	04/27/2005	MAIL NOTICE OF ALLOWANCE			

44	04/27/2005	MAIL EXAMINER'S AMENDMENT			
43	04/25/2005	ISSUE REVISION COMPLETED			
42	04/25/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	04/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
40	04/25/2005	EXAMINER'S AMENDMENT COMMUNICATION			
39	04/25/2005	NOTICE OF ALLOWABILITY			
38	04/05/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
37	03/23/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
36	03/29/2005	DATE FORWARDED TO EXAMINER			
35	03/23/2005	FEE PAYMENT RECORDED (FEES FILED SEPARATELY E.G. NOT WITH ORIGINAL PAPERS, ETC).			
34	03/29/2005	DATE FORWARDED TO EXAMINER			
33	03/23/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
32	03/29/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
31	03/29/2005	DATE FORWARDED TO EXAMINER			
30	03/22/2005	RESPONSE AFTER EX PARTE QUAYLE ACTION			
29	03/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	02/22/2005	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
27	02/18/2005	EX PARTE QUAYLE ACTION			
26	01/28/2005	WORKFLOW INCOMING AMENDMENT IFW			
25	06/24/2004	REFERENCE CAPTURE ON IDS			
24	12/07/2004	MISCELLANEOUS INCOMING LETTER			
23	01/11/2005	DATE FORWARDED TO EXAMINER			
22	12/07/2004	RESPONSE AFTER NON-FINAL ACTION		74	21
21	06/24/2004	MAIL NON-FINAL REJECTION			
20	06/23/2004	NON-FINAL REJECTION			
19	06/16/2004	DATE FORWARDED TO EXAMINER			
18	06/09/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
17	05/28/2004	MAIL RESTRICTION REQUIREMENT			
16	05/27/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
15	05/06/2004	REFERENCE CAPTURE ON IDS			
14	05/06/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

13	02/27/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	02/27/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	10/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	11/25/2003	APPLICATION DISPATCHED FROM OIPE			
9	11/25/2003	APPLICATION IS NOW COMPLETE			
8	10/24/2003	ADDITIONAL APPLICATION FILING FEES			
7	10/24/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	07/30/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	06/17/2003	CLEARED BY OIPE CSR			
4	06/11/2003	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	06/11/2003	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	06/09/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/27/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

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Paper No. 5

Timothy R. Schulte
Storage Technology Corporation
MS-4309
One StorageTek Drive
Louisville CO 80028-4309

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OFFICE OF PETITIONS

In re Application of
Philippe Y. Le Graverand and Agnes C. Hermeline
Application No. 10/445,626
Filed: May 27, 2003
Attorney Docket No. 2002-121-TOU
Title: MULTICONFIGURATION MODULE FOR HARDWARE PLATFORMS

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed October 30, 2003.

On May 27, 2003, the application was deposited, identifying Philippe Y. Le Graverand and Agnes C. Hermeline as joint inventors. The application was deposited without a fully executed oath or declaration. On July 28, 2003, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that

[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.

an executed oath or declaration, and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

Petitioner has submitted the petition fee, a one-month extension of time to make timely this reply[2], a statement of the last known address of the non-signing joint inventor, proof that a complete copy of the application was sent to 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.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person submitting this petition was in a position to have firsthand or direct knowledge of the facts and circumstances of the facts at issue. Nevertheless, petitioner's statements are being treated as having been made as the result of a reasonable inquiry into the underlying facts and circumstances. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the letter was not sent to the non-signing inventor, petitioner must notify the Office.

After this decision is mailed, the application will be forwarded to Technology Center 2800 for further processing.

---

2 The petition contains a certificate of mailing dated October 28, 2003.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Brooks Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238

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Agnes C. Hermeline
1 Ter Chemin Tartibau
Saubens, 31600
FRANCE

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DEC 03 2003

OFFICE OF PETITIONS

In re Application of
Philippe Y. Le Graverand and Agnes C. Hermeline
Application No. 10/445,626
Filed: May 27, 2003
Attorney Docket No. 2002-121-TOU
Title: MULTICONFIGURATION MODULE FOR HARDWARE PLATFORMS

LETTER

Dear Ms. Hermeline:

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

Timothy R. Schulte
Storage Technology Corporation
MS-4309
One StorageTek Drive
Louisville CO 80028-4309

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JUL 20 2005

TECHNOLOGY CENTER 3600

Cyril S. Thachenkery
1673 Ashbury Drive
Lemont, IL 60439

In re Application of Cyril S. Thachenkery Application No. 10/445,632 Filed: May 23, 2003 For:TWO PIECE SUMP COVER PLATE WITHOUT WATER INLET	: : : : : :	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on June 30, 2005.

The petition is **DISMISSED**.

A review of the file records reveals that the application was held abandoned for failure to timely file a reply to the non-final Office action mailed April 6, 2004. A Notice to that affect was mailed December 20, 2004.

Applicant states that the Office action mailed April 6, 2004 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Since the application is pro se, statements of non-receipt should include a statement by the applicant, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a

copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Applicant's petition of June 30, 2005 does not include any statement that the applicant was at the correspondence address at the time the office action would have been received. Also, no showing has been made of any docket records or any other method that serves as a reminder of a response due date.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/js: 7/7/05

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AUG 2 4 2005

TECHNOLOGY CENTER 3600

Cyril S. Thachenkery
1673 Ashbury Drive
Lemont, IL 60439

In re Application of	:	DECISION ON
Cyril S. Thachenkery	:	RENEWED PETITION
Application No. 10/445,632	:	TO WITHDRAW THE
Filed: May 23, 2003	:	HOLDING OF
For: TWO PIECE SUMP COVER PLATE	:	ABANDONMENT
WITHOUT WATER INLET	:	

This is in response to applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on August 8, 2005.

The petition is **DISMISSED**.

A review of the file records reveals that the application was held abandoned for failure to timely file a reply to the non-final Office action mailed April 6, 2004. A Notice to that affect was mailed December 20, 2004.

Applicant states that the Office action mailed April 6, 2004 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Since the application is pro se, statements of non-receipt should include a statement by the applicant, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a

copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Applicant's petition of August 8, 2005 includes a statement that the applicant was at the correspondence address at the time the office action would have been received and that a diligent search of the file folder was made. However, no copy of any records on which the receipt date of the Office communication would have been entered had it been received (such as a copy of the outside of the file folder) has been submitted and no showing has been made of any docket records or any other method that serves as a reminder of a response due date.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/js: 8/17/05

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TECHNOLOGY CENTER 3600

Cyril S. Thachenkery
1673 Ashbury Drive
Lemont, IL 60439

In re Application of Cyril S. Thachenkery Application No. 10/445,632 Filed: May 23, 2003 For: TWO PIECE SUMP COVER PLATE WITHOUT WATER INLET	: : : : : :	DECISION ON RENEWED PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's second renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on September 20, 2005.

The petition is **DISMISSED**.

A review of the file records reveals that the application was held abandoned for failure to timely file a reply to the non-final Office action mailed April 6, 2004. A Notice to that affect was mailed December 20, 2004.

Applicant states that the Office action mailed April 6, 2004 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Since the application is pro se, statements of non-receipt should include a statement by the applicant, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a

copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records ***or other method*** **which would serve as a reminder of a response due date should be submitted**. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Applicant's petition of September 20, 2005 includes a statement that the applicant was at the correspondence address at the time the office action would have been received and that a diligent search of the file folder was made. Applicant's petition also includes a copy of the record on which the receipt date of the Office communication would have been entered had it been received (a copy of the outside of the file folder). However, **no showing has been made of any docket records or any other method that serves as a reminder of a response due date.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

RA Lamm for

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/js: 9/29/05

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Chang-Hyun Lee et al.
Application No. 10/445,679
Filed: June 5, 2003
Attorney Docket No. 5051-630

ON PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed August 21, 2003 to correct the filing date to June 5, 2003, rather than the presently accorded filing date of June 6, 2003.

Petitioner alleges that the application was deposited in Express Mail service on June 5, 2003. In support, on August 21, 2003, petitioner supplied a copy of Express Mail Label No. EV353595503US (the same Express Mail number found on the transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label is blank but the USPS post mark is June 5, 2003.

In view of the above, the petition is **GRANTED** and since no fee is due, none will be charged to petitioner's deposit account.

The Office of Initial Patent Examination will be notified to correct the **filing date to June 5, 2003** and to issue a corrected filing receipt.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAMES J. HILL
EMRICH & DITHMAR
125 SOUTH WACKER DRIVE
SUITE 2080
CHICAGO, IL 60606-4401

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OCT 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Yung Sheng Cha et al	:	DECISION ON PETITION
Application No. 10/445,681	:	TO MAKE SPECIAL
Filed: May 27, 2003	:	37 CFR 1.102(b)
Attorney Docket No. ANL 256	:	

This is a decision on the petition under 37 CFR §1.102(c), filed July 22, 2004, which is being treated under 37 CFR 1.102(b), to make the above-identified application special.

The petition requests that the above-identified application be made special as set forth in M.P.E.P. § 708.02, Section IX: Superconductivity.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR 1.102(b) and MPEP § 708.02, Section IX: Superconductivity should be accompanied by a statement that the invention involves superconductivity materials, as well as their manufacture and application. No fee is required.

The petition meets the requirements for special status as set forth in Section 708.02(IX) of the MPEP. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Wan Laymon at (571) 272-3220.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-3700.

This matter is being referred to the Technology Center Art Unit 3764 for expedited prosecution.

Denise Pothier
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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Gregory R. Whittaker	: DECISION ON REQUEST FOR
Patent Number	: 7588586	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/445,682	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **572** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Stevens & Showalter, LLP
7019 Corporate Way
Dayton, OH 45459-4238

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OFFICE OF PETITIONS

In re Application of :
Daniel Joseph Nunes Nabarro :
Application No. 10/445,689 : DECISION ON PETITION
Filed: May 27, 2003 :
Attorney Docket No. KEL 024 VA :

This is a decision on the petition filed May 27, 2004, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/GB00/04022, filed October 18, 2000).

The petition under 37 CFR 1.78(a)(3) is **dismissed** as moot.

The instant petition seeks acceptance of a late claim for priority to a prior-filed PCT national stage application and to amend the first sentence of the specification to read: "This application is a division of U.S. Patent Application Serial No. 10/110,821, filed July 18, 2002, entitled MEASURING DEVICE AND METHOD, which [is] was the National Stage entry in the United States of PCT/GB00/04022, filed October 18,2000, which claims priority to GB9924618.3, filed October 18, 1999 and GB0016464.0, filed July 4, 2000."

As set forth in MPEP 1893.03(c), page 1800-149, a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371. Further, it is clear from the record that divisional Application No. 10/110,821 is a 35 U.S.C. § 371 national stage entry of PCT Application No. PCT/GB00/04022, filed October 18, 2000.

In view of the above, the petition under 37 CFR 1.78(a)(3) is dismissed as involving a moot issue.

In view of the dismissal of the instant petition as moot, the petition fee of $1,330 will be refunded to petitioner by Treasury Check, in due course.

A replacement Filing Receipt which properly references the above-noted PCT application accompanies this decision on petition.

This application is being returned to Technology Center Art Unit 2856 for further examination.

