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NOV 22 2004

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Paper No. 5

In re Application of	:	DECISION ON PETITION
Marsha Marie Allen	:	TO WITHDRAW
Serial No. : 10/446,454	:	HOLDING OF
Filed : May 29, 2003	:	ABANDONMENT
For : Drawstring Bra Cups	:	

This is a decision on petitioner's request filed August 16, 2004, to review the holding of abandonment mailed June 14, 2004, for failure to respond to the Office action mailed November 19, 2003. The request is based on an allegation that applicant did not receive the Office action mailed November 19, 2003. There is no fee required for this petition.

The petition is **dismissed**. The application remains abandoned.

The records of the Office indicate that an Office action was mailed to applicant at the address of record on November 19, 2003. There is a strong presumption that mail properly addressed and delivered to the United States Postal Service is in fact delivered to the addressee. An allegation that an Office action was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. This presumption that the Office action was delivered to applicant may be overcome by a showing that the action was not, in fact, received. As part of the showing, applicant must submit (1) a statement by her, and/or by anyone else at applicant's correspondence address that would have handled the Office action, stating that the Office action was not received, (2) a statement attesting to the fact that a search of the file jacket and other records indicate that the Office action was not received, and (3) all supporting documentary evidence available, as proof contra to the presumption of the delivery of the Office action such as copies of records, which disclose the receipt of other correspondence mailed from the Office on or about the same date as the action in question but fail to disclose receipt of that action would be acceptable or copies of records in which the action would have been entered had it been received, for example, file jacket notations, calendar notations, docket records, etc.

The request filed August 16, 2004 includes item (1) but not (2) and (3). Petitioner has not provided a statement attesting to the fact that she has searched the file jacket and that of all other records that she keeps for the instant application, which search failed to indicate that the Office communication in question was received. Petitioner has failed to describe what records, if any, she keeps to let her know

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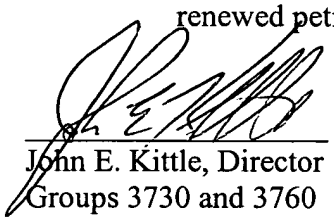
what papers she has received from the Office and the due dates for the responses that need to be filed. How and where is the information regarding receipt of Office papers and mailing of responses kept? How does petitioner know a response is due? Is this information kept on a calendar? Separate sheet of paper? On the file maintained by petitioner? An explanation of where/how the above information is kept and copies of the pertinent papers should be submitted. To aid petitioner prepare a renewed petition, if that is petitioner's desire, enclosed is a copy of section 711.03(c) of the Manual of Patent Examining Procedure (MPEP), which section deals with petitions relating to abandonment. The area dealing with petitions to withdraw holding of abandonment based on failure to obtain an Office action has been highlighted.

Any request for reconsideration of this decision should be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181". Telephone inquiries regarding this decision should be directed to Special Programs Examiner Andres Kashnikow at (571) 272-4361.

Summary: Petition to Withdraw Holding of Abandonment is Dismissed pending the submission of a renewed petition.



John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/11/15/04

attachment: copy of section 711.03 (c) of the MPEP.

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reply to avoid abandonment of the application. See MPEP § 706.07(h), paragraph VI.

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(H) < Prior to payment of the issue fee, an allowed application may become abandoned if an RCE is improperly filed without the appropriate fee or a submission in the application. The improper RCE will not operate to toll the running of the time period for payment of the issue fee. See MPEP § 706.07(h), paragraph IX.

711.02(c) Termination of Proceedings

"Termination of proceedings" is an expression found in 35 U.S.C. 120. As there stated, a second application is considered to be copending with an earlier application if it is filed before

(A) the patenting,

(B) the abandonment of, or

(C) termination of proceedings on the earlier application.

"Before" has consistently been interpreted, in this context, to mean "not later than."

In each of the following situations, proceedings are terminated:

(A) When the issue fee is not paid and the application is abandoned for failure to pay the issue fee, proceedings are terminated as of the date the issue fee was due and the application is the same as if it were abandoned after midnight on that date (but if the issue fee is later accepted, on petition, the application is revived). See MPEP § 711.03(c).

(B) If an application is in interference wherein all the claims present in the application correspond to the counts and the application loses the interference as to all the claims, then proceedings on that application are terminated as of the date appeal or review by civil action was due if no appeal or civil action was filed.

(C) Proceedings are terminated in an application after decision by the Board of Patent Appeals and Interferences as explained in MPEP § 1214.06.

(D) Proceedings are terminated after a decision by the court as explained in MPEP § 1216.01.

711.03 Reconsideration of Holding of Abandonment; Revival

When advised of the abandonment of his or her application, applicant may either ask for reconsideration of such holding, if he or she disagrees with it on the basis that there is no abandonment in fact; or petition for revival under 37 CFR 1.137.

711.03(a) Holding Based on Insufficiency of Reply

Applicant may deny that the reply was incomplete.

While the primary examiner has no authority to act upon an application in which no action by applicant was taken during the period for reply, he or she may reverse his or her holding as to whether or not an amendment received during such period was responsive and act on an application of such character which he or she has previously held abandoned. This is not a revival of an abandoned application but merely a holding that the application was never abandoned. See also MPEP § 714.03.

711.03(b) Holding Based on Failure To Reply Within Period

When an amendment reaches the U.S. Patent and Trademark Office after the expiration of the period for reply and there is no dispute as to the dates involved, no question of reconsideration of a holding of abandonment can be presented.

However, the examiner and the applicant may disagree as to the date on which the period for reply commenced to run or ends. In this situation, as in the situation involving sufficiency of reply, the applicant may take issue with the examiner and point out to him or her that his or her holding was erroneous.

711.03(c) Petitions Relating to Abandonment [R-2]

37 CFR 1.135. Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may

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require. The admission of. or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action. or any related proceedings. will not operate to save the application from abandonment.

(c) When reply by the applicant is a *bona fide* attempt to advance the application to final action. and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted. applicant may be given a new time period for reply under § 1.134 to supply the omission.

37 CFR 1.137. Revival of abandoned application, terminated reexamination proceeding, or lapsed patent.

(a) *Unavoidable.* If the delay in reply by applicant or patent owner was unavoidable. 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(l):

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(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.

(b) *Unintentional.* 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):

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(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.

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

(d) *Terminal disclaimer.*

(1) Any petition to revive pursuant to this section in a design application must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any petition to revive pursuant to this section in either a utility or plant application filed before June 8. 1995. must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of:

(i) The period of abandonment of the application: or

(ii) The period extending beyond twenty years from the date on which the application for the patent was filed in the United States or. if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120. 121. or 365(c). from the date on which the earliest such application was filed.

(2) Any terminal disclaimer pursuant to paragraph (d)(1) of this section must also apply to any patent granted on a continuing utility or plant application filed before June 8. 1995. or a continuing design application. that contains a specific reference under 35 U.S.C. 120. 121. or 365(c) to the application for which revival is sought.

(3) The provisions of paragraph (d)(1) of this section do not apply to applications for which revival is sought solely for purposes of copendency with a utility or plant application filed on or after June 8. 1995. to lapsed patents. or to reexamination proceedings.

(e) *Request for reconsideration.* Any request for reconsideration or review of a decision refusing to revive an abandoned application. a terminated reexamination proceeding. or lapsed patent upon petition filed pursuant to this section. to be considered timely. must be filed within two months of the decision refusing to revive or within such time as set in the decision. Unless a decision indicates otherwise. this time period may be extended under:

(1) The provisions of § 1.136 for an abandoned application or lapsed patent:

(2) The provisions of § 1.550(c) for a terminated *ex parte* reexamination proceeding filed under § 1.510: or

(3) The provisions of § 1.956 for a terminated *inter partes* reexamination proceeding filed under § 1.913.

(f) *Abandonment for failure to notify the Office of a foreign filing*: A nonprovisional application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing. may be revived only pursuant to paragraph (b) of this section. The reply requirement of paragraph (c) of this section is met by the notification of such filing in a foreign country or under a multinational treaty. but the filing of a petition under this section will not operate to stay any period for reply that may be running against the application.

(g) *Provisional applications:* A provisional application. abandoned for failure to timely respond to an Office requirement. may be revived pursuant to this section. Subject to the provisions of 35 U.S.C. 119(e)(3) and § 1.7(b). a provisional application will

not be regarded as pending after twelve months from its filing date under any circumstances.

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37 CFR 1.181. Petition to the Director.

(a) Petition may be taken to the Director:<

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court:

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(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions in interferences, see § 1.644.<

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(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

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I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

**>Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based on unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action<

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. **

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

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

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

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B. *Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed*

37 CFR 1.10(c) through 1.10(e) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), or (e) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

C. *Treatment of Untimely Petition To Withdraw Holding of Abandonment*

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

1. Design Applications, Utility Applications Filed Before June 8, 1995, and Plant Applications Filed Before June 8, 1995

(a) Applicant Receives Notice of Abandonment

In any design application, any utility application filed before June 8, 1995, or any plant application filed before June 8, 1995, if applicant receives a notice of abandonment, any petition to withdraw the holding of abandonment that is not filed within two months of the mail date of the notice of abandonment will **not** (absent extraordinary circumstances) be treated on its merits **unless** accompanied by a terminal disclaimer under 37 CFR 1.321(a), and the required fee set forth in 37 CFR 1.20(d). The period to be disclaimed is the terminal part of the term of any patent granted on the application, or of any patent granted on any utility or plant application that claims the benefit of the filing date of the application under

35 U.S.C. 120, 121, or 365(c), equivalent to the period between:

(A) the date that is two months after the mail date of the notice of abandonment; and

(B) the filing date of a grantable petition to withdraw the holding of abandonment.

Form PTO/SB/62 is the appropriate terminal disclaimer to be used.

(b) Applicant Does Not Receive Notice of Abandonment

In any design application, any utility application filed before June 8, 1995, or any plant application filed before June 8, 1995, if applicant never receives the notice of abandonment, any petition to withdraw the holding of abandonment that is not filed within twelve months from the date of applicant's filing (or date of submission, if the correspondence was never received by the Office) of correspondence with the Office for which further action by the Office can reasonably be expected, will **not** (absent extraordinary circumstances) be treated on its merit **unless** accompanied by a terminal disclaimer under 37 CFR 1.321(a), and the required fee set forth in 37 CFR 1.20(d). The period to be disclaimed is the terminal part of the term of any patent granted thereon, or of any patent granted on any utility or plant application that claims the benefit of the filing date of the application under 35 U.S.C. 120, 121, or 365(c), equivalent to the period between:

(A) the date that is twelve months from the date of applicant's filing or submission of correspondence with the Office, for which further action by the Office can reasonably be expected; and

(B) the filing date of a grantable petition to withdraw the holding of abandonment.

Form PTO/SB/62 is the appropriate terminal disclaimer to be used.

2. Utility and Plant Applications Filed on or After June 8, 1995 but Before May 29, 2000

In utility and plant applications filed on or after June 8, 1995, but before May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. However, the Office of Patent Legal Administration (OPLA) must be consulted in such situations if the holding of abandonment involves a period during: (A) appellate review by the Board of Patent Appeals and Interferences; (B) an interference proceeding under 35 U.S.C. 135(a), including any suspension due to an interference proceeding; or (C) which the application was in a sealed condition or prosecution was suspended due to a secrecy order under 35 U.S.C. 181. This is because it is necessary to effect (if appropriate) a reduction of patent term extension under the "due diligence" provisions of 37 CFR 1.701(d)(2).

3. Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 CFR 1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 CFR 1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 CFR 1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 CFR 1.137(a) or (b) (discussed below).

II. < PETITIONS TO REVIVE AN ABANDONED APPLICATION, OR ACCEPT LATE PAYMENT OF ISSUE FEE

37 CFR 1.137 provides for the revival of abandoned applications and lapsed patents for the failure:

(A) to timely reply to an Office requirement in a provisional application;

(B) to timely prosecute in a nonprovisional application;

(C) to timely pay the issue fee for a design application;

(D) to timely pay the issue fee for a utility or plant application; and

(E) to timely pay any outstanding balance of the issue fee (lapsed patents).

A petition under 37 CFR 1.137(a) requires:

(A) the required reply, unless previously filed;

(B) the petition fee as set forth in 37 CFR 1.17(l);

(C) a showing to the satisfaction of the *>Director of the USPTO< 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

(D) any terminal disclaimer required pursuant to 37 CFR 1.137(d).

A petition under 37 CFR 1.137(b) requires:

(A) the required reply, unless previously filed;

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

(C) 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

(D) any terminal disclaimer required pursuant to 37 CFR 1.137(d).

The *>Director of the USPTO< may require additional information where there is a question whether the delay was unintentional.

A. Reply Requirement

Unlike a petition to withdraw the holding of abandonment, a petition to revive under 37 CFR 1.137 must be accompanied by, *inter alia*, the required reply. See *Ex parte Richardson*, 1906 Dec. Comm'r Pat. 83 (1905) ("This Office has no authority to revive a case upon which no action has been taken within [the period for reply], but merely has authority to determine after an action is taken whether the delay in presenting it was unavoidable."). Generally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed. >A petition for an extension of time under 37 CFR 1.136 and a fee for such an extension of time are not required to be included with the reply.<

37 CFR 1.137(c) applies to the reply requirement for petitions under 37 CFR 1.137(a) and (b). In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination (RCE) in compliance with 37 CFR 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 include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. See below for more details on the reply requirement in specific situations of abandonment.

1. Abandonment for Failure To Pay the Issue Fee or Publication Fee

While the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR 1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. See *Brenner v. Ebbert*, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." 35 U.S.C. 41(a)(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent." Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of

the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof.

The Notice of Allowance requires the timely payment of the issue fee in effect on the date of its mailing to avoid abandonment of the application. In instances in which there is an increase in the issue fee by the time of payment of the issue fee required in the Notice of Allowance, the Office will mail a notice requiring payment of the balance of the issue fee then in effect. See *In re Mills*, 12 USPQ2d 1847, 1848 (Comm'r Pat. 1989). The phrase "for failure to pay the issue fee or any portion thereof" applies to those instances in which the applicant fails to pay either the issue fee required in the Notice of Allowance or the balance of the issue fee required in a subsequent notice. In such instances, the reply must be the issue fee then in effect, if no portion of the issue fee was previously submitted, or any outstanding balance of the issue fee then in effect, if a portion of the issue fee was previously submitted.

In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 CFR 1.137 must include payment of the publication fee.

2. Abandonment for Failure To Reply in a Nonprovisional Application

(a) Abandonment for Failure To Reply to a Non-Final Action

The required reply to a non-final action in a nonprovisional application abandoned for failure to prosecute may be either:

(A) an argument or an amendment under 37 CFR 1.111;

(B) the filing of a continuing application under 37 CFR 1.53(b) (or a continued prosecution application (CPA) under 37 CFR 1.53(d) if the application is ** a design application).

The grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. Where the proposed reply is to a non-final Office action, the petition may be granted if the reply appears to be *bona fide*. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect. In this limited situation, the patent examiner should send out a letter giving a 1-month shortened statutory period under 37 CFR 1.135(c) for correction of the error or omission. Extensions of time under 37 CFR 1.136(a) are permitted. If applicant does not correct the omission within the time period set in the letter (including any extension), the application is again abandoned.

(b) Abandonment for Failure To Reply to a Final Action

A reply under 37 CFR 1.113 to a final action **>must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection of, each claim so rejected.< Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(A) a Notice of Appeal and appeal fee;

(B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(C) the filing of **>an RCE< (accompanied by a submission >that meets the reply requirements of 37 CFR 1.111< and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995 (see paragraph **(d)** below); or

(D) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is ** a design application).

When a notice of appeal is the reply filed pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1), the time period under 37 CFR 1.192 for filing the appeal brief will be set by the *>Director of the USPTO< in the decision granting the petition.

An application subject to a final action in which a proposed amendment under 37 CFR 1.116 is filed as the required reply will normally be routed by the Office of Petitions to the Technology Center (TC) to determine whether a proposed amendment places the application in condition for allowance prior to granting any petition to revive such application. The exam-

iner is instructed that if the reply places the application in condition for allowance, the examiner should write in the margin of the reply "OK to enter upon revival." >For Image File Wrapper (IFW) processing, see IFW Manual.< If the petition is otherwise grantable and the examiner indicates that the reply places the application in condition for allowance, the petition will be granted. If, on the other hand, the reply would not place the application in condition for allowance, the examiner is instructed to complete form PTOL-303 and return the form to the Office of Petitions with the application. From PTOL-303 should not be mailed to the applicant by the examiner. In this situation, the Office of Petitions will not grant the petition. A copy of the form PTOL-303 is marked with the notation "Courtesy Copy" by the Office of Petitions. The courtesy copy is sent as an attachment with the decision on the petition. The advisory form PTOL-303 merely serves as an advisory notice to the Office of Petitions regarding the decision of the examiner on the amendment after final rejection. >For Image File Wrapper (IFW) processing, see IFW Manual.<

(c) Abandonment for Failure To File an Appeal Brief

In those situations where abandonment occurred because of the failure to file an appeal brief, the reply required pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1) must be either:

(A) an appeal brief in compliance with 37 CFR 1.192(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 for utility or plant applications filed on or after June 8, 1995 (see paragraph (d) below); or

(C) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is ** a design application).

(d) Filing an RCE as the Required Reply

For utility or plant applications abandoned for failure to reply to a final Office action or for failure to file an appeal brief, the required reply may be the filing of an RCE accompanied by a submission and the requisite fee. When an RCE is the reply filed pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1) to revive such an application, the submission accompanying the RCE must be a reply responsive within the meaning of 37 CFR 1.111 to the last Office action. Consideration of whether the submission is responsive within the meaning of 37 CFR 1.111 to the last Office action is done without factoring in the "final" status of such action. The submission may be a previously filed amendment after final or a statement that incorporates by reference the arguments in a previously filed appeal or reply brief. See MPEP § 706.07(h), paragraph II.

The petition may be granted if the submission appears to be a *bona fide* attempt to provide a complete reply to the last Office action. After revival of the application, the examiner may, upon a more detailed review, determine that the reply is lacking in some respect. In this limited situation, the examiner should send out a letter giving a 1-month shortened statutory period under 37 CFR 1.135(c) for correction of the error or omission. Extensions of time under 37 CFR 1.136(a) are permitted. If the applicant does not correct the omission within the time period set in the letter (including any extension), the application is again abandoned.

(e) A Continuing Application or RCE May Be Required by the Office

The Office may require the filing of a continuing application or an RCE (if the prosecution prior to abandonment was closed) (or request for further examination pursuant to 37 CFR 1.129(a)) to meet the reply requirement of 37 CFR 1.137(a)(1) (or 37 CFR 1.137(b)(1)) where, under the circumstances of the application, treating a reply under 37 CFR 1.111 or 1.113 would place an inordinate burden on the Office. Exemplary circumstances of when treating a reply under 37 CFR 1.111 or 1.113 may place an inordinate burden on the Office are where:

(A) an application has been abandoned for an inordinate period of time;

(B) an application file contains multiple or conflicting replies to the last Office action; *>or<

(C) the reply or replies submitted under 37 CFR 1.137(a)(1) (or 37 CFR 1.137(b)(1)) are questionable as to compliance with 37 CFR 1.111 or 1.113.

3. Abandonment for Failure To Notify the Office of a Foreign Filing After the Submission of a Non-Publication Request

If an applicant makes a nonpublication request upon filing with the appropriate certifications, the utility or plant application filed on or after November 29, 2000 will not be published under 35 U.S.C. 122(b)(1). See 35 U.S.C. 122(b)(2)(B)(i). >If an applicant makes a nonpublication request and then rescinds, pursuant to 35 U.S.C. 122(b)(2)(B)(ii), the nonpublication request before or on the date a counterpart application is filed in a foreign country, or under a multilateral international agreement, that requires eighteen-month publication, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request were never made. See MPEP § 1123 and § 1124.< An applicant who has made a nonpublication request>,< but who subsequently files an application directed to the invention disclosed in the >U.S.< application ** in a foreign country, or under a multilateral international agreement, that requires eighteen-month publication >before the nonpublication request is rescinded<, must>, in addition to the rescission,< notify the Office of such filing within forty-five days after the date of such filing. **>The requirement in 35 U.S.C. 122(b)(2)(B)(iii) for notice of the foreign filing is in addition to any rescission of the nonpublication request under 35 U.S.C. 122(b)(2)(B)(ii). If an applicant files a counterpart application in a foreign country after having filed an application in the USPTO with a nonpublication request, filing a rescission of the nonpublication request under 35 U.S.C. 122(b)(2)(B)(ii) without also providing a notice of the foreign filing in a timely manner will result in the abandonment of the U.S. application under 35 U.S.C. 122(b)(2)(B)(iii).< 35 U.S.C. 122(b)(2)(B)(iii), however, also provides that an application abandoned as a result of the failure to timely provide such a notice to the Office is subject to revival if the "delay in submitting the notice was unintentional."

35 U.S.C. 122(b)(2)(B)(iii) provides for revival only on the basis of unintentional delay, and not on the basis of unavoidable delay. Therefore, a nonprovisional application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires eighteen-month publication may be revived only on the basis of unintentional delay pursuant to 37 CFR 1.137(b). The reply requirement of 37 CFR 1.137(c) is met by the notification of such filing in a foreign country or under a multinational treaty, but the filing of a petition under 37 CFR 1.137(b) will not operate to stay any period for reply that may be running against the application. Since the Office cannot ascertain whether an application is abandoned under 35 U.S.C. 122(b)(2)(B)(iii), the Office may continue to process and examine the application until the Office is notified of applicant's failure to meet the forty-five days notice requirement of 35 U.S.C. 122(b)(2)(B)(iii). Therefore, the filing of a petition under 37 CFR 1.137(b) to revive such an application will not operate to stay any period for reply that may be running against the application. >Applicants may use form PTO/SB/64a to file a petition for revival under 37 CFR 1.137(b).<

B. Petition Fee Requirement

35 U.S.C. 41(a)(7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

The phrase "unless the petition is filed under [35 U.S.C.] 133 or 151" signifies that petitions to revive filed on the basis of "unavoidable" delay (under 35 U.S.C. 133 or 151) are a subset of petitions to revive filed on the basis of unintentional delay. That is, "unavoidable" delay and "unintentional" delay are not alternatives; "unavoidable" delay is the epitome of "unintentional" delay. Any petition to revive an abandoned application or lapsed patent must meet the minimal "unintentional" delay threshold, and an applicant need only pay the fee specified in 37 CFR 1.17(l) (rather than the fee specified in 37 CFR 1.17(m)) if the petition is also accompanied by an adequate showing 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.

C. Unintentional and Unavoidable Delay

Petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. Applicants determining whether to file a petition to revive an application under 37 CFR 1.137(b) or 1.137(a) should take the following into account:

While the Office reserves the authority to require further information concerning the cause of abandonment and delay in filing a petition to revive, the Office relies upon the applicant's duty of candor and good faith and accepts the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" without requiring further information in the vast majority of petitions under 37 CFR 1.137(b). This is because the applicant is obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when a practitioner provides this statement to the Office. In addition, providing an inappropriate statement in a petition under 37 CFR 1.137(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See *Lumenyte Int'l Corp. v. Cable Lite Corp.*, Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996)(unpublished)(patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

Even if the Office requires further information in a petition under 37 CFR 1.137(b), such petition is still significantly less burdensome to prepare and prosecute than a petition under 37 CFR 1.137(a). The Office is almost always satisfied as to whether "the entire delay...was unintentional" on the basis of statement(s) by the applicant or representative explaining the cause of the delay (accompanied at most by copies of correspondence relevant to the period of delay). A showing of unavoidable delay will (in addition to the above) require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and experience of the persons responsible for the error; and (3) copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP § 711.03(c)(III)(C)(2). In addition, a petition under 37 CFR 1.137(a) must establish that the delay was unavoidable, and not just that it was unintentional. Thus, many petitions originally filed under 37 CFR 1.137(a) end up being granted under 37 CFR 1.137(b) when the applicant realizes that sufficient evidence concerning the delay is too difficult to obtain or the cause of delay simply does not amount to "unavoidable delay" within the meaning of 37 CFR 1.137(a).

Since the requirements of 37 CFR 1.137(a) are more exacting than the corresponding requirements of 37 CFR 1.137(b), a petition under 37 CFR 1.137(a) is significantly less likely to be grantable as filed than is a petition under 37 CFR 1.137(b). The Office usually must render a number of interlocutory decisions dismissing a petition under 37 CFR 1.137(a) and requesting additional evidence until either the applicant provides a satisfactory showing of unavoidable delay (in which case the petition can be granted) or the Office concludes that the applicant cannot provide a satisfactory showing of unavoidable delay (in which case the petition must be denied). Thus, the period between when an applicant first files a petition to revive and the Office renders a decision granting (or denying) that petition will, more often than not, be much longer if the petition is under 37 CFR 1.137(a) than it would have been if the petition were under 37 CFR 1.137(b).

1. Unintentional Delay

The legislative history of Public Law 97-247, § 3, 96 Stat. 317 (1982), 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 [the requisite fee] 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." H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. A delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b).

Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

(A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;

(B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;

(C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;

(D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or

(E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

In order to expedite treatment, applicants filing a petition under 37 CFR 1.137(b) to revive an abandoned application are advised to include the statement "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," even if applicant chooses to include a statement of the facts concerning the delay. Applicants may use the forms provided by the Office (PTO/SB/64>. PTO/SB/64a,< or PTO/SB/64PCT).