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: U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Andrea Smith at (703) 308-6711[1].

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

Enclosure: Replacement Filing Receipt

[1]After September 27, 2004, the new telephone number will be 571-272-3226.

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OFFICE OF PETITIONS

MIRUS CORPORATION
505 SOUTH ROSA RD
MADISON WI 53719

In re Application of	:	
Monahan et al.	:	DECISION ON PETITION TO
Application No. 10/445,696	:	WITHDRAW HOLDING OF
Filed: 27 May, 2003	:	ABANDONMENT
Attorney Docket No.	:	
Mirus.036.02	:	

This is a decision on the papers filed on 28 July, 2006, which are treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 9 September, 2005. Notice of Abandonment was mailed on 20 July, 2006.

Petitioners assert that a response to the Office action was timely filed on 5 December, 2005. In support, petitioner has supplied a copy of a transmittal letter identifying the application and itemizing the filing of an amendment in response to the Office action date 9 September, 2005, which contains a Certificate Under 37 CFR 1.8 dated 5 December, 2005, signed by registered patent attorney Kirk Ekena.[1] Petitioners have also supplied a copy of the USPTO's Auto-Reply Facsimile Transmission showing six (6) pages were received at the USPTO on 5 December, 2005, as well as a copy of the sending facsimile unit's transmission report, showing six (6) pages were sent to the USPTO, including the first page of the reply, on 5 December, 2005.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

[1] It is noted that the last page of the amendment contains a certificate of transmission dated "12 December, 2005." However, in view of the certificate of transmission on the transmittal letter and the facsimile transmittal sheets provided, which are dated 5 December, 2005, it appears that the "12 December, 2005" date was the result of an inadvertent error, and the showing is that the date of transmission is 5 December, 2005.

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the ***original*** response on the date indicated on the Certificate of Transmission (*see* 37 CFR 1.8 and MPEP 512).

As the present petition is signed by attorney Ekena and states that attached is a true copy of the originally filed reply faxed to the USPTO, this paper will be construed as constituting the statement required by item (2) above.

A review of the papers filed with the petition reveals that the copy the originally filed amendment miscaptions the application number as 10/445,***969***. Under current Office procedure, a response that has an incorrect serial number is handled in accordance with M.P.E.P. § 508.03. If a paper having an incorrect serial 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 which were submitted, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

As petitioners have provided convincing evidence that a reply to the non-final Office action was transmitted to the USPTO on 5 December, 2005, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The application is being referred to Technology Center Art Unit 1618 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

April 2004

Larry G. Slay
7724 Chalkstone Drive
Dallas, TX 75248

In re Application of:
Larry George Slay
Serial No.: 10/445,698
Filed: May 27, 2003
For: RADIO ANTENNA AND TRANSMISSION LINE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 12, 2003 requesting that the above identified application be granted special status under the provisions of 37 C.F.R. § 1.102(c) and MPEP § 708.02 IV.

The petition is GRANTED.

The provisions of MPEP § 708.02 IV state that an "application may be made special upon filing a petition including any evidence that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement."

The present petition was accompanied by a copy of applicant's drivers license. The date of birth (DOB) on the drivers license indicates that applicant Larry George Slay is more than 65 years of age. The drivers license constitutes sufficient evidence as set forth in MPEP § 708.02 IV.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

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John T. Winburn
BSH Home Appliances Corporation
100 Bosch Blvd
New Bern NC 28562

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OFFICE OF PETITIONS

In re Application of
Schnell et al.
Application No. 10/445,704
Filed: May 27, 2003
Attorney Docket No. 2000P16034WOUS

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 20, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed PCT Application No. PCT/EP01/13281 filed November 16, 2001, as set forth in the Application Data Sheet (ADS) filed on September 28, 2004.

The petition is **dismissed**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that an international application designating the United States of America and 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 Office notes that applicants did not indicate the relationship between the instant application and prior-filed PCT Application No. PCT/EP01/13281 in the ADS filed on September 29, 2004. Accordingly, applicants failed to comply with the requirements of 37 CFR 1.78(a)(2)(iii). Before the petition under 37 CFR 1.78(a)(3) can be granted, applicants must file a renewed petition under 37 CFR 1.78(a)(3) and an amendment[1] or an ADS, containing a reference to PCT Application No. PCT/EP01/13281, and indicating its relationship to the instant application.

The Office further notes that applicants' placement of PCT Application No. PCT/EP01/13281 under the foreign priority information in the ADS filed on September 29, 2004, is improper because it is a domestic priority claim, and as such should be shown under the domestic priority information.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commission
for Patent Examination Policy

[1] *Note* 37 CFR 1.121 and 37 CFR 1.4(c).

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OFFICE OF PETITIONS

JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of	:	
Wolfgang SCHNELL et al.	:	DECISION ON PETITIONS
Application No. 10/445,704	:	UNDER 37 CFR 1.183 AND
Filed: May 27, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2000P16034WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t).

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to Technology Center 3749.

David Bucci
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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John T. Winburn
BSH Home Appliances Corporation
100 Bosch Blvd
New Bern NC 28562

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OFFICE OF PETITIONS

In re Application of	:	
Wolfgang SCHNELL et al.	:	DECISION ON PETITION
Application No. 10/445,704	:	UNDER 37 CFR 1.78(a)(3)
Filed: May 27, 2003	:	
Attorney Docket No. 2000P16034WOUS	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 11, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP01/13281, filed November 16, 2001, set forth in the accompanying Application Data Sheet (ADS).

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and

365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 3749 for appropriate action on the amendment filed May 11, 2007, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/445,704	05/27/2003	3749	1080	2000P16034WOUS	20	2

CONFIRMATION NO. 9091

CORRECTED FILING RECEIPT

OC000000024248832

John T. Winburn
BSH Home Appliances Corporation
100 Bosch Blvd
New Bern, NC 28562

Date Mailed: 06/06/2007

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)

Wolfgang Schnell, Trostberg, GERMANY;
Klaus Rabenstein, Trostberg, GERMANY;
Klemens Roch, Trostberg, GERMANY;
Michael Wagner, Grabenstatt, GERMANY;
Rainer Lebacher, Palling/Freutsmoos, GERMANY;
Christine Thaller, Tengling, GERMANY;
Robert Hasslberger, Ruhpolding, GERMANY;
Hans Lappat, Garching/Alz, GERMANY;
Peter Lohner, Altenmarkt, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP01/13281 11/16/2001

Foreign Applications

GERMANY 10059167.1 11/29/2000

If Required, Foreign Filing License Granted: 07/25/2003

The country code and number of your priority application, to be used for filing abroad under the Paris

Convention, is US10/445,704

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Oven

Preliminary Class

126

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
Washington, DC 20231
www.uspto.gov

9/16/03

Bromberg and Sunstein LLP
125 Summer Street
Boston MA 02110-1618

Dear Applicant:

The Box PGPub replacement drawings for application number 10/445,733 received on 8/6/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAEMONETICS CORPORATION
400 WOOD ROAD
BRAINTREE, MA 02184-9114

COPY MAILED

JAN 1 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael Ragusa	:	
Application No. 10/445,733	:	ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No. 1611/190	:	

This is a decision in response to the petition, filed October 3, 2008, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED** because it is unsigned. It appears that the petition was intended to be signed by the attorney of record, John F. Perullo.

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.

Further, 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)(II)(C) and (D).

The petition lacks the unintentional delay statement noted in item (3) since the petition containing the statement of unintentional delay is not signed.

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 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 any omissions noted above.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 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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Alexandria, VA 22313-1450
www.uspto.gov

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OFFICE OF PETITIONS

In re Application of	:	
Michael Ragusa	:	
Application No. 10/445,733	:	ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No. 1611/190	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed December 28, 2007. A Notice of Abandonment was mailed on July 3, 2008. On October 3, 2008 a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed January 14, 2009. In response, on March 16, 2009, 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) and fee of $810, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay.

It is noted that the present petition included a petition fee of $1,620. Since there is no further fee required for a renewed petition under 37 CFR 1.137(b), the $1,620 fee overpaid is being credited to counsel's deposit account.

This application is being referred to Technology Center AU 1797 for processing of the RCE filed October 3, 2008 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

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Alexandria, VA 22313-1450
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AUG 24 2005

Robert E. Hanson
FULBRIGHT &JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701

In re Application of
Cobb et al
Serial No. : 10/445,735
Filed : May 27, 2003
Attorney Ref No. : UTSD1276USC2

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.144, filed on February 16, 2004, to request the reversal of the second restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application was filed under 35 USC 111(a) on May 27, 2003 with 27 claims.

A requirement for restriction was mailed to applicants on 4/28/2004. In this paper the examiner required the restriction of the 27 claims into five different groups, Group I, drawn to TAO kinases, Group II, drawn to polynucleotides encoding TAO kinases, Group III drawn to methods of phosphorylating MEK polypeptides, Group IV drawn to methods of screening agents that modulate signal transduction and Group V drawn to a method of activating a member of a MAP kinase pathway. On 6/1/2004, applicants elected without traverse Group II, claims 16-21 and 23. On 7/28/2004, a supplemental restriction requirement was sent to applicants, acknowledging the election without traverse of Group II, claims 16-21 and 23 and further restricting claims 16-21 and 23 into three additional groups, Group II(a) drawn to polynucleotides encoding TAO1 kinase, Group II(b) drawn to polynucleotides encoding TAO2 kinase and Group II(c) drawn to polynucleotides encoding ceTAO kinase. On 9/2/2004, applicants amended the claims and elected with traverse Group II(a), claims directed to those polynucleotides encoding TAO1 kinase.

In response to the election, the examiner acknowledged the election of Group II(a), claims 16, 17, 20-21 and 23 to those polynucleotides encoding TAO1 kinase and further considered the traversal, found the arguments non-persuasive and made the restriction requirement FINAL, in the paper of 11/26/2004. A first office action on the merits was also mailed as a part of this same communication, in which claims 16, 17, 20-21 and 23 were rejected under 35 USC 112 1st and 2nd paragraphs, double patenting and under 35 USC 102(e).

In response to the non-final rejection of 11/26/2004, applicants responded with the instant petition and accompanying arguments and amendments of the claims on 2/25/2005.

DISCUSSION

The application, file history and petition under 37 C.F.R. 1.144, to request review of the restriction requirement has been considered.

This letter is in response to the Petition under 37 C.F.R. 1.144, filed on February 16, 2004, to request the reversal of the second restriction requirement, because it incorrectly asserts claim 16 is not in proper Markush group or generic linking claim format and maintains the second restriction requirement without providing any adequate evidentiary basis for doing so as explained below.

Applicants submit that claim 16 is in a proper Markush format and that all of the members of the groups recited in the second restriction requirement (i.e. TAO1, TAO2, and ceTAO) should be examined together.

Applicants submit that the Office may not refuse to examine that which applicants regard as their invention, unless the subject matter of the claim lacks unity of invention. Applicants submit that 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 (MPEP 803.02). Applicants submit both characteristics are present in the Markush group of claim 16, as demonstrated in FIG. 2 of the specification, which shows an alignment of the catalytic domains of TAO1 (residues 1-273 of SEQ ID NO: 2), TAO2 (residues 1-273 of SEQ ID NO: 4 and the ceTAO homolog (273 residue SEQ ID NO: 18). Applicants submit that TAO1 and TAO2 share 90% sequence identity of the catalytic domains, while ceTAO shares 65% and 61% identity with TAO1 and TAO2 catalytic domains, respectively.

Applicants further submit that the claims are generically linked by claim 16 and that as such claim 16 should not be associated with any of the linked inventions and this fact should clearly be stated on the record (MPEP 814).

Finally applicants argue that the examiner has failed to state a basis for the restriction, submitting that the sole basis asserted for restriction given in the Second Restriction Requirement was that the groups are patentably distinct "because each invention is directed to a

product of unrelated chemical structure and function". Applicants submit that such is an incorrect statement of conclusion and not an explanation.

Prior to addressing applicants raised issues regarding the separation of the polynucleotides encoding TAO1, TAO2 and ceTAO, it is acknowledged that the polynucleotides for encoding both TAO1 and TAO2 have been examined and issued together in U.S. Patent No. 6,586,242 B1, by the same examiner examining the instant application. It is further noted that the TAO1 andTAO2 polypeptides share 90% sequence identity over their 273 amino acid residue catalytic domains. Thus, as the polynucleotides encoding TAO1 and TAO2 share a common utility and share a substantial structural feature disclosed as being essential for that utility (i.e. 90% amino acid sequence identity of the encoded polypeptide) and the examiner has examined and allowed the polynucleotides encoding the TAO1 and TAO2 polypeptides in a previous application, the rejoining of the polynucleotides encoding TAO1 and TAO2 in the instant application is considered proper. Thus the restriction requirement between group II(a) (TAO1 polynucleotide) and group II(b) (TAO2 polynucleotide) is hereby withdrawn.

Applicants' complete argument is acknowledged and has been carefully considered.

Claim 16 recites a list of alternatives, polynucleotides encoding a polypeptide variant of TAO1 kinase, TAO2 kinase or ceTAO kinase. The generic concept that encompasses the alternatives of claim 16 is "An isolated polynucleotide encoding a polypeptide variant of a TAO kinase". If a claim were submitted in this format, it would be considered a generic linking claim and examined along with the elected invention. Should it become allowable, the non-elected inventions that require all the features of the allowable linking claim would be rejoined.

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**.

While TAO1, TAO2 and ceTAO could be argued to share a common utility, the ability to stimulate phosphorylation and activation of MEK substrates such as MEK 3, ceTAO does not share with TAO1 and TAO2 a substantial structural feature disclosed as being essential to that utility. A mere 65 and 61% sequence identity shared between the catalytic domains of ceTAO with each to the TAO1 and TAO2 polypeptides, respectively, is not a substantial structural feature. Thus claim 16 contains a list of alternatives that lack unity of invention. Election of species practice for ceTAO and the elected TAO 1/TAO2 polynucleotides is not required by MPEP 803.02.

With respect to the argument that the examiner has failed to state a basis for the restriction,

Applicants' attention is directed to MPEP 803 which states:

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be **independent** (see MPEP § 802.01, § 806.04, § 808.01) **or distinct** as claimed (see MPEP § 806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).

The inventions of Groups II (a/b) and (c) are patentably distinct each from the other because each invention is directed to a product of unrelated chemical structure. The polynucleotides encoding TAO1/TAO2 and ceTAO are each different nucleic acid sequences which encode polypeptides having different amino acid sequences.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their divergent subject matter and separate status in the art, restriction for examination purposes as indicated is proper. As such a search of the different inventions involves different searches of various nucleic acid databases as well as completely different text searches, depending on the elected invention. "For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP 808.02." (see MPEP 803). The serious burden of search has been established by the different subject matter and divergent field of search of the inventions.

DECISION

For these reasons, the petition under 37 C.F.R. 1.144 to request the reversal of the second restriction requirement is **GRANTED-IN-PART**. As discussed above, the restriction requirement between Group II(a) (TAO1 polynucleotide) and Group II(b) (TAO2 polynucleotide) is hereby withdrawn, while the restriction requirement between Group II(c) (ceTAO polynucleotide) and rejoined Group II(a/b) (TAO1 and TAO2 polynucleotides) is maintained. Further, as discussed above, claim 16 recites a list of alternatives that lack "unity of invention" per 803.02 and do not qualify for election of species or linking claim practice.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner to take appropriate action as a result of this petition decision and to consider the amendments and arguments filed by applicants on 2/25/2005.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 24 2005

Commissioner for Patents
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DECISION

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Any request for consideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner to take appropriate action as a result of this petition decision and to consider the amendments and arguments filed by applicants on 2/25/2005.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600

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)
6940297	2005-09-06	10445748	2003-05-27	

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	/Lewis M. Brande Reg. #39545/	Date (YYYY-MM-DD)	2009-10-13
Name	Lewis M. Brande	Registration Number	39545

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6940297
Issue Date: September 6,2005
Application No. 10445748
Filed: May 27,2003
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 13,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 13,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE NOWACK
1721 MAIN STREET, SUITE 108
RAMONA, CA 92065

COPY MAILED

SEP 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Duane Nowack	:	
Application No. 10/445,755	:	ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition, filed May 23, 2006 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 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 above-identified application became abandoned on May 10, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition on May 23, 2006 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The petition is unsigned. Each piece of correspondence must be signed. See 37 CFR 1.4.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE IAP58
NOV 21 2006
PATENT & TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DUANE NOWACK
1721 MAIN STREET, SUITE 108
RAMONA, CA 92065

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SEP 21 2006

OFFICE OF PETITIONS

In re Application of
Duane Nowack
Application No. 10/445,755
Filed: May 27, 2003
Attorney Docket No.

ON PETITION

This is a decision on the petition, filed May 23, 2006 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 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 above-identified application became abandoned on May 10, 2005.

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A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The petition is unsigned. Each piece of correspondence must be signed. See 37 CFR 1.4.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

OIPE IAP58
NOV 2 1 2006
PATENT & TRADEMARK OFFICE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
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- Attach this card to the back of the mailpiece, or on the front if space permits.

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1. Article Addressed to:

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Commissoner For Patents
P.O Box 1450
Alexandria, VA 22313-1450
Attn. office of Patents

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name)
C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
(Transfer from service label) 7006 0100 0007 3250 3734

PS Form 3811, February 2004 Domestic Return Receipt 2595-02-M-1540

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Duane Nowack DDS
1721 Main St #108
Ramona, Ca. 92065

OIPE IAP88
NOV 2 1 2006
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	**Duane Nowack**	**RESPONSE TO OFFICE ACTION**
Serial No.:	**10/445,755**	
Filing Date:	**5/27/2003**	
For:	**DENTURE ATTACHMENT SYSTEM AND METHOD**	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being mailed, in the United States Mail, First Class, Postage prepaid to Commissioner For Patents, P. O. Box 1450, Alexandria, VA 22313-1450, (703) 308-1202 on May 20, 2006.

By _____

Duane Nowack

RESPONSE

Commissioner of Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

In The Claims:

Please amend claims 1 and 5 as follows;

1. A denture having suction holes located in an area corresponding to the soft tissue area of the roof of the mouth,

wherein said suction holes have ridges elevated above the roof surface of the denture for penetration into the soft tissue of the roof of the mouth.

5. A method of retrofitting a denture having the steps,

removing a portion of the denture corresponding to the soft tissue area of the denture wearer, and

adding suction holes to the portion of the denture that corresponds to the soft tissue area of the denture wearer,

wherein said suction holes have ridges elevated above the roof surface of the denture for penetration into the soft tissue of the roof of the mouth.

Claims 2 through 4 and 6 through 8 remain unchanged.

REMARKS

A Petition to Revive and unintentionally abandoned application is filed concurrently herewith along with a request for extension of time and the required fees.

In the office action dated 2/9/2005 the examiner rejected claims 1-5 and 7 under 35 U.S.C. §102 as being anticipated by Thomas et al (USPN 1,441,384). The Examiner objected to claims 6 and 8 and indicated that they would be allowable if rewritten in

independent form. The Examiner also objected to the drawings. The applicant requests that the objections be held in abeyance until allowable subject matter is indicated 37 CFR §1.85(a). Formal drawings will be provided when allowable subject matter is indicated. The application has become abandoned and a Petition to Revive is filed concurrently herewith.

RESPONSE TO REJECTION UNDER §102

1. Thomas Fig's 2, 4, 5 and 6 show a depressed, flexible, soft rubber insert with suction cups that is below the roof surface of the roof of the denture. See Figure 5 of Thomas and Column 1, Lines 20 to 31 of same. The changes to claims 1 and 5 add elements that are clearly not shown in Thomas, namely the ridges that are elevated above the roof surface of the denture. Thomas clearly does not show or suggest this means for attachment.

2. Applicant therefore respectfully submits that the amendment places this application in condition for allowance and favorable action is earnestly solicited.

Respectfully submitted.

By: _____
Duane Nowack
Applicant

Duane Nowack
1721 Main Street, #108
Ramona, CA 92065
(760) 789-7002
May 19, 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

COPY MAILED

APR 12 2007

OFFICE OF PETITIONS

DUANE NOWACK D.D.S.
1721 MAIN ST #108
RAMONA, CA 92065

In re Application of	:	
Duane Nowack	:	
Application No. 10/445,755	:	ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3732 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/03/09

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 10445766 Patent No.: 7005937 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

2817

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/03/09

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 10445766 Patent No.: 7005937 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

2817

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

MAILED
FROM DIRECTORS OFFICE

MAY 17 2005

TECHNOLOGY CENTER 3600

LATHROP & GAGE LC
2345 Grand Avenue
Suite 2800
Kansas City, MO 64108

In re application of
Alfred Ray Clark et al. :
Application No. 10/445,776 :
Filed: May 27, 2003 :
For: MODULAR ARMOR SHIELD ASSEMBLY :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on March 31, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), the reason "transferred to new counsel", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 05/12/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CARDINAL HEALTH
7000 CARDINAL PLACE
LEGAL DEPARTMENT - INTELLECTUAL PROPERTY
DUBLIN OH 43017

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SEP 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Peterka et al.	:	
Application No. 10/445,795	:	DECISION ON PETITIONS
Patent: 6,994,249	:	UNDER 37 CFR 1.48 AND 1.183
Filed: May 27, 2003	:	
Issued: February 7, 2006	:	
Title of Invention: System and Method For	:	
Drug Management Utilizing Transferable	:	
Labels	:	

This is in response to the petitions filed under 37 CFR 1.48 and 1.183 filed on November 21, 2005.

Petitioner seeks to add Marc J. Ricker to the inventive entity of the above-identified patent. It is noted the petition was filed prior to the issuance of the patent.

The petition filed under 37 CFR 1.48 is **DISMISSED**.
The petition filed under 37 CFR 1.183 is **DISMISSED**.

A review of the petition submitted shows that the petition was not signed by a proper party of interest. All correspondence concerning this application must be signed by: 1) all named applicants (inventors), 2) all the owners of the rights to the invention, or 3) a registered attorney or agent duly appointed by the inventor(s) or the owner(s). Furthermore, all communications from the Office will be addressed to the first named inventor, unless specific instructions to the contrary are supplied by the named inventor(s) or owner(s).