**>

PTO/SB/64 (11-03)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee $_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee $ _____(37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):
☐ has been filed previously on _____.
☐ is enclosed herewith.
B. The issue fee of $_____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

(Page 1 of 2)

This collection of information is required by 37 CFR 1.137. 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. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

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

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

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

_____ Date

_____ Signature

Telephone Number:_____

_____ Typed or printed name

_____ Address

_____ Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

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

I hereby certify that this correspondence is being:

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

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

_____ Date

_____ Signature

_____ Type or printed name of person signing certificate

[Page 2 of 2]

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))	Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b)

1. Petition fee

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

☐ Other than small entity - fee $_____ (37 CFR 1.17(m))

2. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (*e.g.*, filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after filing. The filing date of the subsequently-filed foreign or international application is _____.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. 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. 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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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: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.
[NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

_____ Date

_____ Signature

Telephone Number:_____

_____ Typed or printed name

_____ Address

_____

Enclosures: ☐ Fee Payment

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

_____ Date

_____ Signature

_____ Type or printed name of person signing certificate

[Page 2 of 2]

PTO/SB/64/PCT (04-04)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)

First Named Inventor:

International (PCT) Application No.: U.S. Application No.: (if known)

Filed:

Title:

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(g) or 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee
(2) Proper reply
(3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

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

☐ Other than small entity - fee $_____(37 CFR 1.17(m))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s)) in the form of _____ (identify type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

PTO/SB/64/PCT (04-04)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

3. Terminal disclaimer with disclaimer fee

☐ Since this international application has an international filing date on or after June 8,1995, no terminal disclaimer is required.

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

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

_____ Date

_____ Signature

_____ Telephone Number

_____ Typed or Printed Name

_____ Registration Number, if applicable

_____ Address

_____ Address

Enclosures: ☐ Response
☐ Fee Payment
☐ Terminal Disclaimer
☐ _____

[Page 2 of 2]

2. Unavoidable Delay

As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 CFR 1.137(a) ("unavoidable" delay) or 37 CFR 1.137(b) ("unintentional" delay). See *Maldague*, 10 USPQ2d at 1478.

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 *Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also *Winkler v. Ladd*, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (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).

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(A) the error was the cause of the delay at issue;

(B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and

(C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

See *In re Egbers*, 6 USPQ2d 1869, 1872 (Comm'r Pat. 1988), *rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg*, 10 USPQ2d 1787 (D.D.C. 1988); *In re Katrapat*, 6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:

(A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;

(B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or

(C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, 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). For example, as 37 CFR 1.116 and 1.135(b) are manifest

that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

35 U.S.C. 133 and 151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990). The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 CFR 1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).

An applicant who fails to file a petition under 37 CFR 1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. The removal of the language in 37 CFR 1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 CFR 1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 CFR 1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 CFR 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 CFR 1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show 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" or even make an appropriate 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 dismissal or denial of a petition under 37 CFR 1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 CFR 1.137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 CFR 1.137(a) indicates otherwise). In such an instance, a petition under 37 CFR 1.137(b) may be filed accompanied by the fee set forth in 37 CFR 1.17(m), the required reply, 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 any terminal disclaimer required by 37 CFR 1.137(c).

Form PTO/SB/61 >or PTO/SB/61PCT< may be used to file a petition for revival of an unavoidably abandoned application.

**>

PTO/SB/61 (11-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

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

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9382.

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

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

1. Petition fee

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

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

2. Reply and/or fee

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

☐ has been filed previously on _____.

☐ is enclosed herewith.

B. The issue fee of $ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.

[Page 1 of 3]

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

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

PTO/SB/61 (11-03)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

_____ Date

_____ Signature

_____ Telephone Number

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Address

Enclosure ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☐ _____

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

I hereby certify that this correspondence is being:

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

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

[Page 2 of 3]

PTO/SB/61 (11-03)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

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

Date	Signature
Registration Number, if applicable	Typed or printed name

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

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

[Page 3 of 3]

PTO/SB/61/PCT (04-04)
Approved for use through 03/31/2007. OMB 0651-0021
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First named inventor:

U.S. Application No.: (if known)

International (PCT) Application Number:

Filed:

Title:

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) (as applicable). The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(g) or 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

(1) Petition fee;
(2) Proper reply;
(3) Terminal disclaimer with disclaimer fee—required for all international applications having an international filing date before June 8, 1995; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

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

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

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirements) in the form of _____ (identify the type of reply):

☐ was previously filed on _____

☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8.0 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

PTO/SB/61/PCT (04-04)
Approved for use through 03/31/2007. OMB 0651-0021
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

☐ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.

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

4. An adequate showing of the cause of the delay, and that the entire delay in filing the 35 U.S.C. 371(c) requirements (or a continuing U.S. application) from their due date until the filing of a grantable petition 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

_____ _____
Date

_____
Signature

_____
Telephone Number

_____
Typed or Printed Name

_____
Registration Number, if applicable

_____
Address

_____
Address

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

[Page 2 of 3]

PTO/SB/61/PCT (04-04)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

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

Date _____ Signature _____

Registration number, if applicable _____ Typed or Printed name _____

(In the space provided below, please explain in detail why the 35 U.S.C. 371(c) elements (or continuing U.S. application) were not timely filed.)

[Page 3 of 3]

D. Delay Until the Filing of a Grantable Petition

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137:

(A) the delay in reply that originally resulted in the abandonment;

(B) the delay in filing an initial petition pursuant to 37 CFR 1.137 to revive the application; and

(C) the delay in filing a **grantable** petition pursuant to 37 CFR 1.137 to revive the application.

As discussed above, the abandonment of an application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b), where the applicant deliberately permits the application to become abandoned. See *Application of G*, 11 USPQ2d at 1380. 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). An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by:

(A) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application;

(B) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or

(C) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival.

Obviously, delaying the revival of an abandoned application, by a deliberately chosen course of action, until the industry or a competitor shows an interest in the invention is the antithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137. See *Maldague*, 10 USPQ2d at 1478.

The Office does not generally question whether there has been an intentional or otherwise impermissible delay in filing an initial petition pursuant to 37 CFR 1.137(a) or (b), when such petition is filed: (A) within 3 months of the date the applicant is first notified that the application is abandoned; **and** (2) within 1 year of the date of abandonment of the application. Thus, an applicant seeking revival of an abandoned application is advised to file a petition pursuant to 37 CFR 1.137 within 3 months of the first notification that the application is abandoned to avoid the question of intentional delay being raised by the Office (or by third parties seeking to challenge any patent issuing from the application).

Where a petition pursuant to 37 CFR 1.137(a) or (b) is not filed within 3 months of the date the applicant is first notified that the application is abandoned, the Office will consider there to be a question as to whether the delay was unavoidable or unintentional. In such instances,

(A) the Office will require a showing as to how the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(a) petition was filed was "unavoidable"; or

(B) the Office may require further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed, and how such delay was "unintentional."

To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(a) or (b) in instances in which such petition was not filed within 3 months of the date the applicant was first notified that the application was abandoned, applicants should include a showing as to how the delay between the date the applicant was first notified by the Office that the application was abandoned and the filing of a petition under 37 CFR 1.137 was (A) "unavoidable" in a petition under 37 CFR 1.137(a); or (B) "unintentional" in a petition under 37 CFR 1.137(b).

Where a petition pursuant to 37 CFR 1.137(a) or (b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment) the Office will require:

(A) further information as to when the applicant (or the applicant's representative) 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 (or applicant's representative) (see *Pratt*, 1887 Dec. Comm'r Pat. at 32-33).

To avoid delay in the consideration of the merits of a petition under 37 CFR 1.137(a) or (b) 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(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

E. Party Whose Delay Is Relevant

The question under 37 CFR 1.137 is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unavoidable or unintentional. When the applicant assigns the entire right, title, and interest in an invention to a third party (and thus does not retain any legal or equitable interest in the invention), the applicant's delay is irrelevant in evaluating whether the delay was unavoidable or even unintentional. See *Kim v. Quigg*, 718 F. Supp. 1280, 1284, 12 USPQ2d 1604, 1607-08 (E.D. Va. 1989). When an applicant assigns the application to a third party (e.g., the inventor/applicant's employer), and the third party decides not to file a reply to avoid abandonment, the applicant's actions, inactions or intentions are irrelevant under 37 CFR 1.137, unless the third party has reassigned the application to the applicant prior to the due date for the reply. *Id.*

Likewise, where the applicant permits a third party (whether a partial assignee, licensee, or other party) to control the prosecution of an application, the third party's decision whether or not to file a reply to avoid abandonment is binding on the applicant. See *Winkler*, 221 F. Supp. at 552, 138 USPQ at 667. Where an applicant enters an agreement with a third party for the third party to take control of the prosecution of an application, the applicant will be considered to have given the third party the right and authority to prosecute the application to avoid abandonment (or not prosecute), unless, by the express terms of the contract between applicant and the third party, the third party is conducting the prosecution of the application for the applicant solely in a fiduciary capacity. See *Futures Technology Ltd. v. Quigg*, 684 F. Supp. 430, 431, 7 USPQ2d 1588, 1589 (E.D. Va. 1988). Otherwise, the applicant will be considered to have given the third party unbridled discretion to prosecute (or not prosecute) the application to avoid abandonment, and will be bound by the actions or inactions of such third party.

F. Burden of Proof To Establish Unavoidable or Unintentional Delay

37 CFR 1.137(a)(3) requires a showing to the satisfaction of the *>Director of the USPTO< 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. Therefore, the Office will require the applicant in every petition under 37 CFR 1.137(a) to carry the burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unavoidable. See *Haines*, 673 F. Supp. at 316-17, 5 USPQ2d at 1131-32.

37 CFR 1.137(b)(3) requires that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the entire delay in providing 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, but also provides that **>"[t]he Director may require additional information where there is a question whether the delay was unintentional."< While the Office will generally require only the statement that the entire delay in providing 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 may require an applicant to carry the burden of proof to establish that the delay

from the due date for the reply until the filing of a grantable petition was unintentional within the meaning of 35 U.S.C. 41(a)(7) and 37 CFR 1.137(b) where there is a question whether the entire delay was unintentional. See *Application of G*, 11 USPQ2d at 1380.

G *Terminal Disclaimer Requirement*

37 CFR 1.137(d) requires that a petition under either 37 CFR 1.137(a) or 1.137(b) be accompanied by a terminal disclaimer (and fee), regardless of the period of abandonment, in:

(A) a design application;

(B) a nonprovisional utility application filed before June 8, 1995; or

(C) a nonprovisional plant application filed before June 8, 1995.

In addition, a terminal disclaimer (and fee) is also required for a utility or plant application filed on or after June 8, 1995, but before May 29, 2000, where the application became abandoned (1) during appeal, (2) during interference, or (3) while under a secrecy order. The reason being that utility and plant patents issuing on applications filed on or after June 8, 1995, but before May 29, 2000, are eligible for the patent term extension under former 35 U.S.C. 154(b) (as a result of the Uruguay Round Agreements Act (URAA)). See 35 U.S.C. 154(b) (1999); see also 37 CFR 1.701. If such an application is abandoned (1) during appeal, (2) during interference, or (3) while under a secrecy order, the patentee of a patent issuing from such an application is eligible for patent term extension for the entire period of abandonment. The requirement for a terminal disclaimer for these situations will make certain that any patent term extension obtained for the period of abandonment while the application is under appeal, interference, or a secrecy order will be dedicated to the public. For utility and plant applications filed on or after May 29, 2000, a terminal disclaimer (and fee) is not required since the period of abandonment is reduced from the patent term adjustment pursuant to 37 CFR 1.704.

The terminal disclaimer submitted in a design application must dedicate to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. The terminal disclaimer submitted in either a utility or plant application filed before June 8, 1995 must dedicate to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of: (1) the period of abandonment of the application; or (2) the period extending beyond twenty years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed. The terminal disclaimer must also apply to any patent granted on any continuing utility or plant application filed before June 8, 1995, or any continuing design application, entitled under 35 U.S.C. 120, 121, or 365(c) to the benefit of the filing date of the application for which revival is sought. The terminal disclaimer requirement of 37 CFR 1.137(d) does not apply to applications for which revival is sought solely for purposes of copendency with a utility or plant application filed on or after June 8, 1995, or to lapsed patents.

The Office cannot determine (at the time a petition to revive is granted) the period disclaimed (i.e., which period is lesser: the period of abandonment of the application, or the period extending beyond twenty years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed). Therefore, the Office will not indicate the period disclaimed under 37 CFR 1.137(d) in its decision granting a petition to revive an abandoned application.

The filing of a terminal disclaimer is not a substitute for unavoidable or unintentional delay. See *Application of Takao*, 17 USPQ2d at 1159. The requirement that the entire delay have been unavoidable (37 CFR 1.137(a)) or at least unintentional (37 CFR 1.137(b)) is distinct from the requirement for a terminal disclaimer. Therefore, the filing of a terminal disclaimer cannot excuse an intentional delay in filing a petition or renewed petition to revive an abandoned application. Likewise, an unavoidable or unintentional delay in filing a petition or renewed petition to revive an abandoned application will not warrant waiver of the terminal disclaimer requirement of 37 CFR 1.137(d).

In the event that an applicant considers the requirement for a terminal disclaimer to be inappropriate

under the circumstances of the application at issue, the applicant should file a petition under 37 CFR 1.183 (and petition fee) to request a waiver of this requirement of 37 CFR 1.183. Such a petition may request waiver of this requirement *in toto*, or to the extent that such requirement exceeds the period considered by applicant as the appropriate period of disclaimer. The grant of such a petition, however, is strictly limited to situations wherein applicant has made a showing of an "extraordinary situation" in which "justice requires" the requested relief. An example of such a situation is when the abandonment of the application caused no actual delay in prosecution (e.g., an application awaiting decision by the Board of Appeals and Interferences during period of abandonment).

Forms PTO/SB/62 and PTO/SB/63 may be used when filing a terminal disclaimer in accordance with 37 CFR 1.137(d).

**>

PTO/SB/62 (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
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.

TERMINAL DISCLAIMER TO ACCOMPANY PETITION (Period Specified)	Docket Number (Optional)

In re Application of:

Name:

Application Number:

Filed:

For:

The owner*, _____ of _____ percent interest in the above-identified application hereby disclaims the terminal _____ months of any patent granted on the above-identified application or on any application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to this application. This disclaimer is binding upon the grantee, its successors or assigns.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the person signing is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

2. ☐ The undersigned is an attorney of record.

_____ _____
Telephone Number Signature Date

_____ _____
Registration Number, if applicable Typed or printed name

☐ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

* Certification under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

PTO/SB/63 (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to a collection of information unless it displays a valid OMB control number.

TERMINAL DISCLAIMER TO ACCOMPANY PETITION	Docket Number (Optional)

In re Application of:

Name:

Application Number:

Filed:

For:

The owner*, _____ of _____ percent interest in the above-identified application hereby disclaims a terminal part of the term of any patent granted the above-identified application equivalent to: (1) if the above-identified application is a design application, the period of abandonment of the above-identified application, and (2) if the above-identified application is a utility or plant application, the lesser of: (a) the period of abandonment of the application; or (b) the period extending beyond twenty years from the date on which the above-identified application was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed. This disclaimer also applies to any patent granted on a utility or plant application filed before June 8, 1995, or a design application, that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. This disclaimer is binding upon the grantee, and its successors or assigns.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

2. ☐ The undersigned is an attorney or agent of record.

_____ _____
Signature Date

_____ _____
Telephone Number Typed or Printed Name

☐ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

H. Request for Reconsideration

37 CFR 1.137(e) requires that any request for reconsideration or review of a decision refusing to revive an abandoned application or lapsed patent must be filed within 2 months of the decision refusing to revive or within such time as set in the decision. 37 CFR 1.137(e) further provides that, unless a decision indicates otherwise, this time period for requesting reconsideration or review may be extended under the provisions of 37 CFR 1.136.

37 CFR 1.137(e) specifies a time period within which a renewed petition pursuant to 37 CFR 1.137 must be filed to be considered timely. Where an applicant files a renewed petition, request for reconsideration, or other petition seeking review of a prior decision on a petition pursuant to 37 CFR 1.137 outside the time period specified in 37 CFR 1.137(e), the Office may require, *inter alia*, a specific showing as to how the entire delay was "unavoidable" (37 CFR 1.137(a)) or "unintentional" (37 CFR 1.137(b)). As discussed above, a delay resulting from the applicant deliberately choosing not to persist in seeking the revival of an abandoned application cannot be considered "unavoidable" or "unintentional" within the meaning of 37 CFR 1.137, and the correctness or propriety of the decision on the prior petition pursuant to 37 CFR 1.137, the correctness of the applicant's (or the applicant's representative's) decision not to persist in seeking revival, the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision to not persist in seeking revival are immaterial to such intentional delay caused by the deliberate course of action chosen by the applicant.

I. Provisional Applications

37 CFR 1.137 is applicable to a provisional application abandoned for failure to reply to an Office requirement. A petition under 37 CFR 1.137(a) or (b) must be accompanied by any outstanding reply to an Office requirement, since 37 CFR 1.137(a)(1) and 1.137(b)(1) permit the filing of a continuing application in lieu of the required reply only in a nonprovisional application.

35 U.S.C. 111(b)(5) provides that a provisional application shall be regarded as abandoned 12 months after its filing date and shall not be subject to revival after such 12-month period. 37 CFR 1.137(g) provides that a provisional application, abandoned for failure to timely respond to an Office requirement, may be revived pursuant to 37 CFR 1.137, however a provisional application will not be regarded as pending after twelve months from its filing date under any circumstances. Note that the pendency of a provisional application is extended to the next succeeding secular or business day if the day that is twelve months after the filing date of the provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia. See 35 U.S.C. 119(e)(3).

A provisional application may be abandoned prior to 12 months from its filing date for failure to reply to an Office requirement (e.g., failure to submit the filing fee and/or cover sheet). Applicant may petition to have an abandoned provisional application revived as a pending provisional application for a period of no longer than 12 months from the filing date of the provisional application where the delay was unavoidable or unintentional. It would be permissible to file a petition for revival later than 12 months from the filing date of the provisional application but only to revive the application for the 12-month period following the filing of the provisional application. Thus, even if the petition were granted to establish the pendency up to the end of the 12-month period, the provisional application would not be considered pending after 12 months from its filing date.

711.03(d) Examiner's Statement on Petition To Set Aside Examiner's Holding [R-2]

37 CFR 1.181 states that the examiner **>"may be directed by the Director to furnish a written statement within a specific time setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy thereof to the petitioner."< Unless requested, however, such a statement should not be prepared. See MPEP § 1002.01.

711.04 Public Access to Abandoned Applications [R-2]

**>Access will be provided to the application file itself for any non-Image File Wrapper (IFW) abandoned published application. When access to the IFW system is available in the File Information Unit (FIU)

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MAY 31 2005

Marsha Marie Allen
3rd Floor
5250 South Michigan Avenue
Chicago, IL 60615

In re Application of	: DECISION ON PETITION
Marsha Marie Allen	: TO WITHDRAW
Serial No. : 10/446,454	: HOLDING OF
Filed : May 29, 2003	: ABANDONMENT
For : Drawstring Bra Cups	:

This is a decision on petitioner's renewed request filed December 27, 2004, to review the holding of abandonment mailed June 14, 2004, for failure to respond to the Office action mailed November 19, 2003. The basis for the request is that applicant did not receive the communication mailed November 19, 2003. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

In a decision mailed November 13, 2004, petitioner was informed that the petition lacked items (2) and (3). In support of the renewed request, petitioner has submitted items (2) and (3).

Accordingly, in view of the above, the request is therefore GRANTED and the holding of abandonment withdrawn. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the re-mailing of the Office action of November 19, 2003, which action will set forth a new period for reply.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

ak/04/20/05

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Paper No. 5

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
SUITE 1111
526 SUPERIOR AVENUE
CLEVELAND, OH 44114-1400

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NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Ouriel, Goodson and Jordan	:	DECISION ACCORDING
Application No. 10/446,472	:	STATUS UNDER
Filed: May 28, 2003	:	37 CFR 1.47
Attorney Docket No. CCF-6095NP	:	
For: MINIMALLY INVASIVE TREATMENT SYSTEM FOR AORTIC ANEURYSMS	:	

This is in response to the petition under 37 CFR 1.47(a) filed October 31, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

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

Telephone inquiries 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
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Paper No. 6

Harry Goodson
3596 Dickenson Common
Fremont, CA 94538-2277

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NOV 1 9 2003

OFFICE OF PETITIONS

Letter

In re Application of :
Ouriel, Goodson and Jordan :
Application No. 10/446,472 :
Filed: May 28, 2003 :
Attorney Docket No. CCF-6095NP :
For: MINIMALLY INVASIVE TREATMENT :
SYSTEM FOR AORTIC ANEURYSMS :

Dear Mr. Goodson:

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: TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
SUITE 1111
526 SUPERIOR AVENUE
CLEVELAND, OH 44114-1400

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Paper No. 7

Lisa K. Jordan
2300 Walnut Street, #410
Philadelphia, PA 19103

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NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Ouriel, Goodson and Jordan :
Application No. 10/446,472 :
Filed: May 28, 2003 : Letter
Attorney Docket No. CCF-6095NP :
For: MINIMALLY INVASIVE TREATMENT :
SYSTEM FOR AORTIC ANEURYSMS :

Dear Ms. Jordan:

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: TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
SUITE 1111
526 SUPERIOR AVENUE
CLEVELAND, OH 44114-1400

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

Mail Date: 04/20/2010

Applicant	: William B. May JR.	: DECISION ON REQUEST FOR
Patent Number	: 7649898	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/446,474	: 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 **1216** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 4

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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SEP 0 3 2003

OFFICE OF PETITIONS

In re Application of
Jang, et al.
Application No. 10/446,480
Filed: May 28, 2003
Attorney Docket No. 5649-1069

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10, filed August 15, 2003, requesting that the above-identified application be accorded a filing date of May 28, 2003, rather than the presently accorded filing date of May 29, 2003.

Petitioners allege that the application was deposited in Express Mail service on May 28, 2003. However, the "date-in" on petitioners' Express Mail customer receipt, supplied via facsimile transmission on August 28, 2003, is blank.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis added).

Paragraph (d) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Here, petitioners have met the requirements of 37 CFR 1.10(d). The petition was filed promptly. In addition, the number of the Express Mail mailing label (EV 353609304 US) was placed on the application papers. Lastly, while the Express Mail label does not bear a date-in date, the fact that the label bears a USPS date stamp of May 28, 2003 serves as "corroborating evidence" that the above-identified application was deposited with the USPS on May 28, 2003.

In view of the above, the application is entitled to a filing date of May 28, 2003. The petition is **GRANTED**.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **May 28, 2003, not May 29, 2003.**

Telephone inquires specific to this decision may be directed to the undersigned at (703)305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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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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ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER, NJ 07921

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OFFICE OF PETITIONS

In re Application of Harry W. Eberle III :
Application No. 10/446,514 :
Filing Date: May 28, 2003 :
Attorney Docket No. 0247-2 CIP :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2006, to revive the above-identified application.

The petition is **granted**.

A non-final Office action was mailed April 23, 2004. The Office action set a shortened statutory period for reply of three (3) months.

Although an amendment was filed September 15, 2004, it was not accompanied by proper payment for an extension of time. Accordingly, the above-identified application became abandoned on July 24, 2004.

A Notice of Abandonment was mailed on January 12, 2005.

The instant petition requests revival of the application.

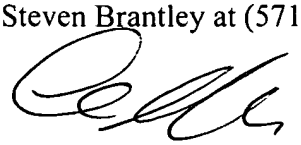
Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Ernest Buff signed the petition. Buff was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Buff was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Buff that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

[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).

Technology Center Art Unit 3635 will be informed of the instant decision and the application, including the amendment filed October 6, 2006, 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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OFFICE OF PETITIONS

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

In re Application of :
Ban P. Loh :
Application No. 10/446,532 : ON PETITION
Filed: May 27, 2003 :
Attorney Docket No. P0289 (HDP REF: 8966-0000 :

This is a decision on the petition, filed March 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 8, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2875 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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JUL 07 2004

TECHNOLOGY CENTER 2100

Paper No. 5

Michael J. Bujold
Davis & Bujold, P.L.L.C.
Fourth Floor
500 North Commercial Street
Manchester, NH 03101-1151

In re Application of:
Yuji OISHI et al.
Application No. 10/446,538
Filed: May 28, 2003
For: USB STORAGE DEVICE AND PROGRAM

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

This is a decision on the petition, filed 24 May 2004, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

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

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

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

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

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

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

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

The submission does not satisfy the requirement of section (e), in that it does not point out how the ***claimed subject matter is patentable over the references***. That is, the detailed discussion of the references as required by section (e) does not have the particularity required by 37 CFR 1.111(b) and (c). While Applicant references "principle aspects" of the storage device of the present invention in the Petition (see pages 2-3 and page 9 of the Petition), there is no reference to particular claim language in the independent claims that supports these aspects of the present invention.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

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

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

7/7/04 for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

#7

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SEP 0 2 2004

TECHNOLOGY CENTER 2100

Paper No. 7

Michael J. Bujold
Davis & Bujold, P.L.L.C.
Fourth Floor
500 N. Commercial Street
Manchester, NH 03101-1151

In re Application of: Yuji OISHI et al.
Application No. 10/446,538
Filed: May 28, 2003
For: USB STORAGE DEVICE AND PROGRAM

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

This is a decision on the request for reconsideration filed August 12, 2004, regarding the petition filed on May 24, 2004 under 37 C.F.R. §1.102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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.

As Petitioner's submissions filed May 24, 2004 and August 12, 2004 meet the criteria set forth above, the petition to Make Special is **GRANTED**.