Although the petition has been executed by a registered attorney, a review of the record shows that the attorney was not appointed by the inventor(s) or owners of this patent. Thus, Patrick Roche has not demonstrated proof of authority to act in a representative capacity pursuant to 37 CFR 1.34.

The merits of the petition have **not** been reviewed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

cc: Patrick R. Roche
1100 Superior Avenue
7th Floor
Cleveland, Ohio 44114-2579

Pet. Dec.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
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JUL 21 2004

In re Application of:

Inventor(s):	GHERARDI, Gian Luigi	Atty. Dkt.:	2545-0415
Serial No.:	10/445,797	Group Art:	1731
Filing Date:	May 28, 2003	Examiner:	Unknown
Title:	**A METHOD AND MACHINE FOR MAKING FILTER CIGARETTES**	Date:	July 21, 2004

WITHDRAWAL AS ATTORNEY OR AGENT
AND CHANGE OF CORRESPONDENCE ADDRESS

OFFICIAL
Approved
Jacqueline M. Stone, Director
Technology Center 1700
OCT 1 2004

Hon. Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please withdraw (1)Davidson Berquist Klima & Jackson LLP (2) J. Scott Davidson, Reg. No. 33,489; (3) James D. Berquist, Reg. No. 34,776; (4) Donald L. Jackson, Reg. No. 41,090; (5) Peter W. Gowdey, Reg. No. 25,872; and (6) Brian Siritzky, Reg. No. 37,497 as attorney or agent for the above-identified patent application.

Timothy J. Klima, Reg. No. 34, 852 is not to be withdrawn as attorney, as he will continue representing the Applicant in this matter. The Power of Attorney to Mr. Klima is to remain in effect.

The undersigned attorney is signing on behalf of all withdrawing attorneys.

CORRESPONDENCE ADDRESS

Please change the correspondence address and direct all future correspondence to:

Timothy J. Klima, Esq.
Harbin King & Klima
500 Ninth Street SE
Washington, DC 20003
Phone: 202-543-7600
Fax: 202-543-9230

Davidson Berquist
Klima & Jackson LLP
4501 North Fairfax Drive, Suite 920
Arlington, VA 22203
Tel: (703) 248-0333
Fax: (703) 248-9558

By: J. Scott Davidson
Reg. No.: 33,489

Date: July 21, 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

Paper No. 4

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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AUG 1 3 2003

OFFICE OF PETITIONS

In re Application of:
Mertens
Application No. 10/445,798
Filed: May 28, 2003
Attorney Docket No. MERTENS=5B
For: CONTINUOUS STRIP OF DETACHABLY INTERCONNECTED FOLDED PRODUCTS

ON PETITION

This is a decision on the petition filed July 2, 2003, for refund of fees allegedly incorrectly charged in application No. 10/445,798. The petition will be treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Petitioner filed an RCE, a two month extension of time and required fee, and an amendment in application No. 09/426,638 on April 16, 2003.

On April 29, 2003, the Office mailed correspondence indicating that the April 16, 2003 submission was not fully responsive to the prior Office action. Since the submission appeared to be a *bona fide* attempt to provide a complete reply to the final Office action, applicant was given a shortened statutory period of one month or thirty days to submit a complete reply.

Petitioner filed the instant divisional application on May 28, 2003. In the transmittal letter, petitioner requested that the Office apply the RCE filing fee submitted in application No. 09/426,638 to the filing fee cost of the divisional application.

The Office did not do so. Instead, the Office charged the basic filing fee to petitioner's deposit account.

Petitioner requests that the Office transfer the RCE filing fee from application No. 09/426,638 to application No. 10/445,798 and refund the basic filing fee charged in application No. 10/445,798.

37 CFR 1.26(a) states in pertinent part that, "Any fee paid by actual mistake or in excess of that required will be refunded, but a mere change of purpose after the payment of money, as when a party desires to withdraw an application, an appeal, or a request for oral hearing, will not entitle a

party to demand such a return."

Petitioner filed an RCE and an amendment with the required fee on April 16, 2003. The Office entered the RCE in the record. Examiner Pascua sent correspondence indicating that the submission was *bona fide* and gave applicant one month to complete the reply. Thus, the RCE was treated as a proper RCE. Contrary to petitioner's assertion, the RCE was not "denied." The RCE was accepted and the Office was waiting for a complete reply.

Petitioner had a change of purpose and decided to pursue a divisional application, rather than submitting a complete reply in application No. 09/426,638. The RCE filing fee was owed at the time it was paid. As noted in 37 CFR 1.26(a), petitioner's change of purpose does not constitute a "mistake" in payment warranting refund of the fees previously paid.

The RCE filing fee will not be refunded. There was no credit to apply to the basic filing fee due in application No. 10/445,798. Thus, the basic filing fee charged to deposit account no. 02-4035 was required and the petition for refund is **dismissed**.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/06/07

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/445825** Patent No.: **7239718**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

2628
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 15 2004

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DEC 15 2004

OFFICE OF THE DIRECTOR
TC 3600

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United States Patent and Trademark Office
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FOLEY AND LARDNER
Suite 500
3000 K Street NW
Washington, DC 20007

In re Application of	:	NOTICE OF
Yasuhiro Yamauchi et al	:	WITHDRAWAL
Serial No: 10/445,846	:	FROM ISSUE
Filed: May 28, 2003	:	UNDER 37 CFR 1.313(b)
For: HYBRID TRANSMISSION	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

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 Charles Marmor at (703) 308-0830.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Robert Oberleitner, Director
Patent Technology Center 3600
(703) 308-1134

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. None

BELLSOUTH CORPORATION
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

MAR 16 2006

OFFICE OF PETITIONS

In re Application of Steven G. Smith et al. Application No. 10/445,861 Filed: May 27, 2003 Attorney Docket Number: 010287CON Title: METHODS AND SYSTEMS FOR DETERMINING A TELECOMMUNICATIONS SERVICE LOCATION USING GLOBAL SATELLITE POSITIONING	DECISION ON PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition under 37 CFR §1.181(a), filed May 13, 2005, to withdraw the holding of abandonment.

The Office regrets the delay in issuing this decision.

BACKGROUND

A non-final Office action was mailed on March 11, 2004, and a response was received on June 9, 2004. The above-identified application became abandoned for failure to reply in a timely manner to the subsequently mailed Notice of Non-Compliant Amendment (notice), mailed June 30, 2004, which set a period for response of one month. No response was received, and no extensions of time were obtained. Accordingly, the above-identified application became abandoned on July 31, 2004. A notice of abandonment was mailed on April 29, 2005.

With the present petition, petitioner has asserted that a reply was timely submitted on July 9, 2004.

RELEVANT PORTION OF THE C.F.R.

37 CFR §1.8(b) sets forth, *in toto*:

> (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.

ANALYSIS

Petitioner has asserted that a response to the notice was timely submitted via facsimile transmission on July 9, 2004. Petitioner has submitted a copy of this response, and it is noted that it contains a certificate of facsimile transmission which is dated July 9, 2004. As such, Petitioner has met the requirements of 37 CFR §§1.8(b)(1) and (2), in that the Office has been informed of the previous transmission of the correspondence and an additional copy of the same has been provided with this petition.

Petitioner has also included a copy of the sending unit's report which confirms the transmission, however it does not appear that he has included a statement which attests on a personal knowledge basis to the previous timely transmission.

As such, Petitioner has not met the requirements of 37 CFR §1.8(b)(3), and therefore, the correspondence cannot be considered timely filed.

CONCLUSION

The petition must be **DISMISED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

On renewed petition, Petitioner may wish to consider submitting a statement from a party who has firsthand knowledge of the facsimile transmission of July 9, 2004.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450,
Alexandria, VA, 22313-1450.

2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

3 (571) 273-8300- please note this is a central facsimile number.

Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: STIER, DANIEL
Merchant & Gould, P.C.
P.O. Box 2903
Minneapolis, MN 55402--090

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Paper No. None

BELLSOUTH CORPORATION
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of
Steven G. Smith et al.
Application No. 10/445,861
Filed: May 27, 2003
Attorney Docket Number:
010287CON
Title: METHODS AND SYSTEMS FOR DETERMINING A TELECOMMUNICATIONS SERVICE LOCATION USING GLOBAL SATELLITE POSITIONING

DECISION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition filed May 15, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

A non-final Office action was mailed on March 11, 2004, and a response was received on June 9, 2004. The above-identified application became abandoned for failure to reply in a timely manner to the subsequently mailed Notice of Non-Compliant Amendment (notice), mailed June 30, 2004, which set a period for response of one month. No response was received, and no extensions of time were obtained. Accordingly, the above-

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

identified application became abandoned on July 31, 2004. A notice of abandonment was mailed on April 29, 2005.

The present petition was received on May 15, 2006, along with the petition fee, an amendment, and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received with the present petition can be processed.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KENNETH C. BROOKS
LEGAL DEPARMENT
MOLECULAR IMPRINTS, INC.
P O BOX 81536
AUSTIN, TX 78708-1536

COPY MAILED

MAR 1 0 2005

OFFICE OF PETITIONS

In re Application of
Sidlgata V. Sreenivasan et al
Application No. 10/445,863
Filed: May 27, 2003
Attorney Docket No. PA83/M11-43-25

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed March 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1756 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Paper No. 3

FLESHNER & KIM LP
PO BOX 221200
CHANTILLY VA 20153-1200

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NOV 25 2003

OFFICE OF PETITIONS

In re Reissue Application No: 10/445,868 :
Filed: May 28, 2003 :
Patent No.: 6,479,935 : DECISION GRANTING PETITION
Issue date: November 12, 2002 :
Original Application No. 09/717,069 :
Original Application Filed: November 22, 2000 :

This is a decision on the petition filed October 29, 2003, in the above-identified reissue application which is being treated as a petition under 37 CFR 1.181(no fee) requesting that this reissue application may be properly amended to reflect that the above-identified original application papers (now patented) be given a filing date of November 22, 2000, instead of the currently accorded filing date of April 18, 2001, due to USPTO error.

The petition is **granted**.

The papers for the above-identified original application were deposited on November 22, 2000, along with 4 Korean priority documents and, by way of the transmittal letter, presented a claim for benefit under 35 U.S.C. 119 and also expressly incorporated by reference the contents of these 4 documents.

However, on March 2, 2001, the Office of Initial Patent Examination (OIPE) mailed a Notice indicating that while that filing date had been accorded the original application papers, Figure 16 described in the original specification had been omitted. The Notice indicated that applicants had 3 options with respect to the omitted Figure 16, in that applicants could: (1) file a petition and $130 fee (refundable if favorably treated) and contend that the missing Figure 16 had in fact been initially filed with the other application papers; or (2) file a petition and $130 fee (non-refundable) along with the omitted Figure 16 and accept the date of receipt at the USPTO of the omitted Figure 16 as the filing date of the instant application; or (3) elect not to file the petition and fee and thus constructively accept the application papers as filed, which, of course, lacked Figure 16.

On April 18, 2001, which was within the period for reply to the aforementioned Notice, applicants filed 15 sheets of formal drawings, including the missing Figure 16. Applicants did **not** file the petition and requisite fee, as required for proceeding further

under either option 1 or 2 noted above. Applicants' reply further correctly noted that, on filing, the contents of the 4 Korean priority documents had been specifically incorporated by reference into the original application.

Unfortunately, OIPE construed the above-noted communication as a reply to the Notice and changed the filing date to the date of receipt of the omitted Figure 16, notwithstanding the conspicuous lack of a petition and fee required for proceeding under either option 1 or, especially, option 2 noted above. In the absence of a grantable petition and fee filed under option 2, OIPE was simply without authority to change the filing date to April 18, 2001, as applicants had thereby elected option 3 noted above.

In due course, the patent issued with Figure 16 as part of the original disclosure, but such was linked to the filing date of April 18, 2001.

The instant petition was filed May 28, 2003. Petitioners assert that the formal drawings that were filed in the original application, while coincidentally filed within the period for reply to the Notice, were not in fact filed as a reply to the Notice. Petitioners contend that the filing date should not have been reset to that of the date of receipt of, *inter alia* Figure 16. As such, petitioners request that the original application be accorded a filing date of November 22, 2000, the date that the original application was deposited in the USPTO without a drawing of Figure 16, and that the mistaken OIPE acceptance of Figure 16 as a reply to the Notice, be withdrawn. Concurrently, petitioners have, via this reissue application, canceled Figure 16, and made appropriate conforming amendments to the remaining subsequent drawing figures, and the specification.

Petitioners' arguments are well taken. The USPTO regrets that OIPE changed the filing date of the original application to the date of receipt of the formal drawings, which included the omitted Figure 16, in the absence of the necessary petition under 37 CFR 1.182 and fee. In the absence of a grantable petition under 37 CFR 1.182 and fee, OIPE lacked delegated authority to change the filing date of the original application from the date of initial receipt of the original application papers to the date of submission of the omitted Figure 16. See MPEP 1002.02(q), ¶ 5. Rather, it is --and was-- clear that applicants chose to constructively rely on the original application as filed; *i.e.*, applicants chose option (3) noted above on the Notice. Accordingly, the acceptance of Figure 16 by OIPE and its entry into the file as well as the consequent change by OIPE of the filing date with the included Figure 16 are both expressly **vacated** and, as such, have no force and effect. See Ex Parte Brunner, 1872 Dec. Comm'r Pat. 62, 63 (Comm'r Pat. 1872)(Commissioner vacating unauthorized Office action). Petitioner's requested filing date of November 22, 2000, for the original application is hereby reinstated. It follows, however, that Figure 16 was not among the papers filed in the original English specification on November 22, 2000.

It is noted that petitioners have facilitated the favorable consideration of this petition by canceling Figure 16, and propose, via this reissue application, to renumber the subsequent remaining drawing figures and to make conforming amendments to the specification where it describes the now deleted Figure 16 as well as where it describes the remaining, but renumbered, drawing figures.

An applicant may seek to remedy, by amendment without petition, an inadvertently omitted item in an application that, as here, has been accorded a filing date, by relying on an express incorporation statement. See MPEP 201.06(c), 7th Ed. Rev.1 (Feb. 2000) (version in effect as of the requested filing date, and more fully discussed in the current 8th Ed. Rev. 1 (Feb. 2003)). This is a prosecution issue exclusively before the examiner for his determination as to whether new matter has been introduced *vel non* by the insertion of the allegedly incorporated material, and is not an issue pertaining to the filing date *per se*. Id.

Petitioners are advised that they may wish to resubmit the subject matter included in (now canceled) Figure 16 as an amendment for consideration by the examiner under MPEP sections 608.02(p) and 608.04 for entry of new matter not described in the original application as filed on November 22, 2000, under 35 U.S.C. 112, first paragraph; 35 U.S.C. 132, and successful *vel non*, will nevertheless retain the newly accorded filing date for the original application: November 22, 2000. See MPEP 201.06(c).

While internal USPTO PALM/EXPO records have been changed to reflect the newly accorded filing date for the original application for patent, this reissue application, upon issuance, will publicly reflect, *inter alia*, the changed filing date of the original application for patent. For petitioners' convenience, a copy of a corrected filing receipt for the original application is enclosed with this decision.

The forthcoming examination and search of this reissue application conducted pursuant to 37 CFR 1.176 will also take into consideration the newly accorded filing date of the original application for patent: November 22, 2000.

This reissue application is being forwarded to Technology Center AU 2879 for examination in due course.

Telephone inquiries related to this decision should 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

Enclosure:
Corrected Filing Receipt for 09/717,069

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.
10/780469	02/18/04	STEPHEN E.DEARTH	

STEPHEN E.DEARTH
72 RED WILLOW CRESCENT
WINNIPEG MB R2J 4G4 CA CANADA

Date Mailed: 08/31/04

NOTICE OF CORRECTED APPLICATION NUMBER

Through an administrative error, the above identified application number was assigned to your application. The correct application number is **10/445873**. Please refer to the new application number in all future correspondence to the Office.

All notices mailed in application 10/780469 have been vacated. An updated filing receipt for **10/445873** will be mailed in due course.

The Office regrets any inconvenience this has caused. Please direct any questions or inquiries to Customer Service at (703) 308-1202.

Delora Dellard
Office of Initial Patent Examination

Office Copy

Copied from 10780469 on 10/20/2004

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JUL 20 2004

DCM

In re Application of Miller, Van Serial Number: 10/445,875 Filed: May 28, 2003 For: PASTRY FAT COMPOSITION INCORPORATING BOTANICALLY DERIVED UNHYDROGENATED OILS	:	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed May 28, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

MARKS & CLERK
1075 NORTH SERVICE ROAD WEST
SUITE 203
OAKVILLE ON L6M 2G2 CA CANADA

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AUG 2 2004

OFFICE OF THE DIRECTOR
TC 3600

ROTHWELL, FIG, ERNST & MANBECK, P.C.
1425 K Street, N.W.
Suite 800
Washington, DC 20005

In re application of
Daniel J. Fink
Application No. 10/445,890
Filed: May 28, 2003
For: COLLAPSIBLE SIDE WHEELED WALKER

DECISION ON PETITION TO MAKE PECIAL APPLICANT'S AGE)

This is a decision on the petition submitted on December 09, 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 are copies of a U.S. Passport and a Maryland driver's license for Mr. Fink indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the

application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/pav: 7/28/04

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MANELLI DENISON & SELTER PLLC
7TH FLOOR
2000 M STREET, N.W.
WASHINGTON DC 20036-3307

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MAR 3 1 2008

In re Application of

CALDERON, Roberto et al.
Application No. 10/445,896
Filed: May 28, 2003
Attorney Docket No. **20-316**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 21, 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 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: **MANELLI DENISON & SELTER PLLC**
2000 M STREET, NW
7TH FLOOR
WASHINGTON, DC 20036-3307

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MENDELSOHN DRUCKER & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

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FEB 22 2010

In re Application of :
Roberto Calderon et al :
Application No. 10/445,896 : ON PETITION
Filed: May 28, 2003 :
Attorney Docket No. Calderon 1-26-1-1-12

This is a decision on the petition, filed February 22, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 29, 2010 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 2617 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/
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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 3 2004

DCM

In re Application of
Robert Anderson, et al.
Serial Number: 10/445,899
Filed: May 28, 2003
For: PARTICULATE MATERIAL HAVING MULTIPLE CURABLE COATINGS AND METHODS FOR MAKING AND USING SAME

PETITION UNDER MPEP 708.02 VIII

This is in response to the petition filed February 23, 2004, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII (C) of the MPEP has not been met. Specifically, applicant has not performed a search directed to the invention as claimed in the application for which special status is requested. A search made to class 428, subclasses 403 and 407 would satisfy this requirement.

The application remains in the status of a new application awaiting action in its regular turn. Applicant is given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

Accordingly the petition is **DENIED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Stevens, Davis, Miller & Mosher, L.L.P.
Suite 850
1615 L Street, N.W.
Washington DC 20036

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REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH VA 22042

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JUL 16 2007

OFFICE OF PETITIONS

In re Patent No. 7,136,978 :
Issued: November 14, 2006 :
Application No. 10/445,922 : ON PETITION
Filed: May 28, 2003 :
Attorney Docket Number: HITA.0371 :

This is a decision on the petition, filed February 9, 2007, under 37 CFR 1.183, to correct the assignee's name on the front of the Patent, which is treated under under 37 CFR 3.81(b)[1].

The petition is **GRANTED**.

Petitioner states that the name of the second assignee, HITACHI ULSI SYSTEMS CO., LTD., was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the second assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

---

[1] *See* Official Gazette of June 22, 2004

Office assignment records reflect that HITACHI ULSI SYSTEMS CO., LTD., is also an assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee and the fee for the certificate of correction have been properly applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 8

EITAN PEARL LATZER & COHEN ZEDEK, LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK, NY 10020

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OCT 2 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Jona Zumeris et al	:	
Application No. 10/445,956	:	ON PETITION
Filed: May 28, 2003	:	
Attorney Docket No. P-4335-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to Corrected Application Papers (Notice) mailed July 29, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 30, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $740 extension of time submitted with the petition on September 14, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The application is being forwarded to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/445,971	05/27/2003	2621	1002	200208621-1	8	19	6

CONFIRMATION NO. 9772

CORRECTED FILING RECEIPT

OC000000011061123

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

Date Mailed: 10/20/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Donald J. Stavely, Windsor, CO;
Christopher A. Whitman, Fort Collins, CO;
Robert E. Sobol, Ft. Collins, CO;
Kevin J. Matherson, Ft. Collins, CO;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 07/25/2003

Projected Publication Date: 12/02/2004

Non-Publication Request: No

Early Publication Request: No

Title

Systems and methods for providing spatially-varied demosaicing

Preliminary Class

382

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No. 5

Kenneth D. Sibley
Myers Bigel Sibley & Sajovec, P. A.
P. O. Box 37428
Raleigh, NC 27627

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OFFICE OF PETITIONS

In re Application of	:	
Jonathan S. Lindsey	:	
Application No. 10/445,977	:	DECISION GRANTING
Filed: May 27, 2003	:	PETITION
Attorney Docket No. 5051-579	:	

This is a decision on the petition filed September 25, 2003, requesting that the above-identified application be accorded a filing date of May 27, 2003, rather than the presently accorded date of May 28, 2003. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on May 27, 2003 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt no. EV193585455US bears no handwritten "date-in", it includes a USPS receipt date stamp of May 27, 2003. Applicants are alleging that the correct date of mailing pursuant to 37 CFR 1.10 is May 27, 2003.

Petitioner has also provided a copy of a search of the USPS' Express Mail Track and Confirm database, which confirms that the package bearing Express Mail label No. EV193585455US was accepted on May 27, 2003.