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

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

BLJ: 9/01/04

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

In re Application of
Robert E. Reiter et al
Serial No.: 10/446,542
Filed: May 27, 2003
Attorney Docket No.: 30435.69

: PETITION TO MAKE SPECIAL

This is in response to the petition filed June 3, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No. 4

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OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

In re Application of
Wright et al.
Application No. 10/446,543
Filed: May 29, 2003
Attorney Docket Number: 9386-2
Title of Invention: SYSTEMS, METHODS AND TRANSMISSION FORMATS FOR PROVIDING A COMMON PLATFORM FOR DIRECT BROADCAST SATELLITE TELEVISION NETWORKS

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on September 24, 2003, requesting that the above-identified application be accorded a filing date of May 28, 2003, rather than the presently accorded filing date of May 29, 2003.

Petitioner contends the application was deposited in Express Mail service on May 28, 2003. In support, petitioner supplied a copy of Express Mail receipt No. EV353609264US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). A review of the United States Postal Service's Express Mail Information Database shows the Express Mail package was accepted by the United States Postal Service on May 28, 2003. Petitioner has also provided a copy of the Express Mail Label which shows a USPS date stamp of May 28, 2003.

In view of the above, the petition is **Granted**. No petition fee is required and none has been charged.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **MAY 28, 2003** and issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

Mail Date: 04/21/2010

Applicant	: Toshiaki Otake	: DECISION ON REQUEST FOR
Patent Number	: 7664863	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/446,552	: 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 **1076** 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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P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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JUL 18 2005

OFFICE OF PETITIONS

In re Application of :
Paul Grady Russell :
Application No. 10/446,559 : DECISION ON PETITION UNDER
Filed: May 27, 2003 : 37 C.F.R. §1.137(b)
Attorney Docket No.: 200309581-1 :
Title: ARTICLE AND METHOD OF :
FABRICATION THEREOF FOR :
PROVIDING TAMPER DETECTION
EVIDENCE

This is a decision on the petition under 37 CFR §1.137(b)[1], filed May 13, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.112 in a timely manner to the non-final Office action mailed September 22, 2004, which set a shortened statutory period for reply of 3 months. No responses or extensions of time were received. Accordingly, the above-identified application became abandoned on December 23, 2004. A Notice of Abandonment was mailed on April 1, 2005.

With the present petition, Petitioner has submitted the petition fee, a response, drawings, an amendment, and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b).

As such, the petition is **GRANTED**.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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

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

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

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MAR 3 1 2008

In re Application of

AMAITIS, Lee et al.
Application No. 10/446,572
Filed: May 27, 2003
Attorney Docket No. **CF/76**

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 19, 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 Laurence S. Rogers on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The 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.

There is an outstanding Office action mailed March 18, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **LEE AMAITIS**
20 PORT CHESTER TERRACE
LONDON, ENGLAND, W2 3TL
UNITED KINGDOM

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

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OFFICE OF PETITIONS

ANTHONY A. LAURENTANO
LAHIVE & COCKFIELD, LLP
28 STATE STREET
BOSTON MA 02109

In re Application of
Sanpei et al.
Application No. 10/446,581
Filed: May 28, 2003
Attorney Docket No.: 1576.93CIP

DECISION ON PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55 (a), filed January 27, 2006, requesting acceptance of an unintentionally delayed priority claim pursuant to 37 CFR 1.55(c) to Japanese application no. 11-078625, filed March 23, 1999.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (5) above. In this regard, a review of the file record shows that the international Application No. PCT/JP00/001639 was not filed within 12 months of the filing date of the intermediate Application No. 09/937,248. However, Office records show that nonprovisional Application No. 09/937,248 is the 35 U.S.C. §371 national stage entry of international Application No. PCT/JP00/001639. Therefore, the claim for benefit of priority under the 35 U.S.C. 119(a)-(d) foreign priority section of the ADS to this PCT is incorrect. The ADS should clearly indicate under the domestic priority information section of the ADS that nonprovisional Application No. 09/937,248 is the 371 national stage entry of PCT/JP00/001639. The only claim for benefit of priority under the foreign priority section of the ADS should be to Japanese foreign Application No. 11-078625.

Any future petition should include a supplemental ADS correcting the above deficiency, along with a "Renewed Petition under 37 CFR 1.55(c)".

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

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

Any questions concerning this matter may be directed to Charlema R. Grant at (571) 272- 3215.

Frances Hicks
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/446,581	05/28/2003	Syuichiro Sanpei	1576.93CIP

CONFIRMATION NO. 1949

OC000000018616783

OC000000018616783

24040
DENNIS G. LAPOINTE
LAPOINTE LAW GROUP, PL
PO BOX 1294
TARPON SPRINGS, FL 34688-1294

Date Mailed: 04/26/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2006.

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

Charlema R. Grant

CHARLEMA R GRANT
OP (571) 272-3215

FORMER ATTORNEY/AGENT COPY

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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
10/446,581	05/28/2003	Syuichiro Sanpei	1576.93CIP

CONFIRMATION NO. 1949

OC000000018616783

OC000000018616783

24040
DENNIS G. LAPOINTE
LAPOINTE LAW GROUP, PL
PO BOX 1294
TARPON SPRINGS, FL 34688-1294

Date Mailed: 04/26/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2006.

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

CHARLEMA R GRANT
OP (571) 272-3215

NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/446,581	05/28/2003	Syuichiro Sanpei	1576.93CIP

CONFIRMATION NO. 1949

OC000000018616835

OC000000018616835

ANTHONY A. LAURENTANO
LAHIVE & COCKFIELD, LLP
28 STATE STREET
BOSTON, MA 02109

Date Mailed: 04/26/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2006.

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

CHARLEMA R GRANT
OP (571) 272-3215

ATTORNEY/APPLICANT COPY

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ANTHONY A. LAURENTANO
LAHIVE & COCKFIELD, LLP
28 STATE STREET
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application of :
Sanpei et al. :
Application No. 10/446,581 : DECISION ON PETITION
Filed: May 28, 2003 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 1576.93CIP :

This is a decision on the renewed petition under 37 CFR 1.55(c), filed September 7, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Japanese Application No. 11-078625, filed March 23, 1999.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director

may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on May 28, 2003, which is after November 29, 2000 and nonprovisional Application No. 09/937,248 is the 371 national stage entry of PCT/JP00/001639 filed within 12 months of March 23, 1999 (the filing date of the foreign application to which benefit is now being claimed). On September 7, 2006, an Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1370 was received on January 27, 2006. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) 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 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. 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 1621 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Charlema Grant at (571) 272-3215.

Frances Hicks
Petitions Examiner
Office of Petitions
ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/446,581	05/28/2003	1621	880	1576.93CIP		4	1

CONFIRMATION NO. 1949

ANTHONY A. LAURENTANO
LAHIVE & COCKFIELD, LLP
28 STATE STREET
BOSTON, MA 02109

CORRECTED FILING RECEIPT

OC000000020606858

Date Mailed: 09/27/2006

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)

Syuichiro Sanpei, Fukushima, JAPAN;
Masayuki Hanzawa, Fukushima, JAPAN;
Yasuyuki Suzuki, Fukushima, JAPAN;
Minoru Kaeriyama, Kanagawa, JAPAN;
Tomoya Hidaka, Chiba, JAPAN;
Toru Kawabe, Niigata, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number **00959**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/937,248 09/21/2001 PAT 6,590,126
which is a 371 of PCT/JP00/01639 03/17/2000

Foreign Applications

JAPAN 11-078625 03/23/1999

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/446,581

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INDUSTRIAL PROCESS FOR THE PRODUCTION OF DIPHENYL SULFONE COMPOUNDS

Preliminary Class

568

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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OFFICE OF PATENT COUNSEL
SPAWARSYCEN, CODE 20012
53510 SILVERGATE AVE. ROOM 103
SAN DIEGO CA 92152-5765

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of :
LAGNADO, et al. :
Application No. 10/446,615 :
Filed: May 28, 2003 :
Attorney Docket No. **84086** :

DECISION ON PETITION

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

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 6, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 7, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Receipt is acknowledged of the supplemental amendment filed September 27, 2006 and the supplemental Request for Continued Examination filed February 21, 2007. The fee of $790 submitted with the RCE filed on February 21, 2007 is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

The application file is being referred to Technology Center Art Unit 2815 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Sadler, Breen, Morasch & Colby, ps
422 W. Riverside Ave, Suite 424
Spokane, WA 99201

Mail Date: 04/20/2010

Applicant	: Julien Tan Nguyen	: DECISION ON REQUEST FOR
Patent Number	: 7647550	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/446,623	: 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 **1587** 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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MAY 23 2005

HAMILTON, BROOK, SMITH & REYNOLDS, PC
530 VIRGINIA ROAD
P. O. BOX 9133
CONCORD, MA 01742-9133

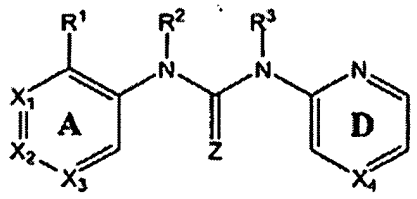
In re Application of	:
Robert G. Boyle et al	:
Serial No.: 10/446,627	: PETITION DECISION
Filed: May 28, 2003	:
Attorney Docket No.: 1855.2035-002	:

This is in response to the petition under 37 CFR 1.144, filed February 16, 2005, requesting withdrawal or modification of an improper restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained claims numbered 1-42. In a first Office action, mailed July 20, 2004, the examiner set forth a restriction requirement comprising 16 groups based on the definitions of X_1-X_4 in Formula III of claim 27, as follows:

Formula III is:



Group I – the compound of claim 27 where X_1 is C and X_2-X_4 are N;
Group II – the compound of claim 27 where X_1-X_2 are C and X_3-X_4 are N;
Group III – the compound of claim 27 where X_1-X_3 are C and X_4 is N;
Group IV - the compound of claim 27 where X_1-X_4 are all C;
Group V – the compound of claim 27 where X_1, X_2 and X_4 are N and X_3 is C;
Group VI – the compound of claim 27 where X_1-X_2 are N and X_3-X_4 are C;
Group VII – the compound of claim 27 where X_1 is N and X_2-X_4 are all C;
Group VIII – the compound of claim 27 where X_1 and X_4 are N and X_2-X_3 are C;
Group IX – the compound of claim 33;

Group X – the compound of claim 34;
Group XI – the compound of claim 36;
Group XII – the compound of claim 37;
Group XIII – the compound of claim 38;
Group XIV – the compound of claim 39;
Group XV – the compound of claim 41; and
Group XVI – The method of claims 1-26.

The examiner reasoned that the method claims were differentiated from the compound claims as the method did not require the compounds and the compounds could be used in other processes. The examiner also indicated that the compounds were distinct as there is no patentable co-action among them. As claims 28-32, 35,40 and 42 were not addressed in the requirement, their status or which Group they belong to is unclear.

Applicants replied on August 23, 2004, electing Group III and partially traversing the restriction requirement with respect to Group IV and Groups IX-XIV on the basis that Groups III and IV form an acceptable Markush Group and Groups IX-XIV fall within Groups III and IV.

The examiner mailed a new Office action to applicants on November 16, 2004, responding to the traversal by stating that the variable X_4 is N in one Group and C in the other Group and the compounds are therefor different and separately classified constituting an undue search burden. The requirement was made Final. Claims 27-28 were considered elected and were rejected under 35 U.S.C. 103(a) as unpatentable over Keegan et al.

Applicants replied on February 16, 2005, by amending a number of claims to clarify them. The rejection was also traversed. Concurrently this petition was filed. On May 2, 2005, the examiner mailed out an Office letter requesting cancellation of non-elected subject matter and indicating claims 27-28 as allowable.

DISCUSSION

Applicants partially traverse the restriction requirement arguing that the examiner's Groups III and IV should be combined as a single Group as they differ only in X_4 which is C in one instance and N in the other. Applicants' arguments for rejoinder of these two groups has been carefully considered but cannot be accommodated. Applicants have presented a Markush grouping of urea compounds in which terminal aromatic groups are attached to each N atom. The groups are comprised of all carbons or contain one to three nitrogen atoms. X_1-X_3 all appear in one ring and X_4 in the other ring. The presence or absence of nitrogen(s) in a ring system determines classification. Further the change of C to N in a ring system is not an obvious variation of the type on which Markush practice is predicated. Applicants rely on M.P.E.P. 803.02 to justify their argument. However, the argument fails as there is no common core found in the compounds of Groups III and IV.

Applicants also argue that the compounds of Groups IX-XIV are improperly restricted as they fall within the genus defined by either Group III or IV. Applicant is partially correct in this instance. Specifically Groups IX, X and XIII are all encompassed by Group III and should be

rejoined with it. Groups XI, XII and XIV are not encompassed by Group IV as they lack a N para to the X_4 N.

DECISION

The petition is **GRANTED-IN-PART**. **Groups IX, X and XIII (claims 33, 34 and 38) are rejoined with Group III. In view of this decision the Office action mailed May 2, 2005, is withdrawn.**

The application will be forwarded to the examiner for preparation of a new action on the merits.

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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Paper No. None

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OFFICE OF PETITIONS

LOWE HAUPTMAN GILMAN & BERNER, LLP
1700 Diagonal Road Road, Suite 310
Alexandria VA 22314

In re Application of :
Wei Chou Chen et al. :
Application No. 10/446,663 :
Filed: May 29, 2003 :
Attorney Docket No. 4459-124 :
Title: POLARIZED LIGHT SOURCE :
DEVICE AND BACK LIGHT MODULE :
FOR LIQUID CRYSTAL DISPLAY :

DECISION ON PETITION
UNDER 37 C.F.R. §1.182

This is in response to the petition filed on August 2, 2006, pursuant to 37 C.F.R. §1.182, requesting the withdrawal of a terminal disclaimer.

On December 21, 2005, Petitioner's Representative submitted a terminal disclaimer to overcome a nonstatutory double patenting rejection over U.S. Patent No. 6,893,136 in a non-final Office action mailed September 21, 2005. Petitioner's Representative has set forth that the Examiner has since withdrawn his indication that claims 44-49 were allowable, and as such, the terminal disclaimer is no longer proper.

The petition fee has been charged to the Deposit Account of Petitioner's Representative, as authorized in the petition. The Examiner has reviewed the request to withdraw the terminal disclaimer, and has determined that the previously filed terminal disclaimer should be withdrawn.

As such, the petition is **GRANTED**.

The previously filed terminal disclaimer is hereby **WITHDRAWN**. The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of

this decision, so that the present application can receive further processing.

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

Paul Shanoski

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

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Philip Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of
FARRAR, Richard
Application No.: 10/446,681
Filing Date: May 29, 2003
Docket No.: DEP 5103
For: AN ORTHOPAEDIC JOINT PROSTHESIS

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on November 04, 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 29, 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 September 30, 2003. A Notice of Abandonment was mailed on September 08, 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 Thomson
Attorney Advisor
PCT Legal Administration

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

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

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)
6712068	2004-03-30	10446683	2003-05-29	50075-030

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	/Larry Kyle/	Date (YYYY-MM-DD)	2008-05-27
Name	Cameron Lawrence Kyle	Registration Number	56072

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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Alexandria, VA 22313-1450
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In re Patent No. 6712068
Issue Date: March 30,2004
Application No. 10446683
Filed: May 29,2003
Attorney Docket No. 50075-030

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

This is a decision on the electronic petition, filed May 27,2008 ,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 May 27,2008 . 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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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Shi-On Leung et al	:	
Serial No.: 10/446,689	:	WITHDRAWAL OF ATTORNEY
Filed: May 29, 2003	:	
Attorney Docket No.: 018733-1234	:	

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

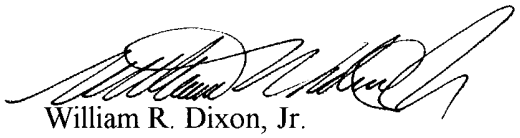
37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a 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.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Shi-On Leung et al	:	
Serial No.: 10/446,689	:	WITHDRAWAL OF ATTORNEY
Filed: May 29, 2003	:	
Attorney Docket No.: 018733-1234	:	

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

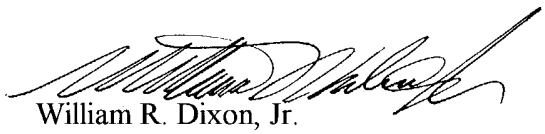
37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a 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.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No. None

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Eyal Fayneh et al. :
Application No. 10/446,724 :
Patent No. 6,914,490 :
Filed: May 29, 2003 :
Issue Date: July 5, 2005 :
Attorney Docket Number: INTEL-030 :
Title: METHOD FOR CLOCK GENERATOR LOCK-TIME REDUCTION DURING SPEEDSTEP TRANSITION :

DECISION ON PETITION UNDER 37 C.F.R. §3.81(B)

This is a decision on the petition under 37 C.F.R. §1.183, filed July 14, 2005, which is properly treated as a petition pursuant to 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner states that a typographical error appears on form PTOL-85(b), and that the assignee's name was not listed properly.

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

(b) 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, June 22, 2004.

The instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of this title, the request cannot be granted.

Furthermore, Petitioner has not complied with 37 C.F.R. §3.73, in that although the petition indicates that a copy of the notice of recordation of the assignment document was included with the petition, a copy of this recordation has not been located in the electronic file.

Hence, the petition is **DISMISSED.**

It is not clear if the assignment was submitted for recordation as set forth in 37 C.F.R. §3.11 before issuance of this patent. Therefore, on renewed petition, Petitioner should submit the reel and frame number for this recordation, as well as the request for a certificate of correction and the appropriate fees ($130 and $100).

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. 3.81(b)". 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. Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (703) 872-9306 - please note this is a central facsimile number. On July 15, 2005, the Central FAX Number will change to 571-273-8300. To give petitioners time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. None

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

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SEP 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Eyal Fayneh et al. :
Application No. 10/446,724 :
Patent No. 6,914,490 :
Filed: May 29, 2003 :
Issue Date: July 5, 2005 :
Attorney Docket Number: INTEL-030 :
Title: METHOD FOR CLOCK GENERATOR LOCK-TIME REDUCTION DURING SPEEDSTEP TRANSITION :

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §3.81(B)

This is a decision on the renewed petition under 37 C.F.R. §1.183, filed September 15, 2003, which is properly treated as a petition pursuant to 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner states that a typographical error appears on form PTOL-85(b), and that the assignee's name was not listed properly.

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

(b) 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, June 22, 2004.

The original petition was submitted on July 14, 2005 and was dismissed via the mailing of a decision on September 6, 2005. The decision set forth:

The instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of this title, the request cannot be granted.

Furthermore, Petitioner has not complied with 37 C.F.R. §3.73, in that although the petition indicates that a copy of the notice of recordation of the assignment document was included with the petition, a copy of this recordation has not been located in the electronic file.

Decision on petition, page 2.

With this renewed petition, Petitioner has submitted evidence that the assignment of the above-identified application to "Intel Corporation, Santa Clara, CA (US)" was submitted for recording in the Office on May 29, 2003 (Reel/Frame 014125/0469). This was prior to the payment of the Issue Fee on May 13, 2005.

Payment of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22

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FEB 10 2005

OFFICE OF PETITIONS

In re Patent of :
Noda et al. :
Patent No. 6,825,812 :
Issued: November 30, 2004 : ON PETITION
For: ANTENNA STRUCTURE FOR :
VEHICLES :

This is a decision on the Petition, filed December 20, 2004, under 37 CFR 1.183, for waiver of 37 CFR 3.81(a), to correct the name of the assignee in the above-identified patent.

The Petition is **granted**.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

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

SEP 28 2004

J. Bruce Hoofnagle
P.O. Box 370
Lisbon MD 21765-0370

In re Application of :
Irwin R. Berman et al :
Serial No.: 10/446,739 :
Filed: May 29, 2003 :
For: Focused Dosimtry Device and Methods: Associated Therewith

DECISION ON PETITION

This is in response to applicants' petition filed August 23, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director,
Technology Center 3700/2900

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

RATNERPRESTIA
PO BOX 980
VALLEY FORGE, PA 19482-0980

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NOV 2 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Joyce, Bielski, and Buckmaster	:	DECISION REFUSING
Application No. 10/446,753	:	STATUS UNDER
Filed: May 27, 2003	:	37 CFR 1.47(a)
Attorney Docket No. PVR-107US	:	
For: PHASE TRANSFER CATALYSIS SCRUBBER	:	

This is a decision on the petition under 37 CFR 1.47(a), filed November 3, 2003.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

The instant petition fails to satisfy (1).

As to item (1), petitioner must establish that the non-signing inventor refused to sign the oath or declaration after being presented with the application papers. Petitioner has failed to establish that the non-signing inventor was presented with a copy of the application. An inventor cannot sign a declaration stating he or she has "reviewed and understands the application papers" when the inventor has not been presented with a copy of the application and therefore has not reviewed the application. Refusal within the meaning of 37 CFR 1.47 requires that the inventor be presented with the application papers and given adequate time to review the contents of the application. Until the inventor reviews the papers and reads the specification and claims, he cannot know if he is actually an inventor of the claimed invention. Petitioner should send a copy of the application to the inventor along with instructions setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as a certified mail return receipt, cover letter of instructions, telegram, etc.

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

RatnerPrestia
PO Box 980
Valley Forge, PA 19482-0980

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FEB 09 2004

OFFICE OF PETITIONS

In re Application of :
Joyce, Bielski and Buckmaster :
Application No. 10/446,753 :
Filed: May 27, 2003 :
Attorney Docket No. PVR-107US :
For: Phase Transfer Catalysis Scrubber :

DECISION ACCORDING
STATUS UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed January 23, 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.

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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

Terrence P. Buckmaster
1707 Gwinnett Ct.
Turnersville, NJ 08012

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FEB 09 2004

OFFICE OF PETITIONS

In re Application of
Joyce, Bielski and Buckmaster
Application No. 10/446,753
Filed: May 27, 2003
Attorney Docket No. PVR-107US
For: Phase Transfer Catalysis Scrubber

Letter

Dear Mr. Buckmaster:

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: RatnerPrestia
PO Box 980
Valley Forge, PA 19482-0980

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: APR 1 8 2005

CHK
Paper No.

In re Application of SHIMA et al.
Serial No.: 10/446,824
Filed: May 29, 2003
For: RADIATION SENSITIVE RESIN COMPOSITION

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed January 10, 2005 to correct inventorship under 37 CFR 1.48(a) by adding the names of Masafumi Yamamoto.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Cynthia H. Kelly
Supervisory Patent Examiner
Art Unit 1752
Technology Center 1700

Steven B. Kelber
PIPER RUDNICK GRAY CARY U.S. LLP
1200 NINETEENTH STREET NW
WASHINGTON, D.C. 20036

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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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
1300 I STREET, NW
WASHINGTON DC 20005

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APR 23 2004

OFFICE OF PETITIONS

Applicant: Tandon et al.
Appl. No.: 10/446,826
Filing Date: May 29, 2003
Title: PLATELET MEMBRANE GLYCOPROTEIN VI (GPVI) DNA AND PROTEIN SEQUENCES, AND USES THEREOF
Attorney Docket No.: 03459.0026-01
Pub. No.: US 2003/0186885 A1
Pub. Date: October 2, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on November 17, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

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

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

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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JUN 07 2007

OFFICE OF PETITIONS

OGILVY RENAULT LLP (PWC)
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A 2Y3 CA CANADA

In re Application of :
Isabelle Brown :
Application No. 10/446,870 : DECISION ON PETITION
Filed: May 29, 2003 : UNDER 37 C.F.R. §1.181
Attorney Docket No. 2993-482US :
SC/IP :
Title: FUEL NOZZLE SHEATH :
RETENTION RING

This is a decision on the petition filed on September 20, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 29, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[1]. Accordingly, the above-identified application became abandoned on March 30, 2006. A Notice of Abandonment was mailed on May 12, 2006.

With the present petition, Petitioner has alleged that the Notice of Allowance and Issue Fee Due was not received. No mention is made regarding the receipt/non-receipt of the Notice of Abandonment.

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file

1 See MPEP §710.02(e).

jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[2].

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the Office communication was not received, that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

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

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

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the Notice of Allowance and Issue Fee Due of December 29, 2005, and will set a new period for response.

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

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

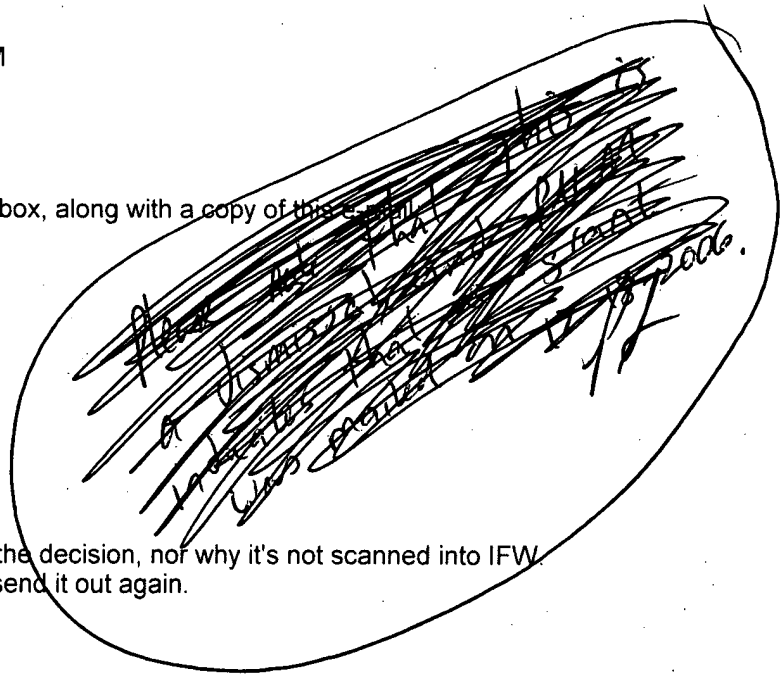
2 See MPEP 711.03(c).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

Shanoski, Paul

From: Shanoski, Paul
Sent: Tuesday, June 05, 2007 10:23 AM
To: Kelley, Alicia (AKIMAD)
Subject: RE: 10446870

Sure. I'll be in tomorrow - I'll drop a signed copy off in the mailbox, along with a copy of this e-mail.