This application file is being returned to the Office of Initial Patent Examination Division for **correction of the filing date to May 27, 2003.** Thereafter, the application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Sherry Brinkley
Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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PAUL K. LEGAARD
ISIS PHARMACEUTICALS, INC
1896 RUTHERFORD ROAD
CARLBAD, CA 92008

MAILED

MAY 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Yu et al.	:	DECISION ON PETITION
Application No. 10/445,996	:	TO WITHDRAW
Filed: May 27, 2003	:	FROM RECORD
Attorney Docket No. ISPH-0737	:	

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 12, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on July 12, 2006 the power of attorney to Isis Pharamaceuticals, Inc. 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: Woodcock Washburn LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia PA 19104-2891

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Connolly Bove Lodge & Hutz, LLP
1875 Eye Street , N.W.
Suite 1100
Washington DC 20006

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OFFICE OF PETITIONS

In re Application of

:

Steve J. Shattil.:

Application No. 10/446,022

: DECISION ON PETITION

Filed: May 27, 2003

:

Attorney Docket No. SDRPCTUS

This is a decision on the petition under 37 CFR §1.137(b), September 4, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 17, 2007. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on August 18, 2007. A Notice of Abandonment was mailed on September 6, 2007.

The issue fee and publication fee were received on September 4, 2007.

Form PTOL-85B, filed September 4, 2007, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JUL 26 2004

OFFICE OF THE DIRECTOR
TC 3600

Arthur J. Mathiesen
672 DeSoto Dr.
Helmet, CA 92543

In re Application of:
Arthur James Mathiesen
Serial No. 10/446,024
Filed: May 28, 2003
For: SPIRAL WEIGHT TRANSFER MOTOR

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S HEALTH)

This is a decision on the petition filed February 23, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section III: Applicant's Health. There is no fee for this petition.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run it's normal course.

The petition includes a medical certificate from the applicant's doctor dated February 16, 2004 attesting to the fact that the state of health of Arthur Mathiesen is such that he might not be available to assist in the prosecution of his patent application if it were to run its normal course. It is therefore clear from the evidence that the applicant might not be able to assist in the prosecution of the application due to his health if said prosecution were to run it's normal course.

For the above stated reasons, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/vdb: 7/20/04

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of
Kazuyuki Hosoe et al. :
Application No. 10/446,118 : ON PETITION
Filed: May 28, 2003 :
Attorney Docket Number: 000560.00121 :

This is a decision on the petition under 37 CFR 1.137(b)[1] , filed February 16, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed July 2, 2004, within one month of the mailing of the office communication. The instant petition and this decision precede the mailing of the Notice Abandonment.

Petitioner files the instant petition and argues that the Restriction Requirement mailed July 2, 2004 was not received and was returned to the USPTO as undeliverable because petitioner's address changed effective July 2003. It does not appear however, that a properly communicated address change was filed with the USPTO and thus, the application is appropriately abandoned.

In view thereof, and pursuant to the authorization in the petition, deposit account no. 23-2185 has been charged in the amount of $1500.00 for the petition fee.

---

[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)).

All other requirements of 37 CFR 1.137(b) having been met, this matter is being referred to Technology Center 3723 for consideration of the response to the Restriction Requirement filed February 16, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Eric J. Schaal
WOODCOCK WASHBURN LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103

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In re Application of	:	
Damkjaer et al.	:	
Application No. 10/446124	:	
Filing or 371(c) Date: 05/28/2003	:	LETTER
Patent No. 6758329	:	
Issue Date: 07/06/2004	:	
Title of Invention:	:	
WIDE CHAIN LINK CONVEYOR	:	
STRUCTURE	:	

This correspondence is regarding the request for acceptance of a fee deficiency submission. The request is treated as a petition under 37 CFR 1.28.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A review of Office records reveal that the Power of Attorney for petitioner herein was revoked on March 27, 2006. Petitioner should clarify the record as to the filing of the present petition in view of the revocation of petitioner's authority to act in the present patent.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

CC: JAMES C. WRAY
1493 CHAIN BRIDGE ROAD
McCLEAN, VA 22101

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAMES C. WRAY
1493 CHAIN BRIDGE ROAD
SUITE 300
McCLEAN, VA 22101

MAILED

JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Damkjaer et al.	:	
Application No. 10/446124	:	
Filing or 371(c) Date: 05/28/2003	:	ON PETITION
Patent No. 6758329	:	
Issue Date: 07/06/2004	:	
Title of Invention:	:	
WIDE CHAIN LINK CONVEYOR	:	
STRUCTURE	:	

This is a notice regarding 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.

Petitioner is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:
Noriyasu Sugimoto et al	:
Application No. 10/446,162	: DECISION GRANTING PETITION
Filed: May 28, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P07954US00/RFH	:

This is a decision on the petition under the provisions of 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Robert Doerksen, et al.	:	
Application No. 10/446,171	:	NOTICE
Filed: May 28, 2003	:	
Attorney Docket No. 1694.0550001	:	

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 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 Terri Johnson at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re application of:
DOERKSEN *et al.*
Appln. No.: 10/446,171
Filed: May 28, 2003
For: **Methods, Systems, and Computer Program Products for Computational Analysis and Design of Amphiphilic Polymers**

Confirmation No.: 9134
Art Unit: 1631
Examiner: Lin, Jerry
Atty. Docket: 1694.0550001/JMC/CMB

Payment of Additional Fees Under 37 CFR 1.28(c)(2)

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Mail Stop: Issue Fee

Sir:

The above-referenced application was filed as a large entity. During prosecution, however, small entity fees were paid on three separate occasions, as follows:

Date Fee Was Paid	Amount Paid	Difference Between Amount Paid and Large Entity Fee
10/17/2006	$510	$510
07/09/2007	$510	$510
02/20/2009	$65	$65

Total Fees Due: **$1,085.00**

A copy of each of the documents is attached for your convenience.

11/10/2009 CKHLOK 00000002 190036 10446171
01 FC:1461 1085.00 DA

Best Available Copy

The total fee in the amount of $1,085.00 ($510, $510, and $65) is being submitted via Credit Card via facsimile. Please see attached Credit Card Payment Form. The U.S. Patent and Trademark Office is authorized to charge any deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Cynthia M. Bouchez
Attorney for Applicants
Registration No. 47,438

Date: August 7, 2009

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

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MOLECUALR IMPRINTS, INC.
KENNETH C. BROOKS
P O BOX 81536
AUSTIN, TX 78708-1536

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OFFICE OF PETITIONS

In re Application of :
Sidlgata V. Sreenivasan et al :
Application No. 10/446,192 : DECISION GRANTING PETITION
Filed: May 27, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PA85/M11-59-41 :

This is a decision on the petition, filed March 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 25, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1756 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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CRAIG G. COCHENOUR, ESQ.
BUCHANAN INGERSOLL, P.C.
ONE OXFORD CENTRE, 20th FLOOR
301 GRANT STREET
PITTSBURGH, PA 15219

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of Ramon Eritja, et al. Application No. 10/446,201 Filed: May 23, 2003 Attorney Docket No. 030328	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 29, 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 Duane A. Stewart, III 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 is an outstanding Office action mailed August 9, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: RAMON ERITJA
VINATO 43,5,1
BARCELONA E08014
SPAIN

cc: MARTIN MUNZER
CYGENE LABORATORIES, INC.
7786 WILES ROAD
CORAL SPRINGS, FL 33067

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/446,201	05/23/2003	Ramon Eritja	030328

CONFIRMATION NO. 3244

POWER OF ATTORNEY NOTICE

CRAIG G. COCHENOUR, ESQ.
BUCHANAN INGERSOLL, P.C.
ONE OXFORD CENTRE, 20th FLOOR
301 GRANT STREET
PITTSBURGH, PA 15219

OC000000026422310

Date Mailed: 10/23/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/29/2007.

- 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.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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APR 21 2006
OFFICE OF PETITIONS

STRIKER, STRIKER & STENBY
103 East Neck Road
Huntington, NY 11743

In re Application of :
Stubner, et al. : DECISION ON PETITION
Application No. 10/446,222 :
Filed: May 28, 2003 :
Atty. Dkt. No.: 2539 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed March 14, 2006.

The petition under 37 CFR 1.181 is hereby **GRANTED**.

This application was held abandoned July 23, 2005, for failure to timely file a proper response to the final Office action mailed June 22, 2005. The Office communication set a one month shortened statutory period for reply. Notice of Abandonment was mailed February 27, 2006.

Petitioners argues that a response to the Office communication was timely submitted September 15, 2005 in accordance with the Certificate of Mailing or Transmission procedures set forth at 37 CFR 1.8. Petitioners have included a copy of the response submitted September 15, 2005.

The response submitted September 15, 2005 has been located in the official application file. Amongst the papers is an Information Disclosure Statement (IDS) fee transmittal form that includes a general authorization to charge any additional fees due. Accordingly, the required extension of time fee could have been charged to petitioners' deposit account (assuming sufficient fees were available) at the time of submission of the reply.

In view of the above, the Notice of Abandonment is hereby VACATED and the Notice of Abandonment is WITHDRAWN.

The petition for extension of time fee has been charged to petitioners' deposit account.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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STITES & HARBISON, PLLC
PLC TRANSPOTOMAC PLAZA
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1199 NORTH FAIRFAX STREET
ALEXANDRIA, VA 22314

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Legrand et al.	:	
Application No. 10/446,234	:	ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No. P09108US01/BAS	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 17, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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AUG 19 2005

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills NY 11746

In re Application of	:	
S. Zhadanov	:	
Serial No.: 10/446,237	:	DECISION ON PETITION
Filed: May 29, 2003	:	
For: Device for Massaging and Liquid	:	
Treatment	:	

This is in response to applicants' petition filed April 2, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

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HONEYWELL/FOGG
Patent Services
101 Columbia Road
P.O Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Charles T. Bye	: DECISION ON REQUEST FOR
Patent Number	: 7626541	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/446,261	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1957** 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. 5

SCHIFF HARDIN & WAITE
6600 SEARS TOWER
233 S WACKER DR
CHICAGO, IL 60606-6473

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OCT 14 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Schlageter et al.
Application No.10/446,271
Filed: May 23, 2003
Attorney Docket No. P03,0204
Title of Invention: METHOD OF AND DEVICE FOR CONVEYING TONER MATERIAL FROM A TONER REFILL CONTAINER AS WELL AS ASSOCIATED TONER REFILL CONTAINER

This is a decision on the petition under 37 CFR 1.182, filed on September 29, 2003, to change the name of the co-inventor for the above-identified application.

The petition is **GRANTED**.

The name of the sole inventor will be changed from "Ursula Stock" to **--Ursula Schafer--**.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at 703.306.0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Paper No. 6

MARSHALL GERSTEIN & BORUN
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606-6357

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DEC 23 2003

OFFICE OF PETITIONS

In re Application of	:	
Kenneth F. Clausen et al	:	
Application No. 10/446,281	:	DECISION REFUSING 37 CFR
Filed: May 23, 2003	:	1.47(a) STATUS
Attorney Docket No. 29939/38216A	:	

This is in response to the petition under 37 CFR 1.47(a), filed November 20, 2003.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), the applicable statute (35 USC 116) requires that a "diligent effort" have been expended in attempting to find or reach the nonsigning inventor(s). See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate the nonsigning inventor, such that the declaration can be accepted under 37 CFR 1.47(a). Where inability to find or locate the

named inventor(s) is alleged, 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 inventors. The statement(s) of fact 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.