Thanks.



-----Original Message-----
From: Kelley, Alicia (AKIMAD)
Sent: Tuesday, June 05, 2007 10:22 AM
To: Shanoski, Paul
Subject: FW: 10446870

Hi, Paul

I'm not certain why the applicant did not receive a copy of the decision, nor why it's not scanned into IFW. Can you please send me a copy of the decision and I will send it out again.

Thanks
A. Kelley

-----Original Message-----
From: Khlok, Chhivindavy (AKIMAD)
Sent: Friday, June 01, 2007 12:16 PM
To: Shanoski, Paul
Cc: Kelley, Alicia (AKIMAD)
Subject: RE: 10446870

Hi Alicia,

Would you please read Paul's message below. Application number 10/446870 was not on my list for 12/18/06 mail.

Thanks,
Davy

-----Original Message-----
From: Shanoski, Paul
Sent: Friday, June 01, 2007 12:10 PM
To: Khlok, Chhivindavy (AKIMAD)
Subject: 10446870

Davy,

Can you take a look at this case for me? I turned in a decision for mailing, and PALM states that a decision was mailed on 12/18/2006.

The applicant gave me a call, and he said that he never received a copy of the decision. He tried to pull a decision down from IFW, but could not find it.

I looked in Madras, and a copy of the decision isn't listed.

Is it possible that a copy was never mailed or scanned?

Thanks,

Paul Shanoski
Senior Attorney
Office of Petitions

US Patent and Trademark Office
Washington, DC 20231
(VOX) 571-272-3225
Email: Paul.Shanoski@uspto.gov

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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APR 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of
Padmanabha R. Rao
Application No. 10/446,877
Filed: May 27, 2003
For: **VIDEO PEDESTAL NETWORK**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on November 12, 2004.

A grantable request to withdraw, as attorney/agent of record must:
(1) Indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) Be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) Be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) Indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents of Record are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Ken Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

CC:

Andre L. Marais
Schwegman, Lundberg, Woessner & Kluth, P.A.
1600 TCF Tower
121 South Eight Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED

NOV 20 2007

OFFICE OF PETITIONS

In re Application of :
RAO et al. :
Application No. 10/446,877 : DECISION ON PETITION
Filed: May 27, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2069.020US1 :

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed May 23, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

All 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.

37 CFR 1.78(a)(3)(iii) requires a statement that "the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.78(a)(3)(iii), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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 filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §120 and 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 questions concerning this matter may be directed to Denise Pothier at (571) 272-4787. 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 Group Art Unit 2623 for consideration by the examiner of the claim under 35 U.S.C. § 120 of the prior-filed nonprovisional application.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/446,877	05/27/2003	2623	950	5683P020DC	10	1

CONFIRMATION NO. 3754

CORRECTED FILING RECEIPT

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC00000026765840

Date Mailed: 11/15/2007

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

Applicant(s)

R. Padmanabha Rao, Milpitas, CA;
Paolo L. Siccardo, Los Altos, CA;
Gilbert Levesque, Mountain View, CA;
Martin D. Elsbach, Boulder, CO;

Assignment For Published Patent Application

Irdeto Access, Inc., San Diego, CA

Power of Attorney:

Andre Marais--48095

Domestic Priority data as claimed by applicant

This application is a CON of 08/843,940 04/17/1997 PAT 6,738,983
which is a DIV of 08/451,264 05/26/1995 PAT 5,793,410

Foreign Applications

If Required, Foreign Filing License Granted: 07/11/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/446,877**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Video pedestal network

Preliminary Class

725

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

SANDRA P. THOMPSON
BINGHAM MCCUTCHEN, LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4067

COPY MAILED

DEC 15 2003

OFFICE OF PETITIONS

In re Application of:
Fan Zhang, Dan Towery, Joseph Levert,
Shyama Mukherjee and Yanpei Deng
Application No. 10/446,887
Filed: May 27, 2003
Title of Invention: COMPOSITION OF CHEMICAL MECHANICAL PLANARIZATION OF COPPER, TANTALUM, AND TANTALUM NOTRIDE

DECISION GRANTING STATUS UNDER 37 CFR 1.47

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed October 28, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventors, Dan Towery, Shyama Mukherjee and Yanpei Deng, refuse to join in the application.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Shyama Mukherjee
2470 Pinto Court
Morgan Hill, CA 95037

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DEC 15 2003

OFFICE OF PETITIONS

In re Application of: :
Fan Zhang, Dan Towery, Joseph Levert, :
Shyama Mukherjee and Yanpei Deng :
Application No. 10/446,887 :
Filed: May 27, 2003 : LETTER
Title of Invention: COMPOSITION OF :
CHEMICAL MECHANICAL PLANARIZATION OF :
COPPER, TANTALUM, AND TANTALUM NOTRIDE :

Dear Shyama 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) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: SANDRA P. THOMPSON
BINGHAM MCCUTCHEN, LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4067

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dan Towery
4998 Avenue De Los Arboles
Santa Clara, CA 95051

COPY MAILED

DEC 15 2003

OFFICE OF PETITIONS

In re Application of:
Fan Zhang, Dan Towery, Joseph Levert,
Shyama Mukherjee and Yanpei Deng
Application No. 10/446,887
Filed: May 27, 2003
Title of Invention: COMPOSITION OF CHEMICAL MECHANICAL PLANARIZATION OF COPPER, TANTALUM, AND TANTALUM NOTRIDE

LETTER

Dear Mr. Towery:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: SANDRA P. THOMPSON
BINGHAM MCCUTCHEN, LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4067

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Yanpei Deng
33288 Jamie Circle
Fremont, CA 94555

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DEC 15 2003

OFFICE OF PETITIONS

In re Application of:
Fan Zhang, Dan Towery, Joseph Levert,
Shyama Mukherjee and Yanpei Deng
Application No. 10/446,887
Filed: May 27, 2003
Title of Invention: COMPOSITION OF CHEMICAL MECHANICAL PLANARIZATION OF COPPER, TANTALUM, AND TANTALUM NOTRIDE

LETTER

Dear Yanpei Deng:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: SANDRA P. THOMPSON
BINGHAM MCCUTCHEN, LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4067

Pet. Dec.

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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Mail Date: MAY 18 2004

PAPER NO.

In re Application of	:	
Velleman, Stephan	:	DECISION
Serial No: 10/446,892	:	ON
Filed: May 27, 2003	:	PETITION
For: PREPREG FORMING APPARATUS	:	UNDER 708.02,VIII

This is in response to the petition filed December 19, 2003, requesting that the above-identified application be granted Special Status. The petition has been considered under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(d) (fee paid).

The petition has been found to be deficient for the following reason: Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. However, our review shows Class 425, subclasses 371 and 373; Class 264, subclasses 131, 136, and 257; and Class 156, subclasses 166 and 433 should have been searched.

Accordingly, the petition is **DENIED.**

Marian C Knode

Marian C. Knode, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

GENE SCOTT; PATENT LAW & VENTURE GROUP
3140 RED HILL AVENUE
SUITE 150
COSTA MESA CA 92626-3440

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10446892
Applicant	:	Stephan G. Velleman
Filed	:	05/27/2003
TC/A.U.	:	1733
Examiner	:	J. Brown
Docket No.	:	Vellem.S-01
Customer No.	:	22197

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SEP 18 2005

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

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following papers are being facsimile transmitted to the Patent and Trademark Office at (571) 273-8300 on the date shown below:

Petition to make special for age (1 Page)

Gene Scott _____ Date: March 5, 2005
Signature

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

SEP 26 2005

CERTIFICATE OF MAILING

I hereby certify that on May 13, 2004, in connection with patent application no. 10/446,921, HEAT WARNING SAFETY DEVICE USING FIBER OPTIC CABLES, I deposited: (i) 8 pages of **Supplemental Information Disclosure Statement** (ii) form PTO-1449 (iii) copies of prior art references not previously included (iv) this Certificate of Mailing and (v) an Acknowledgement postcard

with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the address below:

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

Steven Horowitz
Registration No. 31,768
295 Madison Avenue, Suite 700
New York, New York 10017
212-867-6800

Dated: May 13, 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

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APR 13 2005

OFFICE OF PETITIONS

MARK D BOWEN
STEARNS WEAVER MILLER ET AL
200 EAST BROWARD BLVD
SUITE 1900
FT LAUDERDALE FL 33301

In re Application of
Nancy W. Mendel
Application No. 10/446,925
Filed: May 28, 2003
Attorney Docket No. 4843.005

DECISION ON PETITION

This is a decision on the "PETITION TO CORRECT FILING DATE", filed December 6, 2004, to accord the above-identified application a filing date of May 28, 2003.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on May 28, 2003. On July 25, 2003, the Office mailed a "Notice to File Corrected Application Papers". The Notice stated that the application had been accorded a filing date of May 28, 2003; however, applicant was given two months to submit replacement drawings. Applicant filed replacement drawings in response to the Notice on September 29, 2003, made timely by including a Certificate of Mailing dated September 25, 2003. At that time the application was erroneously accorded a filing date of September 29, 2003.[1]

A review of the application file reveals that the application was entitled to a filing date (i.e. contained a specification, claims, and drawings) on May 28, 2003.

[1] Applicant submitted a copy of a filing receipt, mailed November 7, 2003, indicating a filing date of September 29, 2003.

Given the basis for granting the petition, the $130 petition fee will be refunded to applicant under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of May 28, 2003, using the application papers received in the Office on that date, and for issuance of a new filing receipt. Thereafter the application will be forwarded to the Office of Patent Publication for processing into a patent.[2]

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] Applicant submitted $685 for the issue fee on February 10, 2005, in response to the Notice of Allowance mailed November 12, 2004. However, effective December 8, 2004, the issue fee for a small entity was raised to $700. Accordingly, pursuant to MPEP 509, the Office will mail a notice setting a new period for reply for the balance of the issue fee.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JAN - 9 2006

R. Scott Johnson
McKEE, VOORHEES & SEASE, P.L.C.
801 Grand Avenue
Suite 3200
Des Moines, Iowa 50309-2721

In re Application of :
Terry B. Hilleman :
Application No. 10/446,946 :
Filed: May 28, 2003 :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

For: VEHICLE DRAG REDUCTION WITH AIR SCOOP VORTEX IMPELLER AND TRAINING EDGE SURFACE TEXTURE TREATMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on June 9, 2005.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Notice of Non-Compliant Amendment mailed November 12, 2004, which set a one month period to respond. Since a response was not received, the application was held abandoned and a Notice to that effect was mailed on May 24, 2005.

Applicant's petition includes a copy of a response bearing a Certificate of Mailing date of May 12, 2005. The response included a request for a three month extension of time along with the appropriate fee. However, a five month extension of time is required since applicant was given a one month time period to respond and applicant's response was filed six months from the mailing date of the Notice of Non-Compliant Amendment. The applicant's response included authorization to charge any deficiency to Deposit Account 26-0084. Since the response was received six months from the mailing date of the Notice a fee for a five month extension of time will be charged to deposit account 26-0084 as authorized. A statement by R. Scott Johnson was received within the petition, which attests to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing. This is sufficient evidence of a timely response.

This application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, charge the appropriate fee for a five-month extension of time, minus the three month extension of time fee already paid, to deposit account 26-0084 as authorized and to forward the application to the examiner for prompt action.

Kenneth J. Dorner
Special Program Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/bkg: 12/21/05

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PPG Industries, Inc.
Intellectual Property Dept.
One PPG Place
Pittsburgh, PA 15272

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MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of Finley et al. :
Application No. 10/446,973 : Decision on Petition
Filing Date: May 28, 2003 :
Attorney Docket No. 1761A1 :

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

The petition is **granted**.

The above-identified application became abandoned for failure to properly reply in a timely manner to the final Office action mailed November 30, 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 March 1, 2006. A Notice of Abandonment was mailed on August 14, 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 1775 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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THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS MN 55415-1002

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FEB 03 2010

OFFICE OF PETITIONS

In re Patent No. 6,837,353	:	
Issue Date: January 4, 2005	:	
Application No. 10/446,983	:	DECISION ON PETITION
Filed: May 28, 2003	:	
Attorney Docket No. H572.12-0003	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 23, 2009 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 5, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Dodd, et al. :
Application No. 10/446,986 : ON PETITION
Filed: May 27, 2003 :
Attorney Docket No. 42P15754 :

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed April 11, 2006.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed June 7, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the application became abandoned on July 8, 2005. A Notice of Abandonment was mailed on March 13, 2006.

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

The matter is being forwarded to Group Art Unit 2189 for consideration of the Amendment filed April 11, 2006.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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

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In re Patent No. 7,657,835 :
Issue Date: February 2, 2010 :
Application No. 10/446,988 : NOTICE
Filed: May 28, 2003 :
Attorney Docket No. 0103085 - 0514664 :

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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1557 LAKE O'PINES STREET NE
HARTVILLE, OH 44632

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OFFICE OF PETITIONS

In re Application of	:	
David F. Meschan	:	
Application No. 10/447,003	:	DECISION GRANTING PETITION
Filed: May 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 104.0003-05000	:	

This is a decision on the petition, filed July 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 April 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3728 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), 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 : December 11, 2006

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/447003 patent No7,114,269

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: As recommended by ex'r Patterson.

Mickey Yu
Supervisory Patent Examiner
Group 3700

SPE 5/17/07 Art Unit 3728

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ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of :
Kensuke Nakura et al :
Application No. 10/447,011 :
Filed: May 28, 2003 :
Attorney Docket No. 10059-468US (P30236-01)

ON PETITION

This is a decision on the petition, filed January 16, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 9, 2008 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 1795 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. 6

KENNETH D. SIBLEY
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
POST OFFICE BOX 37428
RALEIGH, NC 27627

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SEP 04 2003

OFFICE OF PETITIONS

In re Application of:
Than-Tuyen T. Nguyen, George C. Allen,
Georgia L. Helmer and
William F. Thompson
Application No. 10/447,032
Filed: May 28, 2003
Title of Invention: HIGH EFFICIENCY GERMLINE TRANSFORMATION SYSTEM

DECISION GRANTING STATUS UNDER 37 CFR 1.47

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed August 18, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Dr. Georgia L. Helmer, refuses to join in the application.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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RALEIGH, NC 27627

Paper No. 7

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SEP 04 2003

OFFICE OF PETITIONS

In re Application of:
Than-Tuyen T. Nguyen, George C. Allen,
Georgia L. Helmer and
William F. Thompson
Application No. 10/447,032
Filed: May 28, 2003
Title of Invention: HIGH EFFICIENCY
GERMLINE TRANSFORMATION SYSTEM

DECISION GRANTING
PETITION

This Decision is in response to a Petition to Accord the Proper Filing Date, properly treated under 37 C.F.R. 1.10, filed August 18, 2003, requesting the application be accorded a filing date of May 28, 2003, instead of the presently accorded filing date of May 29, 2003.

Petitioner alleges the application was deposited in "Express Mail" service with the U.S. Postal Service, on May 28, 2003. Petitioner has filed the appropriate documentary and corroborating evidence demonstrating that May 28, 2003 was the date the correspondence was deposited Express Mail Post Office to Addressee.

In view of the above, the petition is **granted**. No fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to May 28, 2003.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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Dr. Georgia L. Helmer
8507 Camden Street
Alexandria, VA 22308

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OFFICE OF PETITIONS

In re Application of:
Than-Tuyen T. Nguyen, George C. Allen,
Georgia L. Helmer and
William F. Thompson
Application No. 10/447,032
Filed: May 28, 2003
Title of Invention: HIGH EFFICIENCY GERMLINE TRANSFORMATION SYSTEM

LETTER

Dear Dr. Helmer:

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[1].

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: KENNETH D. SIBLEY
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
POST OFFICE BOX 37428
RALEIGH, NC 27627

[1] The inventor's right iterated *supra* are subject to the restrictions of 35 U.S.C. § 4.

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of
Ilan Gavish
Application No. 10/447,055
Filed: May 28, 2003
Attorney Docket No. 42P13743D

ON PETITION

This is a decision on the petition filed November 9, 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 May 17, 2005 for failure to timely pay the issue fee on or before May 16, 2005. Accordingly, a Notice of Abandonment was mailed August 5, 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

---

[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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February 2005

Conley Rose, P.C.
P.O. Box 3267
Houston, TX 77253-3267

OCT 20 2005

In re Application of:
Dan L. Dietz
Serial No.: 10/447,079
Filed: May 28, 2003
Attorney Docket No.: 2167-01000

DECISION ON REQUEST
TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record pursuant to 37 C.F.R. § 1.36 filed November 15, 2004.

The request is **DISMISSED**.

This application never had any attorneys/agents of record. There was never any power of attorney given by the inventors or assignee. The application data sheet filed with the application includes "REPRESENTATIVE INFORMATION" indicating Customer Number 23505. However, as stated in 37 C.F.R. § 1.76(b)(4), "providing this information in the application data sheet does not constitute a power of attorney or authorization of agent in the application (see § 1.34(b))."

As such, the request signed by Collin A. Rose is dismissed and cannot be used to change the correspondence address. See 37 C.F.R. § 1.33(a)(2). Accordingly, the correspondence address will continue to be directed to Conley Rose, P.C. at the address indicated above until otherwise notified by applicant. This decision is also being sent to the inventor at the address indicated below as a one-time courtesy.

Any inquiries concerning this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

cc: Dan L. Dietz
10234 Emerald Drive
Houston, TX 77074

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CHICAGO IL 60647

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OFFICE OF PETITIONS

In re Application of :
Bergersen, Earl O. :
Application No. 10/447,099 : ON PETITION
Filed: May 28, 2003 :
Attorney Docket No. BER-P-03-041 :

This is a decision on the petition under 37 CFR 1.181, filed January 8, 2009, 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 Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed February1, 2007, which set a period for reply of one (1) month. A reply was due on or before March 1, 2007. A Notice of Abandonment was mailed on December 15, 2008.

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 February 23, 2007 of 1. Transmittal (in duplicate); 2. Appellant's Appeal Brief (41 pages); 3. Claims Appendix (12 pages); 4. Supplemental Appendix (Exhibits A-E); 5. Evidence Appendix (1 page); and 6. Related Proceedings Appendix (1 page). Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of February 21, 2007.

The reply acknowledged as having been received in the USPTO on February 23, 2007 (certificate of mailing date of February 21, 2007) 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 and none has been charged.

This matter is being referred to Technology Center AU 3732 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of :
Vu, et al. :
Application No. 10/447,118 : DECISION ON PETITION
Filed: May 28, 2003 :
Attorney Docket No. 200309449-1 :

This is a decision on the petition, filed September 11, 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 **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the final Office action mailed July 31, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 26, 2007.

Petitioner asserts that the Office action dated July 31, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of July 31, 2006, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,540.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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JAN 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Vu, et al. :
Application No. 10/447,118 : DECISION ON PETITION
Filed: May 28, 2003 :
Attorney Docket No. 200309449-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed on November 28, 2007, to revive the above-identified application.

This application was held abandoned for failure to reply to the final Office action mailed July 31, 2006, which set a three (3) month shortened statutory period for reply. This application became abandoned on November 1, 2006. A Notice of Abandonment was mailed on July 26, 2007.

Applicants have submitted a RCE and $810.00 fee and amendment in reply to the July 31, 2006 final Office action, a proper statement of the unintentional nature of the delay in responding to the July 31, 2006 final Office action, and the $1,540.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2113 for consideration of the RCE and amendment filed on November 28, 2007.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 10, 2007

TO SPE OF : ART UNIT 3682 10/447127

SUBJECT : Request for Certificate of Correction on Patent No.: 7051613 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.

Elisha Evans
Certificates of Correction Branch
***Tel. No. 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:
The printer inadvertently printed the marked-up copy of the drawing correction filed on 11/25/03.

RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER

3682
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

ROCHE DIAGNOSTICS OPERATIONS INC.
9115 HAGUE ROAD
PO BOX 50457
INDIANAPOLIS, IN 46250-0457

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OFFICE OF PETITIONS

In re Application of :
Barbara Upmeier, et al. :
Application No. 10/447,129 : DECISION ON PETITION
Filed: May 28, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. RDID 00128 US

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 5, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed international application No. PCT/EP01/13780 set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

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 Sherry Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 USC §119(e), 120, 121, AND 365(c)

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

Dear Sir:

Being filed concomitantly herewith is an amendment to U.S. Serial No. 10/447,129 filed May 28, 2003, entitled "USE OF INTRAMOLECULARLY, COVALENTLY CROSS-LINKED PROTEINS AS BINDING PARTNERS IN IMMUNOASSAYS". This amendment contains a specific reference to the earlier filed applications, PCT/EP01/13780 filed November 27, 2001, and DE 10059720.3 filed November 30, 2000, to which priority of the present application is being claimed. By this petition, acceptance of this amendment and unintentionally delayed claim for priority is sought.

The entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date this claim is being filed was unintentional.

The petition fee falls under the fee structure of 37 CFR §1.17(t). The Commissioner is hereby authorized to charge said fee to Deposit Account no. 02-2958. A duplicate of this page has been enclosed herewith.

Respectfully submitted,

Marilyn Amick

Marilyn Amick
Reg. No. 30,444
Customer No. 23690
317-521-7561 (phone)
317-521-2883 (fax)

Enclosures: Amendment filed 6/5/2006 (copy)
Duplicate of page 1 of petition

AMENDMENTS TO THE SPECIFICATION

Please insert the following heading and paragraph on page 1 of the specification, following the title:

RELATED APPLICATIONS

This application claims priority to international application PCT/EP01/13780 filed November 27, 2001 and to German application DE 10059720.3 filed November 30, 2000.

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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DEC 12 2006
OFFICE OF PETITIONS

ROCHE DIAGNOSTICS OPERATIONS INC
9115 HAGUE ROAD
PO BOX 50457
INDIANAPOLIS, IN 46250-0457

In re Application of	:	
Barbara Upmeier, et al.	:	
Application No. 10/447,129	:	DECISION ON PETITION
Filed: May 28, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. RDID 00128 US		

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 5, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed international application No. PCT/EP01/13780 set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

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

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401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Sherry Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

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BARNES & THORNBURG LLP (Roche)
11 SOUTH MERIDAN STREET
INDIANAPOLIS IN 46204

COPY MAILED

AUG 23 2007

OFFICE OF PETITIONS

In re Application of :
Barbara Upmeier, et al. :
Application No. 10/447,129 : ON PETITION
Filed: May 28, 2003 :
Attorney Docket No. 6398.201442 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2007, to revive the above-identified application. This is also a decision on the renewed petition, filed June 5, 2006, which is being treated under 37 CFR 1.78(a)(3) as a petition to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed international application No. PCT/EP01/13780 set forth in the concurrently filed amendment.

As to the petition under 37 CFR 1.137(b):

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 4, 2006. A Notice of Abandonment was subsequently mailed on February 20, 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), including the submission required by 37 CFR 1.114 and fee of $790; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

Accordingly, the petition under 37 CFR 1.137(b) is **GRANTED**.

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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

Accordingly, the petition under 37 CFR 1.78(a)(3) 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 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 questions concerning this matter may be directed to Sherry 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 1648 for further processing of the RCE under 37 CFR 1.114 and for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/447,129	05/28/2003	1648	880	6398.201442	11	3

CONFIRMATION NO. 1850

CORRECTED FILING RECEIPT

49437
BARNES & THORNBURG LLP (Roche)
11 SOUTH MERIDAN STREET
INDIANAPOLIS, IN 46204

OC000000025473503

Date Mailed: 08/21/2007

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

Applicant(s)

Barbara Upmeier, Iffeldorf, GERMANY;
Dittmar Schlieper, Iffeldorf, GERMANY;
Frederic Donie, Penzberg, GERMANY;

Assignment For Published Patent Application

Roche Diagnostics Corporation

Power of Attorney: The patent practitioners associated with Customer Number **49437**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP01/13780 11/27/2001

Foreign Applications

GERMANY 100 59 720.3 11/30/2000

If Required, Foreign Filing License Granted: 07/28/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/447,129

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Use of intramolecularly, covalently cross-linked proteins as binding partners in immunoassays

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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OCT 05 2004

TECHNOLOGY CENTER 3600

Fred H. Zollinger, III
SAND & SEBOLT
Aegis Tower, Suite 1100
4940 Munson Street, NW
Canton, OH 44718

In re application of
Darryl L. Snyder et al.
Application No. 10/447,131 : DECISION ON REQUEST
Filed: May 27, 2003 : FOR WITHDRAWAL OF
For: INTERIOR WALL AND CEILING COVERING : ATTORNEY

This is a decision on the request filed on August 20, 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 A) above.

Since the original attorneys were not given power by a customer number, and attorneys associated with a firm change over time, it is suggested that any renewed request simply state that the request is being made on behalf of all attorneys of record.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 09/24/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET, SUITE 2100
SAN DIEGO, CA 92101

COPY MAILED

AUG 17 2006

OFFICE OF PETITIONS

In re Application of :
William D. Holloway, Jr., et al :
Application No. 10/447,164 : DECISION ON PETITION
Filed: May 27, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 108542-04CIP3 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The provisions of 37 CFR § 1.78(a)(3) require a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The petition does not contain the required statement of unintentional delay. However, the statements in the petition are being construed as the statement required by 37 CFR

§1.78(a)(3). If this is not a correct reading of the statements appearing in the petition, petitioner should promptly notify the Office.