In the instant case, petitioner states that a letter enclosing a copy of the assignment and declaration papers were sent to joint inventor Lisa Kern at her last known address, but was returned due to the "Forwarding Order Expired." Petitioner must state what attempts were made to locate Ms. Kern after the mailing of the letter sent to her, since a diligent effort to reach an inventor means more than a single unsuccessful mailing. At the very least, petitioner should conduct a search of the telephone directories and any regional or national registry(s). The results of such search should be made in any future petition for reconsideration. See MPEP 409.03(d).

Additionally, petitioner should state what inspection of the assignee's personnel records reveals as to the current address, forwarding address, or an address of the nearest living relative. Has any of Ms. Kern's former co-workers kept in touch with her? Has petitioner attempted to locate Ms. Kern on the Internet? If Ms. Kern is located, then a complete copy of the application papers (specification, claims, drawings, oath, etc.) should be mailed to Ms. Kern's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach Ms. Kern, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that Ms. Kern cannot be reached or has refused to join in the application. The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein.

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza Two, Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306

Telephone inquiries related to this decision should be directed to Wan Laymon at (703) 306-5685.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 11

MARSHALL GERSTEIN & BORUN
6300 SEARS TOWER
233 S WACKER DRIVE
CHICAGO, IL 60606-6357

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APR 2 6 2004

OFFICE OF PETITIONS

In re Application of	:
Kenneth F. Clausen et al	:DECISION NOTING JOINDER OF
Application No. 10/446,281	:INVENTOR AND PETITION UNDER
Filed: May 23, 2002	:37 CFR 1.47(a) MOOT
Attorney Docket No. 29939/38216A	:

Papers filed on March 4, 2004 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed December 23, 2003, included a Declaration signed by previously nonsigning inventor Lisa Kern in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Inquiries related to this decision may be addressed to the undersigned at (703) 305-8680.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 5

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2101 NASA RD 1
HOUSTON, TX 77058

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Holland et al.	:	
Application No. 10/446,283	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. MSC-23303-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 8, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed February 20, 2004. 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 April 21, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

Petitioner submitted $130.00 towards payment of the late oath or declaration fee. However, the Notice did not set forth payment of the fee as a requirement. Accordingly, the $130.00 will be credited to petitioner's deposit account as authorized.

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 (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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CO-Office of Patent Counsel
53510 Silvergate Ave. Rm. 103
San Diego, CA 92152-5765

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OFFICE OF PETITIONS

In re Application of	:	
Brian K. Meadows, et. al.	:	
Application No. 10/446,287	:	ON PETITION
Filed: May 23, 2003	:	
Attorney Docket No. 83793	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2005, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed September 9, 2004. A Notice of Abandonment was mailed on July 14, 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/remarks; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 3662, for review of the amendment/remarks filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
Heath, Richard W. :
Application No. 10/446,292 :
Filed: May 28, 2003 :
Attorney Docket No. TOLCO.036A :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed February 6, 2007, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely and properly reply to the final Office action mailed June 7, 2006, which set a shortened statutory period for reply of three (3) months. With a three-month extension of time, a reply was due on or before December 7, 2006. A Notice of Abandonment was mailed on January 19, 2007.

Petitioner states that a timely reply was mailed via certificate of mailing on December 7, 2006, which included the following papers: Request for Continued Examination (RCE) and 3 month Extension Requested. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated December 7, 2006, which would have rendered the reply timely if received.

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, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of June 7, 2006 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on December 7, 2006.

A review of USPTO financial records shows receipt of the $750.00 RCE fee and the $570.00 extension of time fee.

This application is being referred to Technology Center AU 3632 for appropriate action in the normal course of business on the reply received with petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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JONES DAY
555 SOUTH FLOWER STREET FIFTIETH FLOOR
LOS ANGELES CA 90071

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JUL 27 2006
OFFICE OF PETITIONS

In re Application of :
Daniel H. Lange et al. :
Application No. 10/446,294 : ON PETITION
Filed: May 27, 2003 :
Attorney Docket No.: 165877-100012US

This is a decision on the petition filed June 15, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed May 20, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned August 21, 2005. Accordingly, a Notice of Abandonment was mailed on April 4, 2006.

This matter is being referred to Technology Center 3736 for appropriate action on the amendment filed June 15, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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JONES DAY
555 SOUTH FLOWER STREET FIFTIETH FLOOR
LOS ANGELES CA 90071

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OFFICE OF PETITIONS

In re Application of :
Daniel H. Lange et al. :
Application No. 10/446,294 : ON PETITION
Filed: May 27, 2003 :
Attorney Docket No.: 165877-100012US

This is a corrected decision on the petition filed June 15, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) 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.

This application became abandoned for failure to timely reply to the Final Office Action mailed May 20, 2005. A shortened statutory period of three months was set for replying to the Final Office Action. No extensions of time having been requested, this application became abandoned August 21, 2005. Accordingly, a Notice of Abandonment was mailed on April 4, 2006.

Although the first page of the office action mailed May 20, 2005 indicated that the office

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

action was non-Final, the Examiner Of Record has noted to the undersigned that the office action was in fact FINAL. Furthermore, the Examiner Of Record has also noted that the response filed June 15, 2006 does not place the application in condition for allowance. Thus, the petition does not satisfy requirement (1) above and the decision mailed July 27, 2006 is withdrawn.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of May 20, 2005, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment still does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on May 20, 2005, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONES DAY
555 SOUTH FLOWER STREET FIFTIETH FLOOR
LOS ANGELES CA 90071

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NOV 21 2006

OFFICE OF PETITIONS

In re Application of :
Daniel H. Lange et al. :
Application No. 10/446,294 :
Filed: May 27, 2003 :
Attorney Docket No.: 165877-100012US :

ON PETITION

This is a decision on the request for reconsideration filed November 6, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed May 20, 2005. A shortened statutory period of three months was set for replying to the Final Office Action. No extensions of time having been requested, this application became abandoned August 21, 2005. Accordingly, a Notice of Abandonment was mailed on April 4, 2006. A petition to revive was filed June 15, 2006 and dismissed in a decision mailed September 8, 2006 because the response filed with the petition to revive did not place the application in condition for allowance.

Comes now petitioner with a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

All other requirements having been met, this application is being forwarded to Technology Center 3735 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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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SHEEHAN PHINNEY BASS & GREEN, PA
C/O PETER NIEVES
1000 ELM STREET
MANCHESTER, NH 03105-3701

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AUG 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Aaron Linn et al	:	
Application No. 10/446,298	:	DECISION ON PETITION
Filed: May 28, 2003	:	
Attorney Docket No. 17224-6111	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment has not been mailed in this application. However, this application is abandoned by operation of law for failure to timely pay the issue and publication fees on or before July 18, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 17, 2007. The Part B - Fee(s) Transmittal form was timely received in the USPTO on July 16, 2007, which indicated that this application was no longer claiming small entity status and authorizing payment of the issue and publication fees ($1,400 and $300, respectively). Unfortunately, however, Office finance records indicate that, at the time an attempt was made, there were insufficient funds to cover the requested fees. Accordingly, this application became abandoned on July 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

In view of the statement of loss of entitlement to small entity status, Office records have been changed to reflect that small entity status is no longer being claimed. This file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate, absent

further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

The present petition is accompanied by the issue fee in the amount of $1,400. A part payment of $700 for the issue fee was previously charged to petitioner's deposit account on July 17, 2007. In view of the overpayment of the issue fee, the $700 fee will be refunded to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision accepting the unintentionally delayed payment of the issue and publication fees.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,076,877 B2
Serial No. : 10/446301
Inventor(s) : Wieschermann et al.
Issued : July 18, 2006
Title : **ROOF UNIT AND FLOOR UNIT FOR A ROAD VEHICLE**
Docket No. : P/4303-29

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' 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, 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.

Ernest C. White, ***LIE***
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703)
308-9390 x 122 or (703) 305-8228

Klaus P Stoffel Esq
Wolff & Samson
One Boland Drive
West Orange NJ 07052

ecw

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Klaus P Stoffel Esq
Wolff & Samson
One Boland Drive
West Orange, NJ 07052

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OFFICE OF PETITIONS

In re Patent of Wieschermann et al.	:	
Patent No. 7,076,877	:	
Issue Date: July 18, 2006	:	Decision on Petition
Application No. 10/446,301	:	
Filing Date: May 27, 2003	:	
Attorney Docket No. 11589/12	:	

This is a decision in response to the paper filed October 12, 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 **dismissed**.

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.

As to item (2), the request fails to establish an assignment in the name of "Johnson Controls Headliner GmbH" was recorded prior to issuance of the patent.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further fee is required for the request. The reconsideration request should include a cover letter entitled "Renewed Request under 37 CFR 3.81(b)."

The required fee of $130 has been charged to deposit account no. 06-2143.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Klaus P Stoffel Esq
Wolff & Samson
One Boland Drive
West Orange, NJ 07052

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OFFICE OF PETITIONS

In re Patent of Wieschermann et al. :
Patent No. 7,076,877 :
Issue Date: July 18, 2006 :
Application No. 10/446,301 :
Filing Date: May 27, 2003 :
Attorney Docket No. 11589/12 :

Decision on Petition

This is a decision in response to the request under 37 CFR 3.81 filed June 30, 2008, 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 **dismissed**.

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.

The request fails to establish an assignment in the name of "Johnson Controls Headliner GmbH" was recorded prior to issuance of the patent.

The instant application is a continuation-in-part of Application No. 10/113,712, which is a divisional of Application No. 09/719,941. Petitioner has submitted proof an assignment in the name of "Johnson Controls Headliner GmbH" was recorded for Application No. 09/719,941. However, the assignment filed in Application No. 09/719,941 will not be applied to the instant application.

MPEP 306 states,

> In the case of a substitute or continuation-in-part application, a prior assignment of the original application is not applied to the substitute or continuation-in-part application because the assignment recorded against the original application gives the

assignee rights to only the subject matter common to both applications. Substitute or continuation-in-part applications require the recordation of a new assignment if they are to be issued to an assignee.

Since the assignment filed in Application No. 09/719,941, will not be applied to the instant application/patent, and an assignment was not recorded in the instant case prior to issuance of the patent, the petition cannot be granted.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further fee is required for the request. The reconsideration request should include a cover letter entitled "Renewed Request under 37 CFR 3.81(b)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

MALLINCKRODT & MALLINCKRODT
10 EXCHANGE PLACE, SUITE 510
SALT LAKE CITY, UT 84111

Paper No. 4

In re application of
Ajit Singh Gill
Application No. 10/446,302
Filed: May 28, 2003
For: COUPLING FOR PIPE INCLUDING AN INCLINED FLANGE

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on May 28, 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 statement from Ajit Singh Gill stating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona 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/cps 12/17/03

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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	DRAWINGS	TOT CLMS	IND CLMS
10/446,317	05/28/2003	2816	1272	5649.1065	2	35	6

CONFIRMATION NO. 1789

CORRECTED FILING RECEIPT

OC000000011730096

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Date Mailed: 01/21/2004

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)

Seong-Jin Jang, Kyounggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2002-47067 08/09/2002

If Required, Foreign Filing License Granted: 07/28/2003

Projected Publication Date: 02/12/2004

Non-Publication Request: No

Early Publication Request: No

Title

Dual mode data output buffers and methods of operating the same

Preliminary Class

327

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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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Venkata Subbarao Voruganti	: DECISION ON REQUEST FOR
Patent Number	: 7613953	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/446,334	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **664** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ALEXANDRIA, VA 22313-1450
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WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose CA 95113

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APR 0 6 2004
OFFICE OF PETITIONS

In re Application of
Nesamoney, et al.
Application No. 10/446,338
Filed: May 27, 2003
Attorney Docket No. VIEW-P002
For: METHOD FOR PERFORMING REAL-TIME ANALYTICS USING A BUSINESS RULES ENGINE ON REAL-TIME HETEROGENEOUS MATERIALIZED DATA VIEWS

DECISION ON PETITION

This is a decision on the petition filed September 8, 2003 (certificate of mailing date September 3, 2003) requesting withdrawal of the Notice to File Corrected Application Papers, mailed August 11, 2003, insofar as it alleges that Figure 3 was omitted from the application upon filing.[1] The petition will be treated under 37 CFR 1.53(e).

The application was filed on May 27, 2003. On August 11, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners that Figure 3, as described in the specification, appeared to have been omitted.

Petitioners request that Figure 3 be accorded a filing date of May 27, 2003 on the basis that 6 pages of drawing figures, including Figure 3, were received in the Patent and Trademark Office (PTO) on May 27, 2003. In support, the instant petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing May 27, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 6 pages of drawings. A review of the application file reveals that there are 6 pages of drawing figures present. **Figure 3 is present**.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. Regarding finances, the petition fee has been credited to petitioners' deposit account.

The application is being returned to Office of Initial Patent Examination for further processing,

[1] The petition references an incorrect application number. The undersigned has changed the incorrect application number to the above-identified application number.

with a filing date of **May 27, 2003**, using the 6 pages of replacement drawing figures submitted on November 4, 2003 (certificate of mailing date September 4, 2003). Office records have already been corrected to show that 6 sheets of drawings were present on initial filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

DAVID G. POSZ, ESQ.
POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE, SUITE 101
RESTON, VA 20191

In re Application of	:	
Michael E. Campbell	:	
Application No. 10/446,344	:	ON PETITION
Filed: May 28, 2003	:	
Attorney Docket No. 12654US02(20-0138C)	:	

This is a decision on the petition, filed February 2, 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 9, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The patent practitioner listed on the Associate Power Of Attorney submitted with the instant petition have not been made of record. See attachment.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The examiner of Technology Center AU 2686 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

Attachment: Copy of Revised Associate Power of Attorney - 37 CFR 1.32

Application Number: 10/446344

Revised Associate Power of Attorney Practice - 37 CFR 1.32
(Applies to Associate Powers of Attorney filed on or after June 25, 2004)

This is in response to the Associate Power of Attorney, filed 2-2-06, which was on or after June 25, 2004, the effective date of a rule change eliminating Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). See Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (Jun. 22, 2004)

Although the paper has been placed in the file, the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record.

A registered patent practitioner may take action in a patent application on behalf of a patent applicant, if he or she is authorized by the patent applicant or the assignee of the patent applicant without being of record in Office records. See 37 CFR 1.34. When acting in a representative capacity, the registered patent practitioner must provide their registration number and name along with his or her signature. A registered patent practitioner is only required to be of record in a patent application in which an executed declaration has been filed (i.e., have a power of attorney in compliance with 37 CFR 1.32(b)) to:

(1) sign a change of address,
(2) expressly abandon a patent application without filing a continuation,
(3) sign a terminal disclaimer, and
(4) sign a power to inspect.

In addition, a registered patent practitioner who is not of record may act on behalf of the assignee, when an assignee complies with 37 CFR 3.73(b).

For additional information regarding the elimination of Associate Power of Attorney practice, see the questions and answers posted at: http://www.uspto.gov/web/offices/pac/dapp/poafaqs.htm.

Karen Creasy
Petitions Examiner

571-272-3208
Telephone Number

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

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JUL 0 5 2005

OFFICE OF PETITIONS

In re Application of
Salman Akram et al
Application No. 10/446,384
Filed: May 27, 2003
Attorney Docket No. 2269-3929.4US(99-0050.04/US)

ON PETITION

This is a decision on the petition, filed June 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2812 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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10/446,386 which is a continuation of 09/840,572

Richard L. Byrne
Webb Ziesenheim Logsdon Orkin & Hanson P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

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SEP 17 2002

OFFICE OF PETITIONS

In re Application of	:
Suresh C. Gupta et al	:
Application No. 09/840,572	: DECISION GRANTING
Filed: April 23, 2001	:STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No: 3419-010698	:
	:

This is in response to the petition under 37 CFR 1.47(a), filed July 23, 2001.

The petition is granted.

Petitioner has shown that the nonsigning inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center AU 2834 for appropriate action on the reply received June 11, 2002.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RECEIVED
WEBB, ZIESENHEIM LOGSDON
ORKIN, & HANSON, PC
SEP 20 2002

1044386

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WASHINGTON, D.C. 20231
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Suresh C. Gupta
3351 Rossmore Way
Los Alamitos, CA 90720

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SEP 17 2002

OFFICE OF PETITIONS

In re Application of
Suresch C. Gupta et al
Application No. 09/840,572
Filed: April 23, 2001
For: ELECTRICAL SYSTEM FOR TURBINE/ALTERNATOR ON COMMON SHAFT

Dear Mr. Gupta:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-8680. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Richard L. Byrne
Webb Ziesenheim Logsdon Orkin & Hanson P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

26 MAY 2005

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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The Webb Law Firm
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

In re Application of	:	DECISION ON
GUPTA et al	:	
Application No.: 10/446,386	:	PETITION
Filing Date: May 28, 2003	:	
Attorney's Docket No.: 2834	:	UNDER 37 CFR 1.181
For: ELECTRICAL SYSTEM FOR TURBINE/	:	
ALTERNATOR ON COMMON SHAFT	:	

This is in response to the petition under 37 CFR 1.181, filed August 21, 2003, requesting a corrected Filing Receipt. Applicant's petition is Granted.

The first sentence of applicant's specification read as follows:

"This application is a continuation of United States Patent Application Serial No. 09/840,572, filed April 23, 2001, which is a continuation of United States Application Serial No. 09/319,390, filed June 1, 1999, which is the United States national phase of International Application No. PCT/US97/22405, filed December 3, 1997 which designated, inter alia, the United States, and which claims the benefit of United States Provisional Application No. 60/032,149, filed December 3, 1996."

The Official Filing Receipt only indicated that the application was a continuation of 09/840,572. A new Filing Receipt has been issued to read as follows:

This application is a CON of 09/840,572 4/23/2001 PAT 6,605,928
which is a CON of 09/319,390 ABN
which is a 371 of PCT/US97/22405 12/03/97
which claims benefit of 60/032,149 12/03/96.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration Telephone:(571) 272-3297 Facsimile:(571) 273-0459

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PO BOX 1022
MINNEAPOLIS MN 55440-1022

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MAR 23 2006
OFFICE OF PETITIONS

In re Patent No. 6,979,591 B2	DECISION ON
Hedler, et al.	PATENT TERM ADJUSTMENT
Issue Date: December 27, 2005	AND
Application No. 10/446,396	NOTICE OF INTENT
Filed: May 28, 2003	TO ISSUE
Attorney Docket No. 18587-080001	CERTIFICATE OF CORRECTION

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT", filed February 2, 2006. Patentees request that the patent term adjustment indicated on the patent be corrected from zero (0) days.

The application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **thirteen (13)** days.

On December 27, 2005, the above-identified application matured into U.S. Patent No. 6,979,591 B2. The instant request for reconsideration filed February 2, 2006 was timely filed within two months of the date the patent issued. See §1.705(d). See also §1.7(a). The Patent issued with a Patent Term Adjustment of zero (0) days.

Patentees fail to state whether the patent is subject to a terminal disclaimer.

Patentees assert that the patent term adjustment appears to be shorter than appropriate.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of thirteen (13) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by Applicants' delay of seventy-five (75) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. §1.704(c)(10). The adjustment of seventy-five (75) days is at issue.

A review of the record reveals that Applicants were assessed seventy-five (75) days of delay for the filing of a "RESPONSE TO NOTICE OF ALLOWANCE" on October 14, 2005. However, the response is in actuality simply a transmittal letter, the filing of which has been deemed by the Director to not constitute a failure to engage in reasonable efforts under 37 C.F.R. §1.704(c)(10).[1] Accordingly, the assessment of seventy-five (75) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is thirteen (13) days (13 days of PTO delay and 0 days of applicant delay).

The $200 fee set forth in 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 06-1050, as authorized.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **thirteen (13)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

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DAVID G. BECK
BINGHAM MCCUTCHEN
18TH FLOOR
THREE EMBARCADERO CENTER
SAN FRANCISCO CA 94111

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OCT 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Taylor Bollman	:	
Application No. 10/446,416	:	ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No. 3000458-7034152001	:	

This is a decision on the petition, filed October 5, 2005, which is being treated as a petition 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 does nòt comply with any of the provisions.

Petitioner may wish to consider filing a petition under **37 CFR 1.313(c)(2), with an RCE** and, if appropriate, a petition under **37 CFR 1.78 (with fee)** to have the desired priority claim perfected.

A response to this decision must be filed within **ONE MONTH** from the mail date of this letter.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Taylor Bollman	:	
Application No. 10/446,416	:	ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No. 3000458-7034152001	:	

This is a decision on the petition, filed January 25, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 6, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2635 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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WILSON & HAM
1811 Santa Rita Road
Suite 130
Pleasanton, CA 94566

Mail Date: 08/02/2010

Applicant	: Sanjay Jain	: DECISION ON REQUEST FOR
Patent Number	: 7652988	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/446,419	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1779** 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.

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)
6834541	2004-12-28	10446420	2003-05-27	ID 023809 - JLR

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	/DJCushing/	Date (YYYY-MM-DD)	2009-07-10
Name	David J. Cushing	Registration Number	28703

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6834541
Issue Date: December 28,2004
Application No. 10446420
Filed: May 27,2003
Attorney Docket No. 14402-0075

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 10,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 10,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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COSTA MESA, CA 92626

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In re Application of	:	
Hacker, Nigel P.	:	
Application No. 10/446,435	:	ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No. 30-4331 DIV2 –4780 H9930-7711	:	

This is a decision on the petition under 37 CFR 1.181, filed May 26, 2006, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed August 3, 2005, which set a shortened statutory period for reply of three (3) months. A reply was due on or before November 3, 2005. A Notice of Abandonment was mailed on April 7, 2006.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on November 7, 2005 of 1. Amendment ; 2. Response to Office Action; and 3. Change of Correspondence Address. Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of November 3, 2005.

The reply acknowledged as having been received in the USPTO on November 7, 2005 (certificate of mailing date of November 3, 2005) is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. The $1500.00 petition fee submitted with the instant petition will be credited to petitioner's deposit account as authorized.

While petitioner did resubmit a copy of the previously filed amendment, the change of correspondence listed on the postcard receipt was not included. 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 until appropriate instructions to the contrary are received.

This matter is being referred to Technology Center AU 1712 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
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Cc:

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