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

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

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

This application is being forwarded to Technology Center Art Unit 1615 for examination in due course and for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
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
10/447,164	05/27/2003	1618	440	108542-04CIP3	16	1	1

CONFIRMATION NO. 3190

CORRECTED FILING RECEIPT

OC000000020064889

27189
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

Date Mailed: 08/17/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

William D. Holloway JR., Carlsbad, CA;
Michael A. Holloway, Escondido, CA;
Nikolai Tankovich, San diego, CA;
Eugene Baranov, San diego, CA;

Power of Attorney:

Kamwah Li--34211
F Brotman--35461
Troy Schmelzer--36667
Stephen Beuerle--38380
Anthony Dain--46651
John Kyle--48318

Domestic Priority data as claimed by applicant

This application is a CIP of 10/301,416 11/21/2002
which is a CIP of 09/698,537 10/26/2000 PAT 6,521,248
This application 10/447,164
is a CIP of 10/470,655 02/14/2003
which is a CON of 09/698,537 10/26/2000 PAT 6,521,248
which claims benefit of 60/161,546 10/26/1999

Foreign Applications

If Required, Foreign Filing License Granted: 08/16/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/447,164

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Culture media and methods of making and using culture media

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/447,181	05/28/2003	John N. Abel	240101-1210	1808

7590 01/26/2005

M. Paul Qualey, Esq.
Thomas, Kayden, Horstemeyer & Risley, L.L.P.
Suite 1750
100 Galleria Parkway, NW
Atlanta, GA 30339-5948

EXAMINER	
TA, THO DAC	

ART UNIT	PAPER NUMBER
2833	

DATE MAILED: 01/26/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.
01242005

M. PAUL QUALEY, ESQ.
DAVID P. KELLEY ESQ.
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
100 GALLERIA PARKWAY, NW, SUITE 1750
ATLANTA, GEORGIA 30339-5948

In re Application of:	:	
ABEL, ET AL.	:	PETITION FOR CORRECTION OF
Serial No.: 10/447,181	:	INVENTORSHIP
Filed: May 28, 2003	:	UNDER 37 CFR § 1.324
Attorney Docket No.: 340308-1640	:	

This is a decision on the petition filed October 4, 2004 to correct inventorship under 37 CFR 1.324.

The petition is granted.

In view of the papers filed August 11, 2003 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a) (2). The inventorship of this application has been changed by adding the name:

Timothy C. Miller

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.

Tho D. Ta
Primary Examiner,
Art Unit 2833

THO D. TA
PRIMARY EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dennis Kovach, Thermage, Inc.
4058 Point Eden Way
Hayward, CA 94545

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MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Edward W. Knowlton, et. al. :
Application No. 10/447,187 : ON PETITION
Filed: May 27, 2003 :
Attorney Docket No. THERM-08 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on October 25, 2005, to revive the above-identified application.

The application became abandoned for failure to timely reply to the non-final Office action mailed January 27, 2005. A Notice of Abandonment was mailed on September 7, 2005.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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

The Office acknowledges receipt of a specification and two (2) sheets of drawing changes of Figures 2 and 6, filed on October 25, 2005. The Office is also in receipt of an Information Disclosure Statement (IDS) filed October 31, 2005.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed October 12, 2005, cannot be accepted since the assignee failed to provide the reel/frame number of the assignment recorded in the USPTO. However, in accordance with 37 CFR 1.34(a), the signature of William R. Allen appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is

authorized to represent the particular party in whose behalf he/she acts. If petitioner desires to receive future correspondence regarding this application, a complete Statement under 37 CFR 3.73(b) must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence will be directed solely to the address of record until otherwise instructed.

This application file is being referred to Technology Center Art Unit 3739, for review of the amendment filed with the instant petition and for consideration of the petition under 37 CFR 1.48 filed October 25, 2005.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Cc: Wood, Herron & Evans, LLP
441 Vine Street
2700 Carew Tower
Cincinnati, OH 45202

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : May 27, 2008

TO SPE OF : ART UNIT 3739

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/447187 Patent No.: 7189230 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: O.K. to enter.

SPE 3739 Art Unit

PAGE 1/1 * RCVD AT 6/24/2008 3:04:51 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/33 * DNIS:2709990 * CSID:7033087769 * DURATION (mm-ss):01-16

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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O'KEEFE, EGAN & PETERMAN, L.L.P.
Suite 200
Building C
1101 Capital of Texas Highway South
Austin TX 78746

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SEP 20 2004

OFFICE OF PETITIONS

In re Application of :
Reinauer et al. :
Application No. 10/447,205 : DECISION GRANTING PETITION
Filed: May 28, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. PVSV:004 :

This is a decision on the petition, filed August 30, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an 18 month publication country on May 28, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 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 Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of December 30, 2004, accompanies this decision on petition.

This application is being referred to Technology Center Art Unit 2153 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/447,205	05/28/2003	Rob Reinauer	PVSV:004

CONFIRMATION NO. 3046

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

OC000000013838957
OC000000013838957

Date Mailed: 09/20/2004

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

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

The projected publication date is 12/30/2004.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (703) 305-9282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

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

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James M. Wu
JW Law Group
84 W. Santa Clara Street
Suite 820
San Jose, CA 95113

Mail Date: 07/28/2010

Applicant	: Diego Garrido	: DECISION ON REQUEST FOR
Patent Number	: 7656950	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/447,213	: 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 **1337** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

MAIL

APR 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
JOYCE, ROBERT, et al. :
Application No. 10/447,250 : DECISION ON PETITION
Filed: May 27, 2003 : TO MAKE SPECIAL
For: **INSTANT MESSAGE PROCESSING IN A CUSTOMER INTERACTION SYSTEM** :

This is a decision on the petition filed November 24, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

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

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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of :
Robert Joyce et al :
Application No. 10/447,250 : DECISION ON PETITION
Filed: May 27, 2003 : TO WITHDRAW
Attorney Docket No. 0600/96753 : 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 24, 2006.

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

A review of the file record indicates that the power of attorney to Andre L. Marais, along with all of the other attorneys associated with Customer No. **21186** has been revoked by the assignee of the patent application on May 11, 2006. 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/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 2174 to consider the response received March 9, 2006.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc:
WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 3

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SEP 2 5 2003

OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

In re Application of
McClain et al.
Application No.10/447,251
Filed: May 28, 2003
Attorney Docket Number: 5697-351PDV
Title of Invention: METHODS, APPARATUS AND SLURRIES FOR CHEMICAL MECHANICAL PLANARIZATION

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on July 24, 2003, requesting that the above-identified application be accorded a filing date of May 28, 2003, rather than the presently accorded filing date of May 29, 2003.

Petitioner contends the application was deposited in Express Mail service on May 28, 2003. In support, petitioner supplied a copy of Express Mail receipt No. EV193630865US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). A review of the United States Postal Service's Express Mail Information Database shows the Express Mail package was accepted by the United States Postal Service on May 28, 2003.

In view of the above, the petition is **Granted**. No petition fee is required and none has been charged.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **MAY 28, 2003** and issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/447,254	05/28/2003	2818	822	5649-1107	19	24	2

CONFIRMATION NO. 2903

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

CORRECTED FILING RECEIPT

OC000000012811207

Date Mailed: 06/01/2004

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)

Jeong-Hyuk Choi, Gyeonggi-do, KOREA, REPUBLIC OF;
Wang-Chul Shin, Gyeonggi-do, KOREA, REPUBLIC OF;
Jin-Hyun Shin, Gyeonggi-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2002-44637 07/29/2002

If Required, Foreign Filing License Granted: 07/28/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Flash memory devices having a sloped trench isolation structure and methods of fabricating the same

Preliminary Class

257

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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MAR 24 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Gary L. Griffiths et al	:
Serial No.: 10/447,266	: WITHDRAWAL OF ATTORNEY
Filed: May 29, 2003	:
Attorney Docket No.: 018734-1233	:

This is in response to applicants' attorneys' request, filed February 26, 2004, 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.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of :
Kimitaka Watanabe et al :
Application No. 10/447,275 : ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. 1419.1074 :

This is a decision on the petition, filed December 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 8, 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 2828 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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P O BOX 1022
MINNEAPOLIS, MN 55440-1022

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OCT 11 2007

OFFICE OF PETITIONS

In re Application of :
Tomomi Hara :
Application No. 10/447,279 : DECISION GRANTING PETITION
Filed: May 29, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 15146-006001/EL:MNA,FP/L-5-40US :

This is a decision on the petition, filed October 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 September 10, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2626 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\Oct11\447279.wpd

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

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :

HAUGHWOUT, Jim P. :
Application No. 10/447,279 : DECISION ON PETITION
Filed: May 29, 2003 : TO WITHDRAW
Attorney Docket No. **15146-006001 / EL:MNA, FP** : 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 14, 2007.

The request is **NOT APPROVED**.

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

The 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, changed law firms and no longer employed at Fish & Richardson, 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.

Monica A. Graves
Petitions Examiner
Office of Petitions

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

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JUL 2 8 2009

OFFICE OF PETITIONS

In re Application of
Keith W. Boone
Application No. 10/447,290
Filed: May 29, 2003
Attorney Docket No. NU-145(US)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 18, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

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 JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

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OCT 22 2009

OFFICE OF PETITIONS

In re Application of :
Keith W. Boone et al. :
Application No. 10/447,290 : DECISION ON PETITION
Filed: May 29, 2003 : TO WITHDRAW
Attorney Docket No. NU-145(US) : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed August 14, 2009.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 47670 has been revoked by the assignee of the patent application on August 12, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272- 4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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

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Paper No. 8

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

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DEC 15 2003

OFFICE OF PETITIONS

In re Application of
Fujita et al.
Application No. 10/122,295
Filed: April 16, 2002
Attorney Docket No. 389.33993CV5

DECISION GRANTING PETITION

In re Application of
Fujita et al.
Application No. 10/447,291
Filed: September 11, 2002
Attorney Docket No. 389.33993CV6

This is a decision on petition under 37 CFR § 1.53(e) filed April 7, 2003, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of September 11, 2002.

On September 11, 2002, applicants submitted a request for a CPA under 37 CFR § 1.53(d) based on prior application No. 10/122,295. The Office notes that at the time the CPA was filed CPA practice no longer applied to applications, other than design applications, if the prior application was filed on or after May 29, 2000. Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.[1]

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114.

[1]Effective July 14, 2003, the Office eliminated CPA practice as to utility and plant applications. *See Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications, 68 FR 32376 (May 30, 2003), 1271 Off. Gaz. Pat. Office 143 (June 24, 2003) (final rule).*

However, in this instance, the CPA request filed on September 11, 2002, cannot be treated as an RCE because continued examination under 37 CFR § 1.114 does not apply to an application unless prosecution in the application is closed.

On April 7, 2003, applicants filed the present petition under 37 CFR § 1.53(e). Applicants requested that the improper CPA be converted to an application under 37 CFR § 1.53(b). With the present petition, applicants submitted complete application papers (i.e. specification, including claims, drawings, and a copy of the declaration filed in a prior application), a preliminary amendment, an IDS, and a letter to claim foreign priority.

The petition is granted.

The application under 37 CFR § 1.53(b) filed on September 11, 2002, has been assigned application No. 10/447,291. The CPA request, the present petition, the application papers, a preliminary amendment, an IDS, and a letter to claim foreign priority have been removed from the file of application No. 10/122,295 and have been placed in application No. 10/447,291. A copy of the CPA request and the present petition have been retained in application No. 10/122,295 to complete the record therein. All further correspondence concerning the application under 37 CFR § 1.53(b) should be directed to application No. 10/447,291, not application No. 10/122,295.

The Office finance records indicate that the $740.00 filing fee and $420.00 claim fees paid on September 11, 2002, were paid in application No. 10/447,291. The Office finance records will be corrected to show that the $130.00 petition fee was paid in application No. 10/447,291, not in application No. 10/122,295.

Application No. 10/122,295 will be forwarded to Technology Center 3700.

Application No. 10/447,291 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR § 1.53(b), not under 37 CFR § 1.53(d), with a filing date of September 11, 2002, using the copy of the original application papers submitted on September 11, 2002.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (703)306-5589.

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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JOHN R. BENEFIEL
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#100 B
BIRMINGHAM, MI 48009

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NOV 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Akhil Mahendra, et al. :
Application No. 10/447,295 :
Filed: May 28, 2003 :
Attorney Docket No. DUR-113 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 9, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on May 19, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date will be assigned and sent in a separate correspondence.

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

This application matter is being forwarded to Technology Center Art Unit 3682 for examination in due course.

Retta Williams

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Diego Garrido et al.
Application No. 10/447,296
Filed: May 28, 2003
Attorney Docket No.: PIX/05/04/D/V

This is a decision on the petition filed February 14, 2007 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

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

The application was held abandoned on January 2, 2004, for failure to submit a timely response to the Notice to File Corrected Application Papers mailed October 31, 2003, which set a two month period for reply. Accordingly, a Notice of Abandonment was mailed January 20, 2004.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of replacement drawings and a certificate of mail dated December 22, 2003 pursuant to 37 CFR 1.8.

A search of the application file and the USPTO records does not reveal receipt of the response, but the evidence submitted corroborates a timely response to the Notice to File Corrected Application Papers.

Accordingly, the holding of abandonment is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Law Office of Scott C. Harris Inc
PO Box 1389
Rancho Santa Fe, CA 92067

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SEP 15 2008

In re Application of :
Dan Bocek, et. al. :
Application No. 10/447,297 : DECISION ON PETITION
Filed: May 27, 2003 :
Attorney Docket No. 14083-001001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 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 Notice of Non-Compliant Amendment (37 CFR 1.121) mailed, October 18, 2007, which set a shortened statutory period for reply of one month or thirty days or whichever is longer. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on November 19, 2007.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $770, 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 Technology Center AU 2862 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
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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MAY 24 2010

OFFICE OF PETITIONS

McDonnell,Boehen, Hulbert & Berghoff LLP
300 South Wacker Drive
Suite 3100
Chicago, IL 60606

In re Patent No. 7,485,634 :
Martin et al. : DECISION UPON REMAND AND
Issue Date: February 3, 2009 : RECONSIDERATION OF
Application No. 10/447,302 : PATENT TERM ADJUSTMENT
Filed: May 27, 2003 : AND NOTICE OF INTENT
Attorney Docket No. 980049.403 : TO ISSUE CERTIFICATE OF
(06-007-A) : CORRECTION
Title: Azepinoindole and :
Pyridoindole Derivatives as
Pharmaceutical Agents

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by three hundred twenty-nine (329) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by three hundred twenty-nine (329) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,485,634 B2

DATED : **February 3, 2009** **DRAFT**

INVENTOR(S) : Martin 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 41 days

Delete the phrase "by 41 days" and insert – by 329 days--

Day : Monday
Date: 5/24/2010

PALM INTRANET

Time: 09:56:28

PTA Calculations for Application: 10/447302			
Application Filing Date:	05/27/2003	PTO Delay (PTO):	306
Issue Date of Patent:	02/03/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	265
Post-Issue Petitions:	0	Total PTA (days):	329
PTO Delay Adjustment:	288		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
104	05/24/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	288		
97.5	01/14/2009	PTA 36 MONTHS	17		
97	02/03/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
96	01/06/2009	EXPORT TO FINAL DATA CAPTURE			
95	01/05/2009	FINISHED INITIAL DATA CAPTURE			
94	01/05/2009	DISPATCH TO FDC			
93	01/05/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
92	12/24/2008	ISSUE FEE PAYMENT VERIFIED			
91	12/24/2008	ISSUE FEE PAYMENT RECEIVED			
90	10/03/2008	EXPORT TO INITIAL DATA CAPTURE			
89	09/26/2008	MAIL NOTICE OF ALLOWANCE			
88	09/24/2008	ISSUE REVISION COMPLETED			
87	09/24/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
86	09/24/2008	CASE DOCKETED TO EXAMINER IN GAU			
85	09/24/2008	DOCUMENT VERIFICATION			
84	09/24/2008	NOTICE OF ALLOWABILITY			
83	09/18/2008	DATE FORWARDED TO EXAMINER			
82	09/10/2008	AMENDMENT AFTER FINAL REJECTION			
81	07/17/2008	MAIL FINAL REJECTION (PTOL - 326)			
80	07/15/2008	FINAL REJECTION			
79	05/16/2008	DATE FORWARDED TO EXAMINER			
78	04/07/2008	RESPONSE AFTER NON-FINAL ACTION		32	76
77	04/07/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

76	12/06/2007	MAIL NON-FINAL REJECTION			
75	12/05/2007	NON-FINAL REJECTION			
74	10/10/2007	DATE FORWARDED TO EXAMINER			
73	10/03/2007	RESPONSE AFTER NON-FINAL ACTION		90	71
72	10/03/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
71	04/05/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
70	04/02/2007	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT.			
69	04/02/2007	DATE FORWARDED TO EXAMINER			
68	03/29/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
67	04/02/2007	DATE FORWARDED TO EXAMINER			
66	03/29/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		29	55
65	04/02/2007	DISPOSAL FOR A RCE / CPA / R129			
64	03/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
63	03/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
62	02/16/2007	CORRESPONDENCE ADDRESS CHANGE			
61	02/16/2007	CORRESPONDENCE ADDRESS CHANGE			
60	02/09/2007	CORRESPONDENCE ADDRESS CHANGE			
59	02/09/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
58	12/27/2006	MISCELLANEOUS INCOMING LETTER			
55	11/30/2006	MAIL FINAL REJECTION (PTOL - 326)			
54	11/27/2006	FINAL REJECTION			
53	11/20/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
52	11/14/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
51	09/23/2006	DATE FORWARDED TO EXAMINER			
50	09/05/2006	RESPONSE AFTER NON-FINAL ACTION		43	45
49	07/31/2006	CORRESPONDENCE ADDRESS CHANGE			
48	07/31/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
47	07/31/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
46	07/31/2006	DATE FORWARDED TO EXAMINER			

45.1	07/24/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
45	07/24/2006	RESPONSE AFTER NON-FINAL ACTION		5	44
44	04/19/2006	MAIL NON-FINAL REJECTION			
43	04/17/2006	NON-FINAL REJECTION			
42	08/16/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	02/23/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	09/12/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	02/15/2006	DATE FORWARDED TO EXAMINER			
38	02/06/2006	RESPONSE AFTER NON-FINAL ACTION		66	36
37	02/06/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	09/02/2005	MAIL NON-FINAL REJECTION			
35	08/31/2005	NON-FINAL REJECTION			
34	06/21/2005	DATE FORWARDED TO EXAMINER			
33	06/13/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
32	06/13/2005	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
31	05/12/2005	MAIL RESTRICTION REQUIREMENT	289		-1
30	05/11/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
29	08/16/2004	REFERENCE CAPTURE ON IDS			
28.7	08/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	08/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	05/20/2004	CORRESPONDENCE ADDRESS CHANGE			
26	04/08/2004	CORRESPONDENCE ADDRESS CHANGE			
25.7	02/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	02/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	12/16/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	09/12/2003	REFERENCE CAPTURE ON IDS			
22	12/16/2003	CASE DOCKETED TO EXAMINER IN GAU			
21.7	09/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

21	09/12/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	09/12/2003	PRELIMINARY AMENDMENT			
19	12/09/2003	REFERENCE CAPTURE ON IDS			
17	10/17/2003	APPLICATION RETURN FROM OIPE			
16	10/17/2003	APPLICATION IS NOW COMPLETE			
15	09/12/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
14	10/17/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
13	10/17/2003	APPLICATION RETURN TO OIPE			
12	10/16/2003	APPLICATION DISPATCHED FROM OIPE			
11	10/17/2003	APPLICATION IS NOW COMPLETE			
8	09/12/2003	SMALL ENTITY STATEMENT (37 CFR 1.27)			
7	09/12/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	05/27/2003	CLAIM PRELIMINARY AMENDMENT			
5	08/05/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	06/15/2003	CLEARED 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, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

SPE: J. Wilson

3rd Submission

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/9/07 Paper No.: _____

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/442,308 Patent No.: 7026323

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE 1624 Art Unit

SPE: J. Wilson

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/9/07

Paper No.: _____

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/442,308 Patent No.: 7026328

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ _____
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DNW 01-05

MICHAEL J. CADDELL
3749 ROUNDTREE WAY
PLANO TX 75025-3738

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JAN 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Marion Barney Jett	:	DECISION ON PETITION
Application No. 10/447,316	:	
Filed: 28 May, 2003	:	
For: EXHAUST DEVICE FOR TWO-STROKE INTERNAL COMBUSTION ENGINE	:	

This is a decision on the petition filed on 1 October, 2004 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned on 11 September, 2003, for failure to file a substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125 as required by the Notice to File Corrected Application Papers mailed on 10 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. Notice of Abandonment was mailed on 8 September, 2004.

The present petition is accompanied by payment of the petition fee and submission of a substitute specification.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

OIPE IAP63
AUG 02 2006
PATENT & TRADEMARK OFFICE

JPW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mailing Certificate

I hereby certify that this correspondence is being deposited as First Class Mail with proper postage attached, with the U.S. Postal Service in an envelope addressed to : Commissioner of Patents, Attn: Office of Petitions, Washington, D.C. 20231 on July 27, 2006, by Michael J. Caddell:

Michael J. Caddell 7/27/06

Signature of Person Mailing Papers Date of Signature

In Re Application of: Marion Barney Jett

Application Number: 10/447,316

Filing Date: May 28, 2003

PETITION TO THE COMMISSIONER TO PROSECUTE A VALID NON-EXPIRED PATENT APPLICATION

Commissioner For Patents
Attn: Office of Petitions
Washington, D. C. 20231

Sir:

Applicant hereby petitions the Commissioner to instruct the Examination Division to activate prosecution of the above-noted patent application. This continuation application was filed on May 28, 2003 and was previously abandoned unintentionally for failure to respond to a requirement that a double-spaced specification be provided. A Petition to Revive with fees and with a double-spaced specification was filed by Applicant; and the petition to revive was granted on January 26, 2005.

However, no action on the merits was ever received by Applicant or his attorney in this application. A status request letter was mailed and faxed from this attorney to the USPTO on September 28, 2005, a copy of which is attached hereto. No response was ever received by Applicant or his attorney to the Granted Petition nor to the status requests.

Since a valid application was in effect immediately after the Petition to Revive was granted, prosecution on the merits should have proceeded in a prompt and timely manner, but to this date, more than eighteen months after granting of the Petition to Revive, neither Applicant nor his Attorney has received a single communication from the USPTO, and Applicant has definitely never received an action on the merits. He therefore petitions the Commissioner to instruct the examination branch to examine this application on its merits and issue an office action to that effect.

Since the delay and non-action in this application is believed to be in no way due to any action or lack of action by Applicant, it is believed that no fee is due for this petition. However, if the Commissioner rules that a petition fee is due, please deduct it from Deposit Account No. 50-0492. The undersigned also authorizes deduction of any additional fees in this petition, or any fees arising from this application, or from any patent that issues on this application, including any additional unpaid issue fees therefore, from deposit account number 50-0492. A duplicate of this Petition and authorization is enclosed.

Michael J. Caddell, Attorney
Reg. No. 25,834

Address: 3749 Roundtree Way
Plano, TX. 75025-3738
Tel: 972-398-3807
Fax: 972-398-3484
e-mail: calibersports@comcast.net

OIPE
AUG 0 2 2006
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PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mailing Certificate

I hereby certify that this correspondence is being deposited as First Class Mail with proper postage attached, with the U.S. Postal Service in an envelope addressed to : Commissioner for Patents, P.O. Box 1450, Alexandria VA. 22313-1450, on September 28, 2005, by Michael J. Caddell:

Michael J. Caddell

Signature of Person Mailing Papers

Sept. 28, 2005

Date of Signature

In Re Application of: Marion Barney Jett

Application Number: 10/447,316 (Continuation of 09/798,383)

Filing Date: May 28, 2003

Title: EXHAUST DEVICE FOR TWO-STROKE INTERNAL COMBUSTION ENGINE

REQUEST FOR STATUS OF APPLICATION

Commissioner For Patents
Washington, D. C. 20231

Sir:

This continuation application was filed on May 28, 2003, and was ruled abandoned by failure to file a double-spaced specification. Applicant filed a Petition to Revive Abandoned application, which contained the necessary fee and a response with the necessary corrected specification, and the petition to revive was granted on January 26, 2005. According to the Decision published by the Office Of Petitions, "The application is being referred to the Office of Initial Patent Examination for further processing". However, applicant has received no office action on the merits of the application nor any further communications from the USPTO concerning this case. Since more than eight months have lapsed since this decision, applicant is concerned about the status of this application. Please inform applicant's attorney, the undersigned, as of the current status of prosecution in this application.

Michael J. Caddell

Michael J. Caddell, Attorney
Tel. 972-398-3807
Fax: 972-398-3484
EMail: calibersports@comcast.net
Reg. No. 25,834
Address: 3749 Roundtree Way
Plano, TX. 75025-3738

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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DIW 05-07

MICHAEL J. CADDELL
3749 ROUNDTREE WAY
PLANO TX 75025-3738

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OFFICE OF PETITIONS

In re Application of :
Marion Barney Jett :
Application No. 10/447,316 : LETTER
Filed: 28 May, 2003 :
For: EXHAUST DEVICE FOR TWO-STROKE :
INTERNAL COMBUSTION ENGINE :

This is a letter in response to the "PETITION TO THE COMMISSIONER TO PROSECUTE A VALID NON-EXPIRED PATENT APPLICATION" filed on 5 March, 2007.

A petition to revive the application was filed on 1 October, 2004, and was granted in a decision mailed on 26 January, 2005.

The Office apologizes for any undue delay in processing the application. Furthermore, petitioner is informed that a review of the Office PALM data indicates that the application that the application has been dispatched to Technology Center Group Art Unit 3748 for docketing and examination in due course.

Petitioner may wish to consult the Examining Group if further information in required.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHANG & ASSOCIATES LLC
2204 BLACK WILLOW CT
RALEIGH NC 27606

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OFFICE OF PETITIONS

In re Application of	:	
Papageorge, John	:	
Application No. 10/447,334	:	DECISION ON PETITION
Filed: May 28, 2003	:	
Attorney Docket No. 07-1226	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Since a power of attorney was recently granted to petition, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

This matter is being referred to Technology Center 2617 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT LAW PROFESSIONALS
P.O. BOX 612407
SAN JOSE CA 95161

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OFFICE OF PETITIONS

In re Application of	:	
Sayers et al.	:	
Application No. 10/447,335	:	DECISION ON PETITION
Filed: May 28, 2003	:	
Attorney Docket No. 60-004US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center 2618 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent Law Professionals
P.O. Box 612407
San Jose, CA 95161

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In re Application of	:	
Ian Sayers, et al.	:	
Application No. 10/447,335	:	DECISION ON PETITION
Filed: May 28, 2003	:	TO WITHDRAW
Attorney Docket No. 60-004US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 2008.

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

A review of the file record indicates that the power of attorney to Patent Law Professionals has been revoked by the assignee of the patent application on November 18, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Silicon Valley Patent Group, LLP**
18805 Cox Avenue, Suite 220
Saratoga, CA 95070

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

Silicon Valley Patent Group LLP
Attn: Bryan Wyman
18805 Cox Avenue, Suite 220
Saratoga, CA 95070

Mail Date: 04/21/2010

Applicant	: Ian Sayers	: DECISION ON REQUEST FOR
Patent Number	: 7610050	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/447,335	: 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 **871** 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

JOHN J. ELNITSKI, JR.
225 A SNOWBIRD LANE
BELLEFONTE PA 16823

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JUN 05 2008

OFFICE OF PETITIONS

In re Application of	:	
Liu et al.	:	
Application No. 10/447,338	:	DECISION ON PETITION
Filed: May 29, 2003	:	
Attorney Docket No. P02-10	:	

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

The petition is **GRANTED**.

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 04/21/08

Patent No. : 7120661 B2
Inventor : HALAHMI, DROR
Patent Issued : 10/10/06
Docket No. : **SC0953EI**

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 file of the application for the patent reveals that in columns 7, lines 35 and 42 are printed in accordance with the record (no fee or authorization to charge fee). **"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

FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729

Lmn

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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David G. Beck
Bingham McCutchen, LLP
18th Floor
Three Embarcadero Center
San Francisco CA 94111

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OFFICE OF PETITIONS

In re Application of :
Leenen, et al. :
Application No. 10/447,402 : ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. 2024429-7034492001 :

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

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed January 8, 2007. Accordingly, this application became abandoned on April 9, 2007. A Notice of Abandonment was mailed on May 3, 2007.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the January 8, 2007 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

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 (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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September 2005

TASER INTERNATIONAL, INC.
17800 N. 85TH STREET
SCOTTSDALE, AZ 85255-9603

SEP - 8 2005

In re Application of:
MAGNE NERHEIM
Serial No.: 10/447,447
Filed: 29 May 2003
Docket: 6382-A-3

DECISION ON PETITION
TO MAKE SPECIAL
(COUNTERING TERRORISM)

This is a decision on the petition filed on January 5, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(XI) in accordance with 37 CFR § 1.102 (2004).

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

The petition being based upon countering terrorism, the applicable rule is 37 CFR 1.102(c). Under 1.102(c), no fee is required, but a statement explaining how the invention materially contributes to countering terrorism is necessary.

In the USPTO's final rule amending 37 CFR 1.102 to eliminate the fee requirement for petitions to make special, the following standard was set for determining whether a invention qualified as "materially...countering terrorism":

> The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...
>
> Applicants are reminded that any identification of a basis for requesting special status and a statement of compliance with the technology specific requirement for special status must be based upon a good faith belief that the invention in fact qualifies for special status. *see* §§ 1.56 and 10.18...
>
> *Comment 65:* The Office has received internal comments expressing concern that some applicants may view the lack of a petition fee as an inducement to file petitions where the nexus between the invention and the countering of

> terrorism is "strained."
>
> *Response:* The comment has been adopted in part. The discussion of the rule amendment has focused on the need for applicants to recognize the "material" aspect of the claimed invention's relationship to countering terrorism, which will be further addressed in an MPEP revision. In view of such discussion, applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism.
>
> 69 Fed. Reg. 56382, 56511 (Sept. 21, 2004).

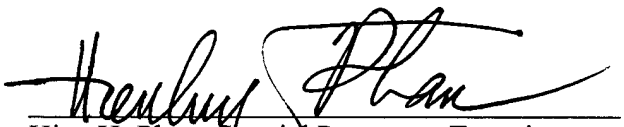
Applicant's statement alleged that the invention concerned stopping violent acts, including stopping a terrorist from committing a violent act and communicating to his assistants.

However, the application to countering terrorism is only a small subset of the applications of the claimed invention, which contains no claims specifically directed to terrorism, and is instead directed to the general area of electrical immobilization. It is noted that the first claim requires movement of the target into an electrode, rather than an act by a device user to cause the device to immobilize the target which might be expected in effectively stopping a violent terrorist act through use of the device in the manner set forth in the petition. The main benefit of the invention appears to be directed towards improved electrical immobilization, and not any improvement in the method of countering terrorism.

The counter-terrorism aspect of this invention appears to be tangential rather than material. Classifying this invention as an anti-terrorism device does not rise to the level of materiality intended by the Rules. In order for the Office to concentrate its resources on inventions which will materially counter terrorist activities, inventions not possessing a direct impact on such activities will not be made special.

This application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Hien Phan, Special Program Examiner, at (571) 272-1606.



Hien H. Phan, Special Programs Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120

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OFFICE OF PETITIONS

In re Application of	:	
William C. Lynch, et al.	:	
Application No. 10/447,455	:	DECISION ON PETITION
Filed: May 28, 2003	:	TO WITHDRAW
Attorney Docket No. DROPP004	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 2, 2008.

The request is **APPROVED**.

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

The request was signed by Kevin J. Zilka on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **William C. Lynch**
3331 Thomas Drive
Palo Alto, CA 94303

cc: **Steven Saunders**
Droplet Technology, Inc.
1600 Adams Drive, Suite 216
Menlo Park, CA 94025

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/447,455	05/28/2003	William C. Lynch	DROPP004

CONFIRMATION NO. 3576

POWER OF ATTORNEY NOTICE

28875
Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

OC00000003288340

Date Mailed: 10/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/02/2008.

- 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.

/tswilliams/

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

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HALF MOON BAY, CA 94019

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OFFICE OF PETITIONS

In re Application of :
Eric Dellinger :
Application No. 10/447,466 : ON PETITION
Filed: May 28, 2003 :
For: ASIC CUSTOMIZATION WITH :
PREDEFINED VIA MASK :

This is a decision on the petition under 37 CFR 1.173(b), filed May 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 October 20, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 21, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of October 20, 2004 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,020 extension of time submitted with the petition on May 5, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 2811.

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

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NEW YORK NY 10017

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OFFICE OF PETITIONS

ON PETITION

In re Application of
John D. Richartz et al.
Application No. 10/447,501
Filed: May 28, 2003
Attorney Docket No. **886-456**

This is a decision on the petition filed August 14, 2009, to withdraw the holding of abandonment. The petition is being treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

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

This application became abandoned on February 17, 2009, for failure to file a timely response to the Final Office Action mailed November 13, 2008 which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed June 19, 2009. Petitioner asserts that the Final Office Action was never received because a previously filed Revocation/Power of Attorney and Change of Correspondence Address were not processed.

A review of the file reveals however that a revocation/power of attorney and address change was filed on June 12, 2008 but that the information was not updated prior to the mailing of the Final Office Action on November 13, 2008. Thus, the Office Action was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

In response to the Final Office Action, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2164 for the 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

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TEXAS INSTRUMENTS INCORPORATED
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DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of :
Shen et al. :
Application No. 10/447,505 : DECISION ON PETITION
Filed: 05/29/2003 :
Attorney Docket No. TI-34756 (1962-04400) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 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 25, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 26, 2006. A Notice of Abandonment was mailed on April 23, 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, and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

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

This application is being referred to Technology Center AU 2618 for appropriate action by the Examiner in the normal course of business on the reply received on May 1, 2007.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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In re Application of :
Shen et al. : DECISION GRANTING PETITION
Application No. 10/447,505 :
Filed: 05/29/2003 :
Attorney Docket No. TI-34756 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 2008, to revive the above-identified application.

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

This application became abandoned on January 26, 2008, for failure to file a timely response to the nonfinal Office action mailed October 25, 2007, which set a three (3) month statutory period for reply.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made an acceptable statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

This matter is being referred to Technology Center Art Unit 2618.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of

SAUNDERS, Steven E. et al.
Application No. 10/447,514
Filed: May 28, 2003
Attorney Docket No. **DROPP006**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 02, 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).

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: **STEVE SAUNDERS**
DROPLET TECHNOLOGY, INC.
1600 ADAMS DRIVE, SUITE 216
MENLO PARK, CA 94025

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JOHN R. VAN AMSTERDAM, PH.D., ESQ.
600 ATLANTIC AVENUE
BOSTON, MA 02210

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MAR 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Hawrot, Edward	:	
Application No. 10/447,529	:	ON PETITION
Filed: May 29, 2003	:	
Attorney Docket No. B1055.70005US00	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 6, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $285.00 extension of time fee submitted with the petition on March 6, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 1600 for 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

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TECHNOLOGY CENTER 2600

AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103-7013

In re Application of :
Robert M. SOULCHIN, et al. :
Application No. 10/447,530 : DECISION ON PETITION
Filed: May 29, 2003 : TO MAKE SPECIAL
For: METHOD OF DISPLAYING TRAFFIC FLOW :
DATA REPRESENTING TRAFFIC CONDITIONS :

This is a decision on the petition filed August 30, 2004, 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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Tony Walker
1590 East 172 Street, #4-H
Bronx, NY 10472

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OFFICE OF PETITIONS

In re Application of :
TONY WALKER :
Application No. 10/447,535 : DECISION ON PETITION
Filed: 05/28/2003 :
Title: TOOTHPASTE HOLDER :

This is a decision on the petition under 37 CFR 1.137(a), filed April 3, 2008, to revive the above-identified application.

The petition under 37 CFR 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 CFR 1.137(a)." Extensions of time under 37 CFR 1.136(a) are permitted. No additional fee is required for filing a "Renewed Petition under 37 CFR 1.137(a)."

On August 27, 2003, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. Petitioner did not pay the issue fee on or before November 28, 2003, as required in the Notice. Accordingly, the application became abandoned on November 28, 2003. On January 2, 2004, a Notice of Abandonment was mailed. On March 27, 2008, petitioner submitted the present petition, the petition fee, and the issue fee.

Petitioner set forth the following reasons as to why the delay in submitting the issue fee payment was unavoidable. Petitioner asserted:

> I was paying thousand of dollars to put my invention together.
> But sad to say I got sick. It got to point I was sick go long I lost my job.
>
> ***
>
> Mr. Matthew J. Peirce (my lawyer) called me a few times to pay $600.
> I didn't know my case would close if the money wasn't paid.
> He didn't make it clear. He just said to pay the $600.
> I spend thousand of dollars, I wouldn't let $600 stop me.

> I'm not blaming Mr. Peirce, I'm not blaming know one.
> I just wish I knew more about it.
> When time went by I had to file bankruptcy, chapter 7 ...
> because of the money I put in my invention.

Petition dated 03/27/08.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(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 37 CFR 1.137(a) was unavoidable; and

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

This petition lacks item (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable." 35 U.S.C. § 133. 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 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).

MPEP 711.03(c)(II)(C)(2).

Petitioner's arguments have been carefully considered, but are not persuasive. The Office sympathizes with petitioner; however, the circumstances detailed in the present petition do not meet the burden of unavoidable delay.

First, the Office notes that a delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. *See* Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978).

Second, as to any miscommunication or inaction of petitioner's attorney, the Office reminds petitioner that the USPTO is not the proper forum for resolving disputes between applicants and their representatives. *See* Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995). Further, the USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of an applicant, and an 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). Specifically, delay caused by the actions or inactions of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987).

Third, as to petitioner's assertion that he lacked the financial means to pay the issue fee and that he had to file bankruptcy, petitioner has not provided any financial records to support his assertion. A showing of "unavoidable" delay based upon financial difficulty must establish that the responsible party (i.e., an individual or the company) lacked the financial resources to pay the patent fee(s) necessary to continue prosecution of the above-identified application. To establish that the responsible party did not have the financial resources to pay the issue fee within the time period set in the Notice of Allowance and Fee(s) Due, petitioner should provide a month by month accounting of the responsible party's income, profits, credits, and asserts, as well as monthly obligations, expenses and bills. Petitioner should also explain how much disposable income or profits the responsible party had on a monthly basis, which could have been used to pay the issue fee. Petitioner must provide the Office with copies of any documents that can confirm the responsible party's financial difficulty during the entire period from November 28, 2003, the due date for the reply, until the filing of this petition. Furthermore, petitioner should provide the Office with statement from persons with firsthand knowledge of the events that lead to the abandonment of the application (i.e. applicants, assignees or other responsible persons). Specifically, petitioner should submit a statement from the bankruptcy attorney, David J. Babel.

Fourth, as to petitioner's assertion that a medical incapacitation contributed to the delay, petitioner did not provide the USPTO with any medical records or statements from his treating physician. Specifically, a showing of "unavoidable" delay based upon incapacitation must establish that petitioner's 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 November 28, 2003 to the filing of a grantable petition. Such a showing must be supported by a statement from petitioner's treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period.

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

The Office cautions petitioner to remove or mark through any personal information in any document submitted to the USPTO that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, applicant should consider deleting such personal information from the documents before submitting them to the USPTO. Applicant is advised that the patent file is available to the public after the issuance of a patent. However, checks and credit card authorization forms (PTO-2038) submitted for payment purposes are not retained in the application file, and therefore, are not publicly available.

Alternate Venue:

If petitioner is unable to provide the information above, petitioner may wish to consider filing a petition under 37 CFR 1.137(b) instead of filing a renewed petition under 37 CFR 1.137(a). The Office notes:

> Petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. Applicants determining whether to file a petition to revive an application under 37 CFR 1.137(b) or 1.137(a) should take the following into account: While the Office reserves the authority to require further information concerning the cause of abandonment and delay in filing a petition to revive, the Office relies upon the applicant's duty of candor and good faith and accepts the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" without requiring further information in the vast majority of petitions under 37 CFR 1.137(b). This is because the applicant is obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when a practitioner provides this statement to the Office. In addition, providing an inappropriate statement in a petition under 37 CFR 1.137(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96- 1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was

> unintentional). Even if the Office requires further information in a petition under 37 CFR 1.137(b), such petition is still significantly less burdensome to prepare and prosecute than a petition under 37 CFR 1.137(a). The Office is almost always satisfied as to whether "the entire delay...was unintentional" on the basis of statement(s) by the applicant or representative explaining the cause of the delay (accompanied at most by copies of correspondence relevant to the period of delay). A showing of unavoidable delay will (in addition to the above) require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and experience of the persons responsible for the error; and (3) copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP § 711.03(c)(III)(C)(2). In addition, a petition under 37 CFR 1.137(a) must establish that the delay was unavoidable, and not just that it was unintentional. Thus, many petitions originally filed under 37 CFR 1.137(a) end up being granted under 37 CFR 1.137(b) when the applicant realizes that sufficient evidence concerning the delay is too difficult to obtain or the cause of delay simply does not amount to "unavoidable delay" within the meaning of 37 CFR 1.137(a). Since the requirements of 37 CFR 1.137(a) are more exacting than the corresponding requirements of 37 CFR 1.137(b), a petition under 37 CFR 1.137(a) is significantly less likely to be grantable as filed than is a petition under 37 CFR 1.137(b). The Office usually must render a number of interlocutory decisions dismissing a petition under 37 CFR 1.137(a) and requesting additional evidence until either the applicant provides a satisfactory showing of unavoidable delay (in which case the petition can be granted) or the Office concludes that the applicant cannot provide a satisfactory showing of unavoidable delay (in which case the petition must be denied). Thus, the period between when an applicant first files a petition to revive and the Office renders a decision granting (or denying) that petition will, more often than not, be much longer if the petition is under 37 CFR 1.137(a) than it would have been if the petition were under 37 CFR 1.137(b). 37 CFR 1.137(b) 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).

MPEP 711.03(c)(III)(C).

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) **(currently an additional fee of $770.00 for a small entity);**
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) 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 37 CFR 1.137(d).

A copy of the appropriate form for filing a petition under 37 CFR 1.137(b) is enclosed for petitioner's convenience.

The Office notes that the address listed on the petition differs from the address of record. If petitioner wishes to receive future correspondence, including any Letters Patent which may issue, petitioner must submit a change of correspondence address with the USPTO promptly. A change of correspondence address form accompanies this decision.

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Form PTO/SB/64 -"Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b);" Form PTO/SB/122 – "Change of Correspondence Address"

PTO/SB/64 (01-08)
Approved for use through 04/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

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

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

2. Reply and/or fee

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

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

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

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

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

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

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

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

_____ Date	_____ Signature
	_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

PTO/SB/122 (01-06)
Approved for use through 12/31/2008. 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.

CHANGE OF CORRESPONDENCE ADDRESS
Application

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

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

Please change the Correspondence Address for the above-identified patent application to:

☐ The address associated with Customer Number: _____

OR

☐ Firm or Individual Name

Address

City	State	Zip

Country

Telephone	Email

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the:

☐ Applicant/Inventor

☐ Assignee of record of the entire interest.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☐ Attorney or agent of record. Registration Number _____.

☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number_____.

Signature

Typed or Printed Name

Date	Telephone

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____forms are submitted.

This collection of information is required by 37 CFR 1.33. 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 3 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

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

Tony Walker
1590 East 172 Street
Apt. #4-H
Bronx, NY 10472

COPY MAILED

MAY 13 2008

In re Application of :
TONY WALKER :
Application No. 10/447,535 : DECISION ON PETITION
Filed: 05/28/2003 :
Title: TOOTHPASTE HOLDER :

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

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

On August 27, 2003, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. Petitioner did not pay the issue fee on or before November 28, 2003, as required in the Notice. Accordingly, the application became abandoned on November 28, 2003. On January 2, 2004, a Notice of Abandonment was mailed.

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

This matter is being forwarded to the Office of Data Management for issuance of a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Data Management, Customer Service at (571) 272-4200.

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
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PATENT ADVISORS OFFICE
WESTERN REGIONAL RESEARCH CENTER
800 BUCHANAN ST
ALBANY CA 94710

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AUG 13 2008

In re Application of	:	
Giroux, et. al.	:	
Application No. 10/447,541	:	DECISION ON PETITION
Filed: May 27, 2003	:	
Attorney Docket No. 0132.03	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 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 October 24, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed July 24, 2007. Accordingly, the date of abandonment of this application is October 25, 2007. A notice of abandonment was mailed November 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 $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $120 extension of time fee submitted with the Issue fee and Publication fee on October 25, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as requested.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FELDMAN GALE
1700 MARKET STREET SUITE 3130
PHILADELPHIA PA 19103

In re Application of	:	
Juanico	:	
Application No. 10/447,555	:	DECISION
Filed: 29 May, 2003	:	
Attorney Docket No. 138330	:	

This is a decision on the petition filed on 3 September, 2009, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

The petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTE: There are three different addresses associated with this matter, respectively: (1) of record, (2) on the petition and (3) on the reply in the form of an amendment. The registered practitioners at each of the law firms identified herein are well aware that the Office does not engage in multiple correspondence(s)—and now Petitioner/Applicant Juanico must be as well. (See: 37 C.F.R. §1.33; MPEP §403) By the time any renewed petition is filed, these correspondence details must be worked out and conveyed in writing to the Office.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C.§704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioner does not appear to have addressed satisfactorily the statement/showing-of-delay requirement under the rule. This deficiency must be overcome.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 4 November, 2006, with reply due absent an extension of time on or before 4 February, 2006.

The application went abandoned after midnight 4 February, 2006.

The Office mailed the Notice of Abandonment on 28 August, 2008.

On 3 September, 2009, Petitioner/Applicant Juanico filed a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of an amendment, and made a statement of unintentional delay—however, it does not appear that there is a showing provided as to the factual basis for the averred unintentional delays that have occurred since midnight 4 February, 2006—three (3) years and seven (7) months earlier. In this regard, Petitioner, et al., are directed to the guidance in the Commentary at MPEP §711.03(c)(II). Petitioner must provide documentary support for averments. (Petitioner is cautioned to redact private financial and/or health information (e.g., account numbers, social security number, record numbers) from such documentation as is submitted.)

As indicated above, adding to the confusion in the matter is the fact that there is one address of record for the mailing of the decision and other Office actions (the Feldman Gale firm as addressed above), another address on the petition (in the name of Petitioner/Applicant Juanico), and a third name and address on the amendment filed as the required reply (Howard Levy (Reg. No. 55,378) of the Cantor Colburn firm).

The registered practitioners at each of the aforementioned law firms are well aware that the Office does not engage in multiple correspondence(s)—and now Petitioner/Applicant Juanico must be as well. (See: 37 C.F.R. §1.33; MPEP §403) By the time any renewed petition is filed, these correspondence details must be worked out and conveyed appropriately in writing to the Office.

Petitioner has—inappropriately—submitted a request and fee for extension of time. This is not proper after the expiration of the statutory period. The fee will be refunded.

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **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]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

As indicated above, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a proper reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As discussed above, it does not appear that Petitioner has satisfied statement/showing-of-delay requirements under the rule.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **dismissed**.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[4] The regulations at 37 C.F.R. §1.2 provide:
§z1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners 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

Greenberg Traurig LLP
2450 Colorado Avenue
Suite 400E
Santa Monica, CA 90404

COPY MAILED

JAN 0 3 2007

OFFICE OF PETITIONS

In re Application of :

Juan Luis Araya Rojas :
Application No. 10/447,572 : DECISION ON PETITION
Filed: May 22, 2003 : TO WITHDRAW
Attorney Docket No. 58926-010100 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 13, 2006.

The request is **NOT APPROVED.**

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

The request cannot be approved because 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 Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Hasse & Nesbitt LLC**
8837 Chapel Square Drive, Suite C
Cincinnati, OH 45249

UNITED STATES 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.: 06-06

Paper No: __

DART INDUSTRIES INC
P O BOX 779001
ORLANDO FL 32877-9001

COPY MAILED

JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Sumter, et al. :
Application No. 10/447,577 : ON PETITION
Filed: 29 May, 2003 :
Attorney Docket No. 130990-M200 :

This is a decision on a petition filed on 8 May, 2006, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 17 January, 2006, with reply under a non-extendable deadline on or before 17 April, 2006;
- the instant application went abandoned by operation of law after midnight 17 April, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- Petitioner filed the instant petition on 8 May, 2006, with fee, and, *inter alia*, reply in the form of the fees due, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply,

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

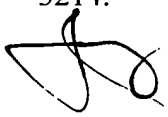
It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.



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

DEC 0 2 2004
PATENT & TRADEMARK OFFICE

1765
JTW

PTO/SB/83 (09-04)

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/447,586
Filing Date	05/28/2003
First Named Inventor	Tai-Yu Chong
Art Unit	1765
Examiner Name	Norton, Nadine Georgianna
Attorney Docket Number	020859-002310US

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

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
FEB 24 2005

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

- ☐ all the attorneys/agents of record
- ☐ all the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☒ all the attorneys/agents associated with Customer Number **20350**

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: **At the request of the client: California Institute of Technology**

CORRESPONDENCE ADDRESS

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

☐ The address associated with Customer Number: [ ]

OR

☒ Firm *or* Individual Name	Stephen Maebius				
Address	Foley & Lardner 3000 K. Street N.W., Suite 500				
City	Washington	State	DC	Zip	20007
Country	U.S.A				
Telephone	202-672-5569		Fax	202-672-5399	
Signature	RTOgawa				
Name	Richard T. Ogawa		Registration No.	37,692	
Date	11/22/04		Telephone No.	(650) 326-2400	

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.

60359365 v1

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed: September 7, 2007

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

Applicant: Smith
Appl. No.: 10/447,593
Filing Date: May 29, 2003
Title: SYSTEMS AND METHODS FOR AUTOMATICALLY UPDATING ELECTRONIC MAIL ACCESS LISTS
Attorney Docket No.: MNDSH-01002US0 MCF/DJB
Pub. No.: US 2004/0243678 A1
Pub. Date: December 2, 2004

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on June 18, 2007, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office 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.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant submitted the papers as follow-on "Document", which are entered into the application file and not as a "Pre-Grant Publication" submission. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

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

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Tammy J. Koontz
Program & Management Analyst
Pre-Grant Publication Division
Office of Patent Publication

Adjustment date: 09/07/2007 KKING1
06/19/2007 INTEFSW 00002803 061325 10447593
01 FC:1504 300.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Steven J. Smith	: DECISION ON REQUEST FOR
Patent Number	: 7657599	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/447,593	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1557** 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

ROBERT P. LENART
PIETRAGALLO, BOSICK & GORDON
ONE OXFORD CENTRE, 38TH FLOOR
301 GRANT STREET
PITTSBURGH, PA 15219

MAILED

JUN 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Sendur et al. :
Application No. 10/447,602 : ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. SEAG 60871 :

This is a decision on the petition, filed February 18, 2010, 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**.

The above-identified application was held abandoned because the period for seeking court review of the decision by the Board of Patent Appeals and Interferences mailed June 4, 2009 had expired and there were no allowed claims. A Notice of Abandonment was mailed October 1, 2009.

Petitioner asserts that the Notice of Abandonment mailed October 1, 2009, be withdrawn as it was premature because the Rehearing Decision by the Board of Patent Appeals and Interferences mailed August 7, 2009, reversed the examiner's rejection of claim 8.

MPEP 1214.06(I)(B) states:

> If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, the examiner after expiration of the period for further appeal, should proceed in one of two ways:
>
> (1) Convert the dependent claim into independent form by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or
>
> (2) Set a 1 – month time limit in which appellant may rewrite the dependent claim(s) in independent form.

As the examiner did not follow the provisions of MPEP 1214.06(I)(B), the Notice of Abandonment mailed October 1, 2009, is withdrawn as premature.

The application is being referred to the Technology Center AU 2627 for further processing in accordance with the above decision.

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

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 4

Michael A. O'Neil
Michael A. O'Neil, P.C.
5949 Sherry Lane, Suite 820
Dallas TX 75225

COPY MAILED

OCT 17 2003

OFFICE OF PETITIONS

In re Application of :
Eric W. McFarland et al. :
Application No. 10/447,603 :
Filed: May 29, 2003 : DECISION ON PETITION
Attorney Docket No. 500450-1005 :
Title: CHEMICAL SENSOR USING CHEMICALLY INDUCED ELECTRON-HOLE PRODUCTION AT A SCHOTTKY BARRIER :

This is a decision on the Petition under 37 C.F.R. §1.182, filed on September 2, 2003, which is properly treated as a petition under 37 C.F.R. §1.53.

On May 29, 2003, the above-identified application was filed. On July 29, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Corrected Application Papers - Filing Date Granted", advising applicant that replacement drawings would be required. The notice further indicated that the application appeared to have been deposited without pages 3 and 7 (three and seven) of the specification.

In response, on September 2, 2003, the present petition was filed. The petition is further accompanied by a new set of drawings, and a copy of PCT/US99/29363 (the present application is a divisional of parent application 10/170,000, which is a national stage entry of PCT/US99/29363).

The petition does not mention pages 3 and 7 (three and seven) of the specification. As such, it is not clear what resolution petitioner seeks. Perhaps he wishes to accept September 2, 2003 as the filing date (the date that these pages were received).

Alternatively, petitioner may wish to assert that these pages were included on filing[1].

As such, the petition under 37 C.F.R. §1.53 must be **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 1.53," and should clearly set forth what redress petitioner seeks.

The reply to this letter may be submitted by mail[2], hand-delivery[3], or facsimile[4].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to Attorney Paul Shanoski at (703) 305-0011.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

1 If the later is the case, it is recommended that petitioner submit a properly itemized and date stamped postcard receipt which establishes that pages 3 and 7 (three and seven) were received in the Office on May 29, 2003.

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

3 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

4 (703) 308-6916 or (703) 305-4257, Attn: 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

Michael A. O'Neil
Michael A. O'Neil, P.C.
5949 Sherry Lane, Suite 820
Dallas TX 75225

COPY MAILED

JAN 30 2004

OFFICE OF PETITIONS

In re Application of :
Eric W. McFarland et al. :
Application No. 10/447,603 :
Filed: September 2, 2003 : DECISION ON RENEWED
Attorney Docket No. 500450-1005 : PETITION UNDER
Title: CHEMICAL SENSOR USING CHEMICALLY INDUCED ELECTRON-HOLE PRODUCTION AT A SCHOTTKY BARRIER : 37 C.F.R. §1.53

This is a decision on the renewed petition under 37 C.F.R. §1.53, filed on November 18, 2003.

On May 29, 2003, the above-identified application was filed. On July 29, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Corrected Application Papers - Filing Date Granted", advising applicant that replacement drawings would be required. The notice further indicated that the application appeared to have been deposited without pages 3 and 7 (three and seven) of the specification.

On September 2, 2003, the original petition was filed. The petition was accompanied by a new set of drawings, and a copy of PCT/US99/29363 (the present application is a divisional of parent application 10/170,000, which is a national stage entry of PCT/US99/29363).

On October 17, 2003, the original petition was dismissed via the mailing of a decision which set forth:

The petition does not mention pages 3 and 7 (three and seven) of the specification. As such, it is not clear what resolution petitioner seeks. Perhaps he wishes to accept September 2, 2003 as the filing date (the date

that these pages were received). Alternatively, petitioner may wish to assert that these pages were included on filing.

With the renewed petition, petitioner has requested that a new filing date be assigned - the date of receipt of the new set of formal drawings (September 2, 2003).

The petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 2, 2003, the date of receipt of the formerly omitted items, pages 3 and 7 (three and seven) of the specification, using the original application papers and pages 3 and 7 (three and seven) of the specification, filed September 7, 2003, and the corrected drawings, also filed September 7, 2003.

The petitioner will note that the Office will require an abstract on a separate page.

Any inquiries related to this decision should be directed to Attorney Paul Shanoski at (703) 305-0011.

for Derek A. Woods
Jay Lucas
Interim Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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SEP 08 2009

OFFICE OF PETITIONS

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE WA 98111-1247

In re Patent No. 7,454,510
Issued: November 18, 2008
Application No. 10/447,615
Filed: May 29, 2003
Dkt. No.: 418268779US

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(D)", filed January 15, 2009.

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

The above-identified application matured into U.S. Pat. No. 7,454,510 on November 18, 2008. The instant application for patent term adjustment was timely filed January 15, 2009. Patentee requests that the determination of patent term adjustment be corrected from 949 days to 1,315 days on the basis that the patent issued more than three years after the date that the application was filed. Patentee asserting that the correct number of days of Patent Term Adjustment is 1,315 days. Patentee maintains that the patent term adjustment of 1,315 days is calculated as follows: 983 days of "A delay" + 680 days of "B delay" – 314 days of "Overlap" – 34 days of "Reduction."

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)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office

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

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

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. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(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 29, 2003, and ending on the date of filing of a request for continued examination (RCE), April 8, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a), 983 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),

680 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

The 680 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 983 days of patent term adjustment accorded under 37 CFR 1.702(a). The Office did not delay 983 days and also delay 680 days. Thus, entry of both the 983 days and the 680 days is neither permitted nor warranted given that 983 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 949 days of patent term adjustment, having considered the 680 days of Office delay under the three-year pendency provision in conjunction with the 983 days of examination delay, reduced 34 days for applicant's delay.

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

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

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AUG 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
West et al.	:	
Application No. 10/447,616	:	ON APPLICATION FOR
Filed: May 29, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 03-066-C	:	
Title: SYSTEM AND METHOD FOR DISPLAYING PROFIT RELATED INFORMATION IN AN ELECTRONIC TRADING ENVIRONMENT	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT," filed July 2, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, five hundred and seventy-nine (1579) days, not one thousand, three hundred and nine (1309) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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).

---

[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.

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

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

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Robert A. West	: DECISION ON REQUEST FOR
Patent Number	: 7587356	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/447,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1578** 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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WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219-1818

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JAN 19 2010

In re Application of :
Tien-Jung CHEN et al. :
Patent No. 7,030,992 : NOTICE
Application No. 10/447,623 :
Filed: May 29, 2003 :
Attorney Docket No. **3744-031000**

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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PAUL MALESON
SUITE 108
115 WEST AVENUE
JENKINTOWN, PA 19146

In re Application of
Walter M. Dicksen
Application No. 10/447,627
Filed: May 30, 2003
Attorney Docket No. 5700

ON PETITION

This is a decision in response to the petition, filed June 2, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed July 27, 2004. A Notice of Non-Compliant Amendment was mailed on November 30, 2004. Thereafter, on April 20, 2005, a Notice of Abandonment was mailed. On June 2, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $750.00; and (3) the requisite statement of unintentional delay.

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

The application is being referred to Technology Center AU 3723 for consideration of the amendment filed June 2, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: PAUL MALESON
2614 CAMERON WAY
FREDERICK, MD 21701-3049

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OFFICE OF PETITIONS

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

In re Application of :
David G. Simpson, et al. :
Application No. 10/447,670 : DECISION ON PETITION
Filed: May 28, 2003 : TO WITHDRAW
Attorney Docket No. 49122-0152 (49122-286396) : 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 28, 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 John K. McDonald, Ph. D. on behalf of all attorneys of record who are associated with customer No. 23370.

All attorneys/agents associated with the Customer Number 23370 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVID G. SIMPSON
10265 CLOVERLEA COURT
MECHANICSVILLE, VA 23116

cc: BETH E. ARNOLD
FOLEY HOAG, LLP
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2600

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/447,670	05/28/2003	David G. Simpson	49122-0152 (49122-286396)

CONFIRMATION NO. 2771

POWER OF ATTORNEY NOTICE

23370
JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

OC000000028020584

Date Mailed: 01/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/28/2007.

- 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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FEB - 2 2005

Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025

In re Application of:
Alan SEEFELDT
Application No.: 10/447,671
Filed: May 28, 2003
For: METHOD AND DEVICE TO PROCESS DIGITAL MEDIA STREAMS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed October 04, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: Schwegman, Lundberg, Woessner & Kluth, P.A.
121 South Eighth Street
Suite 1600
Minneapolis, MN 55402

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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAIL

OCT 1 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Mike KOCLANES, et al.
Application No. 10/447,677
Filed: May 29, 2003
For: POLICY BASED MANAGEMENT OF STORAGE RESOURCES

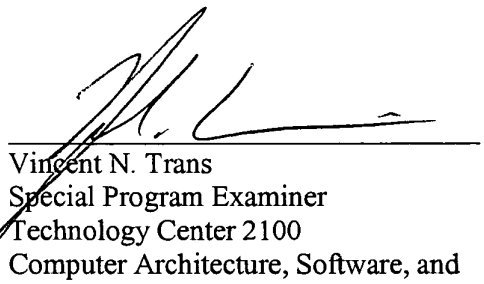
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed November 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Mike Koclanes, CTO and Co-Founder
CreekPath Systems, Inc.
7420 E. Dry Creek Parkway, Suite 100
Longmont, CO 80503

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Formatted: Top: 0.11", Header distance from edge: 0.15"

Paper No.: X

DATE : November 26,2007

TO SPE OF : ART UNIT 3721

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/447,682 Patent No.: 6948295 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: APPROVED IN PART (SEE FOLLOWING SHEET)

/Rinaldi Rada/ 3721
SPE Art Unit

Deleted: ___
Deleted:
Deleted: _____

This is the body of the Request for Certificate of Correction, copied from IFW:

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,948,295
DATED : September 27, 2005
INVENTOR(S) : Patrick L. Biggins

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

Column 4, line 59, please delete "at" and insert "of".
Column 5, line 6, please delete "1" and insert "7".
Column 5, line 8, please delete "1" and insert "7".
Column 5, line 12, please delete "1" and insert "7".
Column 5, line 17, please delete "1" and insert 7".
Column 5, line 20, please delete "5" and insert 11".
Column 6, line 23, please delete "an".
Column 6, line 30, please delete "12" and insert "13".
Column 6, line 33, please delete "12" and insert "13".

Only the first item above is correct.

All the remaining items appear to be Applicant's trying to put the claims back in their original order (I reordered the claims when I allowed them because method claims needed to appear before the apparatus claims).

I also noticed several instances where the claim dependencies were not changed correctly and some typographical (probably from scanning) errors.

Here's the list of corrections that need to be made:

1. Column 4 line 59: replace "at" with -- of --.

2. Column 5 lines 6-7: replace "step of configuring said goods" with -- goods support surface comprises a --.

3. Column 5 line 14: insert the word -- accessible -- between the words "yet" and "position".

4. Column 8 line 1: replace the number "1" with the number -- 7 --.

5. Column 8 line 3: replace the number "1" with the number -- 7 --.

6. Column 8 line 7: insert the word -- function -- between the words "dual" and "platform".

7. Column 8 line 7: replace the number "1" with the number -- 7 --.

8. Column 8 line 10: replace the number "1" with the number -- 7 --.

9. Column 8 line 23: replace the word "an" with the word -- in --.

/ John Paradiso / Examiner

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David B. Ritchie
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose, CA 95164-0640

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OFFICE OF PETITIONS

NOTICE

In re Application of :
William T. Colleran et. al. :
Application No. 10/447,684 :
Filed: May 28, 2003 :
Attorney Docket No. IMPJ-0019 :

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

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

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

This application is being referred to Technology Center Art Unit 2817, to await the response to the non-final Office action mailed August 3, 2004.

Inquiries related to this communication should be directed to the undersigned at (703) 308-6711[1].

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

[1]Inquiries after September 27, 2004, should be directed to (571) 272-3226.

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OFFICE OF PETITIONS

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

In re Patent No. 7,565,315	:	
West, et al.	:	DECISION DISMISSING
Application No. 10/447,703	:	REQUEST FOR
Issue Date: July 21, 2009	:	RECONSIDERATION OF
Filed: May 29, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 03-066A	:	UNDER 37 CFR 1.705

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed July 24, 2009, which is properly treated pursuant to 37 CFR § 1.705(d). Patentees request that the determination of patent term adjustment be corrected from one thousand two hundred fifty-five (1,255) days to one thousand seven hundred fifty-seven (1,757) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 1,255 days.

BACKGROUND

This application was filed on May 29, 2003. On July 21, 2009, the application matured into U.S. Patent No. 7,565,315, with a revised patent term adjustment of 1,255 days. The Office determined that the 1,149 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1] overlaps with the 1,316

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

days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[2,3] accorded prior to the issuance of the patent. As such, the Office allowed only entry of the adjustment of 1,316 days for Office delay. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 61 days, the patent issued with a revised patent term adjustment of 1,255 (1,316 - 61) days.

On July 24, 2009, patentees 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 1,757 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). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. § 154(b)(1)(A) overlaps with a delay under § 154(b)(1)(B) only if the delays "occur on the same day." Patentees assert entitlement to 1,757 days of patent term adjustment (1,316 + 1,148 - 646 overlap - 61 applicant delay).

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

[2] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[3] A first Office action was not mailed until March 6, 2008, fourteen months and 1,316 days after the application filing date, May 29, 2003.

OPINION

The Office notes that patentees incorrectly calculated the period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) ("Three Years Delay"). Furthermore, patentees used the incorrect Three Years Delay period in calculating the requested patent term determination. Pursuant to 37 CFR 1.703(b), the period of adjustment is 1,149 days (not 1,148 days as suggested by patentees), counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), May 30, 2006, and ending on the date the patent issued, July 21, 2009. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

Patentees' 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)*[4] *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

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

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

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 29, 2003, and ending on the date the patent issued, July 21, 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)(1), 1,316 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 1,149 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 1,149 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 1,316 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 1,316 days and the 1,149 days is neither permitted nor warranted. 1,316 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 1,255 days (1,316 days of Office delay - 61 days of applicant delay).

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

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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FEB 23 2005

OFFICE OF PETITIONS

In re Application of :
Roger Lawry :
Application No. 10/447,725 : ON PETITION
Filed: May 28, 2003 :
Attorney Docket No. 3166 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed November 30, 2004, to revive the above-identified application.

The petition is dismissed because it lacks the required petition fee pursuant to 37 CFR 1.17(m).

Effective October 1, 2004, the small entity fee for a petition to revive an unintentionally abandoned application was increased to $685. Using a Certificate of Mailing dated November 30, 2004, petitioner submitted a partial petition fee payment in the form of a check for $665. There is no authorization found in the papers filed November 30, 2004 to charge any fee deficiency. Unfortunately, the petition fee was further increased to $750 effective December 8, 2004. Since any fee paid on or after December 8, 2004, must be paid at the revised amount, petitioner must now submit the petition fee deficiency of $85.

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 the $85 petition fee deficiency and 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.

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

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Post Office Box 1450
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By hand: U.S. Patent and Trademark Office
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(703) 872-9306**.

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

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

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OFFICE OF PETITIONS

In re Application of :
Roger Lawry :
Application No. 10/447,725 : ON PETITION
Filed: May 28, 2003 :
Attorney Docket No. None :

This is a decision on the renewed petition, filed March 8, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b). This decision also ratifies prosecution subsequent to the date of abandonment.

The petition is **GRANTED.**

A review of the record discloses that the application became abandoned on June 22, 2004 for a failure to timely reply to the non-final Office action mailed on December 19, 2003. The response was filed on June 23, 2004. Nonetheless, on October 19, 2004, a final Office action was mailed. On November 30, 2004, a petition to revive and a response to the Office action of October 19, 2004 were filed. The petition was dismissed in a decision mailed February 23, 2005, since the petition fee was deficient. The fee deficiency was submitted with a renewed petition on March 8, 2005.

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

Receipt is acknowledged of the request for a two-month extension of time filed March 16, 2005. Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since this application became abandoned on June 22, 2004, no extension of time fees are due on a petition for revival. The $225 extension fees are being refunded in the form of a credit to counsel's deposit account.

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

The application file is being forwarded to Technology Center Art Unit 3743.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Bretten H. Whittacre, et al.
Application No. 10/447,726
Filed: May 28, 2003
Attorney Docket No. 80665.241602

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 3, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is not signed by an registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Matthew J. Spark appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner; however, all future correspondence regarding this application file will be directed solely to the address of record.

The petition is **DISMISSED.**

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

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

The petition does not satisfy items (1) above.

It is noted that the intermediate nonprovisional application was filed on August 29, 2006, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/712,133, which was filed on August 29, 2005, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

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

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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) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MATTHEW J. SPARK
VENABLE LLP
2049 CENTURY PARK EAST, 21ST FLOOR
LOS ANGELES, CA 90067

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WASHINGTON, DC 200043-9998

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OFFICE OF PETITIONS

In re Application of :
Bretten H. Whittacre, et al. :
Application No. 10/447,726 : DECISION DISMISSING PETITION
Filed: May 28, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 80665.241602 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed November 7, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application..

The petition is **DISMISSED**.

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

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

Upon further review, it is noted that 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, an amendment to the application has not been made to the first sentence of the specification following the title. See 37 CFR 1.78(a)(5)(iii).

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 1.78(a)(3).[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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By internet:	EFS-Web[2]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: STEFAM J. KIRCHANSKI
2049 CENTURY PARK EAST, 21ST FLOOR
LOS ANGELES, CA 90067

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[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

[2] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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WASHINGTON, DC 200043-9998

In re Application of
Bretten H. Whittacre, et al.
Application No. 10/447,726
Filed: May 28, 2003
Attorney Docket No. 80665.241602

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed March 10, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application..

The petition is **DISMISSED**.

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

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

The petition does not comply with item (1). In this regard, each application in the chain of applications must contain a proper benefit claim to the prior applications.

A review of the chain of prior applications cited in the amendment filed March 10, 2009 indicates that Application No. 10/283,480 claims priority to 60/335,088. However, the record of Application No. 10/283,480 discloses that this application claimed priority to 60/335,008.

Apparently Application No. 10/283,480 claimed benefit to the wrong provisional application, as provisional Application No. 60/335,008 does not name as an inventor at least one inventor named in the later-filed application nor does it disclose the named inventor's invention claimed in at least one claim of the later filed application in the manner provided by the first paragraph of 35 U.S.C. 112.

It is noted that a petition 37 CFR 1.78(a)(6) and the requisite surcharge were filed in Application No. 10/283,480 to correctly identify the prior application to which benefit is being claimed; however, the petition was dismissed in a decision mailed March 11, 2009. To date, no further petition has been filed in the prior application.

Once a decision granting a petition under 37 CFR 1.78(a)(6) is received for Application No. 10/283,480, a copy of the decision and a request to renew the present petition under 37 CFR 1.78(a)(6) should be promptly filed. No further petition fee is required in the present application.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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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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PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O BOX 10500
MCLEAN, VA 22102

In re Application of :
Bretten H. Whittacre, et al. :
Application No. 10/447,726 : DECISION ON PETITION
Filed: May 28, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 055904.0382877 :

This is a decision on the renewed petition, filed August 26, 2009, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the non-provisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

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

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

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Matthew J. Spark appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Spark desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3626 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

cc: MATTHEW J. SPARK
2049 CENTURY PARK EAST, 21ST FLOOR
LOS ANGELES, CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/447,726	05/28/2003	3626	636	055904.0382877	35	6

CONFIRMATION NO. 2633

CORRECTED FILING RECEIPT

27496
PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O BOX 10500
McLean, VA 22102

Date Mailed: 11/20/2009

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

Applicant(s)

Bretten H. Whittacre, Las Vegas, NV;
Troy Curnutt, Las Vegas, NV;
Jared Johnson, Henderson, NV;

Assignment For Published Patent Application

BIODOSE LLC

Power of Attorney: The patent practitioners associated with Customer Number 27496

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/384,501 05/29/2002
and is a CIP of 10/283,480 10/29/2002 PAT 7,630,907
which claims benefit of 60/335,088 10/30/2001

Foreign Applications

If Required, Foreign Filing License Granted: 07/28/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/447,726**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Integrated distribution and communication process and algorithm for providing, handling, distributing or generating reports regarding radioactive pharmaceuticals

Preliminary Class

705

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).

AMENDMENTS TO THE SPECIFICATION:

Pursuant to 37 CFR 1.78(a)(5)(iii), amend the first sentence/paragraph of the specification following the title, as follows:

This application is based on and claims priority from our co-pending U.S. Provisional Patent Application Serial No. 60/384,501, filed May 29, 2002, entitled Integrated Vertical Distribution System, Process and Algorithm For Providing And Distributing Radioactive Pharmaceuticals and Generating of Reports Therefor, and is also continuation-in-part of our co-pending U.S. Utility patent application Serial No. 10/283,480, filed Oct. 29, 2002, entitled Algorithm and Program for the Handling and Administration of Radioactive Pharmaceuticals ~~,~~ which claimed the benefit of and priority from U.S. Provisional Patent Application Serial No. 60/335,088, filed October 30, 2001, entitled Method Enabling Algorithm And Program For the Handling And Administration of Radioactive Pharmaceuticals, the benefit and priority of which is also claimed by the instant application.

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

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SEP 02 2008

In re Application of :
Bretten H. Whittacre, et al. :
Application No. 10/447,727 : DECISION ON PETITION
Filed: May 28, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 80665.241601 :

This is a decision on the petition, filed March 25, 2008, 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 priority to a prior-filed provisional application.

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.

The petition is **DISMISSED.**

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

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

It is noted that the intermediate nonprovisional application was filed on October 29, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/335,088, which was filed on October 30, 2001, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

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

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MATTHEW SPARK
VENABLE LLP
2049 CENTURY PARK EAST, SUITE 2100
LOS ANGELES, CA 90067

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

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OCT 15 2008

OFFICE OF PETITIONS

In re Application of :
Bretten H. Whittacre, et al. :
Application No. 10/447,727 :
Filed: May 28, 2003 :
Attorney Docket No. 80665.241601 :

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

This is a decision on the renewed petition, filed September 25, 2008, under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the non-provisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

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

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

Petitioner is advised that a petition under 37 CFR 1.78(a)(6) must also be filed in Application No. 10/283,480 to accept the delayed claim for priority to provisional application No. 60/335,088.

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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3686 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

cc: STEFAN J. KIRCHANSKI
2049 CENTURY PARK EAST, 21ST FLOOR
LOS ANGELES, CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/447,727	05/28/2003	3686	567	80665.241601	32	5

CONFIRMATION NO. 2674

CORRECTED FILING RECEIPT

26694
VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Date Mailed: 10/14/2008

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

Applicant(s)

Bretten H. Whittacre, Las Vegas, NV;
Troy Curnutt, Las Vegas, NV;

Assignment For Published Patent Application

BIODOSE LLC

Power of Attorney: The patent practitioners associated with Customer Number 26694

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/384,501 05/29/2002
and is a CIP of 10/283,480 10/29/2002
which claims benefit of 60/335,088 10/30/2001

Foreign Applications

If Required, Foreign Filing License Granted: 08/01/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/447,727**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Pharmacy based method and algorithm for handling of radioactive pharmaceuticals and generating of reports therefor

Preliminary Class

705

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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PATENT, COPYRIGHT & TRADEMARK LAW GROUP
4199 KINROSS LAKES PARKWAY
SUITE 275
RICHFIELD, OH 44286

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NOV 18 2009

OFFICE OF PETITIONS

In re Patent No. 6,886,703	:	
Issue Date: May 3, 2005	:	
Application No. 10/447,747	:	ON PETITION
Filed: May 30, 2003	:	
Attorney Docket No. 744	:	

This is a decision in response to a petition filed September 25, 2009, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 4, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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2222 WELLINGTON COURT
LISLE IL 60532

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of :
Wenzong Chen, et al. :
Application No. 10/447,799 : DECISION ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. A0-147 US CIP :

This is a decision on the petition, filed February 20, 2007, which is being treated as a petition under 37 CFR 1:181, to withdraw the holding of abandonment (no fee) in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice of Allowance mailed August 24, 2004. Petitioner indicated that a response was timely filed on November 3, 2004. In support the petitioner provides a copy of the RCE under 37 CFR 1.114 and the submission, including the postcard receipt dated November 3, 2004.

It is noted that the copy of the RCE and information disclosure statement and the postcard receipt contain an incorrect application number. Nevertheless, a response that has an incorrect application number is handled in accordance with MPEP 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and it was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon was sufficient to associate the papers with the correct application.

In view of the above the holding of abandonment is hereby withdrawn and the application is restored to pending status. 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 $1500 petition fee submitted with the petition on February 20, 2007 was deemed unnecessary, the petition fee will be credited to petitioner's deposit account.

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 November 3, 2004.

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

This application is being referred to Technology Center AU 2872 appropriate action in the normal course of business on the reply received with petition.

Irvin Dingle
Petitions Examiner
Office of Petitions

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2222 WELLINGTON COURT
LISLE, IL 60532

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JUL 29 2008

OFFICE OF PETITIONS

In re Application of :
Wenzong Chen, et al. :
Application No. 10/447,799 : DECISION ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. AO-147 US CIP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 10, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 10, 2007. Accordingly, the date of abandonment of this application is December 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1540; 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 the Office of Data Management for processing into a patent.

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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B. Craig Killough
Barnwell Whaley Patterson & Helms, LLC
P.O. Drawer H
Charleston SC 29402

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OFFICE OF PETITIONS

In re Application of
Ridgeway et al.
Application No. 10/447,807
Filed: May 29, 2003
Attorney Docket Number: 474.003/CIP
Title of Invention: Packaging Reel and Method

ON PETITION

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

This application became abandoned for failure to timely submit the issue and publication fees , as required by the Notice of Allowance and Fee (s) Due which was mailed June 30, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on October 1, 2005. A Notice of Abandonment was mailed on November 10, 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 the Office of Patent Publication for processing into a patent.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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
10/447,819	05/28/2003	2882	2346	1232-5046	11	90	7

CONFIRMATION NO. 2701

CORRECTED FILING RECEIPT

27123
MORGAN & FINNEGAN, L.L.P.
345 PARK AVENUE
NEW YORK, NY 10154

OC000000011131356

Date Mailed: 10/29/2003

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)

Shinsuke Hayashida, Tochigi, JAPAN;
Toshikazu Tamura, Tochigi, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-154205 05/28/2002
JAPAN 2003-114325 04/18/2003

If Required, Foreign Filing License Granted: 08/04/2003

Projected Publication Date: 12/04/2003

Non-Publication Request: No

Early Publication Request: No

Title

Photodetecting means, X-ray sensing method, X-ray sensing apparatus, and photoelectric conversion element

Preliminary Class

378

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN Z. YU, PH.D.
HAMMERHEAD SYSTEMS, INC.
MOUNTAIN VIEW, CA 94043

COPY MAILED

AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :
MEDVED, et al. :
Application No. 10/447,825 : DECISION ON PETITION
Filed: May 29, 2003 : TO WITHDRAW
Attorney Docket No. HAMMP001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 20, 2004.

The request is NOT APPROVED as moot.

A review of the file record indicates that the power of attorney to HAMMERHEAD SYSTEMS, INC. has been revoked by the assignee of the patent application on June 25, 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: VAN PELT, YI & JAMES LLP
10050 N. FOOT HILL BOULEVARD, SUITE 200
CUPERTINO, CA 95014

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

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of :
Shunji Kashima, et al. :
Application No. 10/447,827 : ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. TIJ-34541 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 26, 2004.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before November 1, 2004. Receipt is acknowledged of the requisite issue/publication fee on November 26, 2004.

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

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, no extension of time fee was charged to counsel's deposit account as authorized.

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

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

SPE : T. Vo

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/3/07

Paper No.: _____

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/442,809 Patent No.: 7143501

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: The citation 2002/0011755 to Shteynberg et al is correct. The changes as requested appear to be inaccurate.

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

3729
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

Date Mailed : 05/08/07

Patent No. : 7143501 B2
Patent Issued : 12/05/06
Docket No. : 10541-1708

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 01/29/07; 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
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

VISTEON GLOBAL TECHNOLOGIES INC
Intellectual Property Department
One Village Center Drive
Van Buren Township MI 48111

LMN

SPE : T. Vo

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/3/07

Paper No.: _____

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/442,809 Patent No.: 7143501

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: The citation 2002/0011755 to Shteynberg et al is correct. The changes as requested appear to be inaccurate.

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

3729
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

VOLPE AND KOENIG P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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SEP 15 2003

OFFICE OF PETITIONS

In re Application of :
Gerard Durville :
Application No. 10/447,870 : NOTICE
Filed: May 29, 2003 :
Attorney Docket No. HRG-PT010 :

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 3765.

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

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RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482

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JAN 20 2006

OFFICE OF PETITIONS

In re Patent No. 6,935,124 :
Issue Date: August 30, 2005 :
Application No. 10/447,878 : DECISION ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. MTS-3447US :

This is a decision on the petition under 37 CFR 1.183, filed November 10, 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 overcharged in the amount of $270.00. Accordingly, petitioner's Deposit Account will be credited the $270.00.

The matter is being referred to the Certificate of Correction Branch to issue the Certificate of Correction.

Telephone inquiries concerning this decision 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of June 22, 2004

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I.C. WADDEY, JR.
SUITE 2020
414 UNION STREET
BANK OF AMERICA PLAZA
NASHVILLE, TN 37219

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FEB 0 3 2004

OFFICE OF PETITIONS

In re Application of
Christopher Scott Stonecipher
Application No. 10/447,901
Filed: May 29, 2003
Attorney Docket No. N9329-ICW

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed January 26, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 7, 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 2, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 3751 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/447,901	05/29/2003	Christopher Scott Stonecipher	N9329-ICW

CONFIRMATION NO. 2646

I.C. Waddey, Jr.
Suite 2020
414 Union Street
Bank of America Plaza
Nashville, TN 37219

OC000000011813237

Date Mailed: 02/02/2004

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

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

The projected publication date is 12/02/2004.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (703) 305-9282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

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

PTO/SB/64a (11-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))	Docket Number (Optional) N9329-ICW

First named inventor: Christopher Scott Stonecipher

Application No.: 10/447,901 Art Unit: 3751

Filed: 05/29/2003 Examiner: not yet assigned

Title: Self-Sustaining Base

RECEIVED
JAN 2 7 2004
OFFICE OF PETITIONS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b)

1. Petition fee

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

☒ Other than small entity - fee $ 1,330.00 (37 CFR 1.17(m))

2. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (*e.g.*, filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after filing. The filing date of the subsequently-filed foreign or international application is October 7, 2003.

01/28/2004 AKELLEY 00000050 10447901
01 FC:1453 1330.00 OP

This collection of information is required by 37 CFR 1.137. 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. 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.

STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.
[NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

1-23-04
Date

Signature

Telephone Number: (615)242-2400

Emily A. Shouse
Typed or printed name

Waddey & Patterson
414 Union Street, Suite 2020
Address

Nashville, TN 37219

Enclosures: [X] Fee Payment

[ ] Additional sheets containing statements establishing unintentional delay

[ ] Other: _____

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

I hereby certify that this correspondence is being:

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

[ ] transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

1-23-04
Date

Signature

CLAIRE ULANOFF
Type or printed name of person signing certificate

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 23, 2006

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/447902 Patent No.: 7,000,930

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: _____

_____

_____

_____

_____

_____ 3618

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 23, 2006

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/447902 Patent No.: 7,000,930

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: _____

_____

_____

_____

_____

_____ 3618

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Paper No. 6

Paul M. Denk
763 S. New Ballas Road
St. Louis MO 63141

COPY MAILED

SEP 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Roberts :
Application No. 10/447,905 : ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. 7314 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts of Nonprovisional Application mailed July 30, 2003, which set a two-month extendable period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on October 1, 2003. A Notice of Abandonment was mailed on August 5, 2004.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

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) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SOLAE, LLC
LEGAL DEPARTMENT
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ST. LOUIS MO 63188

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OFFICE OF PETITIONS

In re Application of	:	
Taille et al.	:	DECISION ON PETITION
Application No. 10/447,915	:	
Filed: 22 May, 2003	:	
Attorney Docket No. SP-1245	:	

This is a decision on the petition filed on 23 September, 2004 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned on 1 October, 2003, for failure to file the statutory basic filing fee, an executed oath or declaration, and the surcharge for their late filing as required by the Notice to File Missing Parts of Nonprovisional Application mailed on 31 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. Notice of Abandonment was mailed on 14 September, 2004.

The present petition is accompanied by payment of the statutory basic filing fee, late filing surcharge, and petition fee, and submission of an executed oath or declaration.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SENNIGER, POWERS, LEAVITT & ROEDEL
ONE METROPOLITAN SQUARE, 16TH FLOOR
ST. LOUIS, MO 63102

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DEC 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Gary Roland Woltman, Sara Jane :
Wille Stabelfeldt, Yung Hsiang : DECISION GRANTING PETITION
Huang, Deanna R. Kathumbi- : UNDER 37 CFR 1.47(a)
Jackson, John E. Kerins, Jan E. :
Carr, Christopher M. Pieper
Application No. 10/447,919
Filed: May 22, 2003
Title: METHOD FOR DESIGNING A PRODUCT WORN ON A BODY IN A VIRTUAL ENVIRONMENT

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 6, 2003.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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JAN E. CARR
P.O. BOX 44051
DENVER, CO 80201

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DEC 0 3 2003
OFFICE OF PETITIONS

In re Application of
Gary Roland Woltman, Sara Jane Wille Stabelfeldt, Yung Hsiang Huang, Deanna R. Kathumbi-Jackson, John E. Kerins, Jan E. Carr, Christopher M. Pieper
Application No. 10/447,919
Filed: May 22, 2003
Title: METHOD FOR DESIGNING A PRODUCT WORN ON A BODY IN A VIRTUAL ENVIRONMENT

Dear JAN E. CARR:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

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MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of :
Troy D. Larsen, et al. :
Application No. 10/447,923 : ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. 114048-26 :

This is a decision in response to the petition, filed August 17, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 18, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. This decision precedes the mailing of a Notice of Abandonment. On August 17, 2006 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

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

The application is being referred to Technology Center AU 2133 for consideration of the response filed August 17, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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UNITED STATES DEPARTMENT OF COMMERCE
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EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

Mail Date: 04/21/2010

Applicant	: Troy D. Larsen	: DECISION ON REQUEST FOR
Patent Number	: 7587656	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/447,923	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **929** 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: D. Reichard

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/8/07

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/447,939 Patent No.: 7026545

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

Dean A. Reichard 2831

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/30/09

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/447,957 Patent No.: 7,148,636

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Should the changes Be made?

Valerie Jackson
Certificates of Correction Branch
703-756-1573

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

SPE /Walter Benson/ **Art Unit** 2837

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RAYMOND A. MILLER
PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Humphrey et al. : DECISION ON PETITION
Application No. 10/447,975 :
Filed: 29 May, 2003 :
Atty Docket No. 130323.00101 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 1 August, 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 decision.

This application became abandoned on 16 April, 2005, for failure to timely file a response to the Notice of Non-compliant Amendment mailed on 15 March, 2005, which set a one (1) month

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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)).

shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 18 May, 2005.

The petition lacks the required reply. The examiner has determined that the amendment filed with the present petition is non-compliant. An amendment in compliance with 37 CFR 1.121 must be filed with any grantable petition.

Petitioner should file a renewed petition accompanied by an amendment in compliance with 37 CFR 1.121.

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

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

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MAR 17 2006

OFFICE OF PETITIONS

In re Application of :
Humphrey et al. : DECISION ON PETITION
Application No. 10/447,975 :
Filed: 29 May, 2003 :
Atty Docket No. 130323.00101 :

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 10 February, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 16 April, 2005, for failure to timely file a response to the Notice of Non-compliant Amendment mailed on 15 March, 2005, which set a one (1) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 18 May, 2005. The petition filed on 1 August, 2005, was dismissed on 9 January, 2006.

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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)).

As the examiner has determined the amendment filed on 10 February, 2006, is proper, the petition may be favorably considered.

The application is being referred to Technology Center Art Unit 1755 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. 5

MITCHELL J WEINSTEIN
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22ND FLOOR
CHICAGO IL 60606

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Dietrich M. Gross :
Application No. 10/447,981 : DECISION ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. 7590/89717 :

This is a decision on the "Petition on Notice of Omitted Items in a Nonprovisional Application", filed August 25, 2003 (Certificate of Mailing dated August 20, 2003), which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of May 29, 2003, with pages 5, 41, and 42 of the specification as a part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on May 29, 2003. However, on August 6, 2003, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, pages 5, 41, and 42 of the specification appeared to have been omitted.

In response, applicant filed the instant petition. Accompanying the petition was a copy of pages 5, 41, and 42 of the specification. Applicant maintains that the application as originally filed included these pages. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "46-Page Specification having 30 Claims and 1 page of Abstract" as enclosed, bearing a United States Patent and Trademark Office date-stamp of May 29, 2003, and lacking any notation of non receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 23-0920.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of May 29, 2003, using the application papers received in the Office on that date and pages 5, 41, and 42 of the specification as resupplied on petition filed August 25, 2003.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/8/08

Patent No. :6938706B2
Inventor(s) : KOON Yuen Ng
Issued : 9/6/05
Title : POWER TOOL PROVIDED WITH A LOCKING MECHANISM
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that item [56], is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

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

CHRISTOPHER M. BROCK
HARNESS DICKEY & PIERCE P.L.C.
P.O. BOX 828
Bloomfield Hills, Michigan 48303

HR/CBN

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of
Hirata et al.
Application No. 10/447,999
Filed: May 30, 2003
Attorney Docket Number: 501.37966CX1
Title of Invention: Optical Projection Apparatus, Transmission Type Screen and Projection Type Image Display Apparatus

ON PETITION

This is a decision on the petition filed October 6, 2004, under 37 CFR 1.181.

The petition to revive under 37 CFR § 1.181 is **DISMISSED**.

The final Office Action was mailed on March 12, 2004 and set a three (3) month shortened statutory period for reply. An amendment after final was submitted on June 7, 2004. Petitioner filed a Notice of Appeal (and accompanying fee) and a three month extension of time on September 13, 2004. A Notice of Allowance and Fees due and Notice of Allowability were mailed on October 5, 2004.

Petitioner contends an entitlement to a refund of the Notice of Appeal and extension of time fees submitted on September 13, 2004. Petitioner states the submission of the Notice of Appeal and three month extension of time fee was necessitated by the delay of the Office in responding to the Amendment after final submitted on June 7, 2004.

Petitioner's argument has been considered but it is not persuasive to establish that petitioner is entitled to a refund. Petitioner voluntarily submitted the Notice of Appeal and Extension of time fee. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee. 37 CFR 1.26.

There is no obligation that the Office respond to an amendment after final within a set period of time. Pursuant to 37 CFR 1.116 (b), the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. Petitioner could have waited for a Notice of Allowance, an Advisory Action, submit a Notice of Appeal, RCE or allow the case to go abandoned. Petitioner opted to submit the Notice of Appeal. Petitioner is not entitled to a refund.

As to petitioner's request for Patent Term Adjustment, petitioner is directed to 37 CFR 1.705(b) and 37 CFR 1.4 (c).

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

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

Charlema R. Grant

Petitions Attorney

Office of Petitions

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON, DC 20006-5403

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MAY 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Goichi Akanuma	:	
Application No. 10/448,002	:	DECISION GRANTING PETITION
Filed: May 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. R2184.0233/P233	:	

This is a decision on the petition, filed May 11, 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 11, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2627 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\May10\448002.wpd

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

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LEYDIG VOIT & MAYER
700 THIRTEENTH ST NW
SUITE 300
WASHINGTON DC 20005-3960

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AUG 11 2005

OFFICE OF PETITIONS

In re
Reissue Application No. 10/448,004
Filed: May 30, 2003
Original Patent No. 6,399,176
Issued: June 4, 2002
Attorney Docket No. 503026/Van Malderen

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed February 14, 2005.

The fee deficiency submission under 37 CFR 1.28 is hereby **accepted**.

Receipt of the $1,224 is acknowledged, representing the deficiency between the large entity and small entity reissue application filing fee.

The change of status to a large entity has been entered and made of record.

The file is being forwarded to the Office of Patent Publication.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Hubert Francois :
Application No. 10/448,004 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. P63423US2 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1775 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment and IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-26-08

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/448,004 Patent No.: RE 39,998

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.

Should Drawings be Approved.

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

E. Yoon

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.

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

Comments: _____

_____

_____

_____

_____

_____ _____

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-26-08

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/448,004 Patent No.: RE 39,998

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.

Should Drawings be Approved.

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

E. Yoon

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.

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

Comments: do not apply the changes to col. 6, ln. 46.

Reason: replacing 'homogeneous solid solution' with--homogeneous ceramic composite-- since the change is not a typographical or grammatical error

KEITH D. HENDRICKS
SUPERVISORY PATENT EXAMINER

SPE

1794
Art Unit

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

7/22/03

Stephanie L Seidman
Heller Ehrman White and McAuliffe LLP
4350 La Jolla Village Drive 7th Floor
San Diego CA 92122-1246

Dear Applicant:

The Box PGPub replacement drawings for application number 10/448,019 received on 7/16/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re:	Jacobus A.J. DEN HARTOG et al.	:DECISION ON REQUEST
Petition No.:	10/448,024	:UNDER 37 CFR 5.25
Petition Filing Date:	February 17, 2004	
Attorney Docket Number:	1975.0046-00	

Title: 1, 3, 5-TRIAZINE DERIVATIVES AS LIGANDS FOR HUMAN ADENOSINE-A_3 RECEPTORS

This is a decision on the petition for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	Date
Netherlands	May 30, 2002
EPO	May 30, 2002

Yvonne R. Abbott
Patent Examiner
Licensing & Review
(703) 308-2866

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/16/05

TO SPE OF : ART UNIT 2859

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/448987 Patent No.: 7025498

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**.

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: attached COCIN is approved

Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800
SPE

2859 6-V
Art Unit

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

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

COPY MAILED

AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Shuji Hirai, et al. :
Application No. 10/448,029 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No.: 238378US2 :
:

This is a decision on the petition, filed August 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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 2861 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Paper No. 11

STAAS & HALSEY
SUITE 700
1201 NEW YORK AVENUE N W
WASHINGTON, DC 20005

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Jae-seong Shim :
Application No. 10/448,037 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. 1317.1052D :

This is a decision on the petition under 37 CFR 1.313(c), filed September 3, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petition, the file will be forwarded to Technology Center AU 2655 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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

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

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Paper No. 8

KEATING & BENNETT
SUITE 312
10400 EATON PLACE
FAIRFAX, VA 22030

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FEB 12 2004

OFFICE OF PETITIONS

In re Application of
Kenji Nishiyama et al
Application No. 10/448,061
Filed: May 30, 2003
Attorney Docket No. 36856.1076

: DECISION GRANTING
: PETITION

This is a decision on the petition filed October 31, 2003, requesting that a "Notice of Omitted Item(s) in a Nonprovisional Application (Notice)" mailed October 28, 2003, be withdrawn.

The application was filed on May 30, 2003. On October 28, 2003, the Office of Initial Patent Examination mailed a "Notice" stating that the application has been accorded a filing date of May 30, 2003, but that pages 79 and 85 appeared to have been omitted. The Notice set a two month nonextendable period for reply from the October 28, 2003 mailing date of the Notice.

In response to the Notice, petitioners timely filed the present petition on October 31, 2003 and argue that pages 79 and 85 were filed on May 30, 2003. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing "122 Pages of Specification, including: Claims and Abstract."

The return postcard constitutes *prima facie* evidence that this application, including pages 79 and 85 were filed on May 30, 2003. Accordingly, the petition is granted.

The $130.00 petition fee is being credited to Deposit Account No. 50-1353 as authorized.

The application is being returned to the Office of Initial Patent Examination for processing using pages 79 and 85 submitted with the petition and with an indication that pages 79 and 85 were present on filing.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 27 2004

Mailed ~~MAY 20 2004~~

Paper No. 5

In re Application of	:	
William Richards et al.	:	
Serial Number: 10/448069	:	DECISION ON
Filed: May 30, 2003	:	PETITION UNDER
For: AUTOMATED MOLECULAR PATHOLOGY APPARATUS HAVING INDEPENDENT SLIDE HEATERS	:	M.P.E.P. 708.02

This is in response to the petition filed, May 30, 2003, requesting that the above-identified application be granted Special Status under Section 708.02, interference with an issued patent of the M.P.E.P. and 37 CFR 1.102(d) (fee paid).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

A. Blair Hughes
McDonnell Boehnen Hulbert & Berghoff
300 S. Wacker Drive
Chicago IL 60606

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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9/26/07

James C. Wray
Suite 300
1493 Chain Bridge Road
McLean VA 22101

In re Application of:
SEMEIA, ROBERTO
Serial No.: 10/448,072
Filed: May 30, 2003
Docket: KARAGHIOSOFF
Title: FIRST STAGE PRESSURE REDUCING VALVE HAVING A TUBULAR PLUG, PARTICULARLY FOR REGULATORS OF SCUBA BREATHING APPARATUS

DECISION ON PETITION TO WITHDRAW HOLDING OF FINALITY

This is a decision on the petition filed on May 21, 2007 to request for withdrawal of finality of the office action mailed March 21, 2007. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required for the petition.

The petition is **DISMISSED**.

In the petition, the applicant requested withdrawal of the final status of the Office action dated March 21, 2007.

The record shows that:

1. In response to the final action issued on June 5, 2006, applicant filed an amendment to claims 1, 3, 7-10, 14, 15, 16, and 17 on Aug. 8, 2006.
2. Prosecution was properly reopened on the case, and a non-final rejection of claims 1, 3, and 5-18 was issued on Oct. 6, 2006.
3. On Dec. 27, 2006, applicant submitted amendment of claims 1 and 3 after non-final rejection.
4. On Mar. 21, 2007, a final rejection was issued on claims 1, 3, 5-15, 17, and 18.
5. On May 21, 2007, applicant filed the current request to withdraw of finality of the office action and restart the time for response.

Discussion and Analysis

Relevant portions of MPEP 706.07(a): Final Rejection, When Proper on Second Action, states:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, e.g., a printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP § 609.04(b). Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art. Where information is submitted in a reply to a requirement under 37 CFR 1.105, the examiner may NOT make the next Office action relying on that art final unless all instances of the application of such art are necessitated by amendment.

In order to determine whether or not the amendment filed Dec. 27, 2006 necessitated the new grounds of rejection in the final Office action of Mar. 21, 2007, a comparison of the amended claims filed on Dec. 27, 2006 and the claims filed on Aug. 8, 2006 must be made. A review of the amended claims presented on Dec. 27, 2006 shows that the claims were broadened in scope. The applicant changed the scope of the claims in the after non-final amendment filed Dec. 27, 2006. Claim 1 contained broadly worded limitations as to the location of the fins. The amendment filed Dec. 27, 2006 defined the outer boundary wall of the low pressure area of the valve body having fins. The Scaramucci reference addressed the issue as to the location of the fins. Therefore, the scope of the claims changed and the finality of the office action mailed Mar. 21, 2007 is maintained. Applicant's amendment to broaden the claims necessitated the new grounds of rejection that the examiner applied with prior art references that were found using a new search strategy and field of search. The review of the record shows that the examiner was in compliance with proper examining practice as set forth in MPEP 706.07(a). Therefore, the amendment to the claims presented on Dec. 27, 2006 necessitated the new grounds of rejection presented in the final Office action issued on Mar. 21, 2007. The examiner's finality of the Office action is correct.

Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the examiner's finality of the Office action dated Mar. 21, 2007 is proper.

The application is being forwarded to Examiner Rost of Art Unit 3753 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

The petition is dismissed.

Karen M. Young

Karen Young, Director
Technology Center 3700

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Commissioner for Patents
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DIW Jan-06

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

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JAN 1 0 2006

OFFICE OF PETITIONS

In re Patent No. 6,933,831 :
Issued: 23 August, 2005 :
Application No. 10/448,077 : ON PETITION
Filed: 30 May, 2003 :
Atty Dckt No. 5362.0035 :

This is a decision on the petition filed on 30 September, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **dismissed as moot**.

Petitioner requests issuance of a certification of correction, in essence, to remove the name of "Sumida Technologies Incorporated" from the patent. Petitioner states that that recordation form cover sheets were filed in the Office on 31 August, 2005, to show the merger of Sumida Technologies Incorporated with Sumida Electric Co., Ltd., and the assignment from Sumida Electric Co., Ltd., to Sumida Corporation.

37 CFR 3.81(b) provides for the issuance of a certificate of correction in the name of an assignee provided that the assignment was recorded before issuance of the patent.

A review of Office assignment records reveals that the assignment from Sumida Technologies Corporation to Sumida Corporation (by way of Sumida Electric Co., Ltd.) was recorded on 31 August, 2005, which is after the date the patent issued. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, and the patent as issued reflected assignment records at the time of issuance, issuance of a certificate of correction would not be proper.

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

Nevertheless, it is noted that a Certificate of Correction was issued on 12 October, 2005. As the Certificate of Correction was issued prior to the present petition being before a deciding official, the petition is now moot.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231.

It is noted that petitioner submitted $400.00 with the present petition. However, only a processing fee of $130.00 and certificate of correction fee of $100.00 are due. The balance will be credited to counsel's deposit account, No. 06-0916.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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JACK Q. LEVER, JR.
MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Takeshi Harada :
Application No. 10/448,095 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. 60188-352 :

This is a decision on the petition, filed June 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2813 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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OGILVY RENAULT
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

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DEC 14 2004

OFFICE OF PETITIONS

Applicant: Karaplis et al.
Appl. No.: 10/448,117
Filing Date: May 30, 2003
Title: PTHRP-BASED PREDICTION AND DIAGNOSIS OF BONE DISEASE
Attorney Docket No.: 9-16408-1US
Pub. No.: US 2004/0005619 A1
Pub. Date: January 8, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on March 5, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because publication contains many typographical errors throughout the specification and claims.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . .. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The request for corrected publication is dismissed, as the request does not point out where in the application as filed the errors occurred. Telephone calls were made to Mr. Roula Thomas on July 19, 2004 and October 19, 2004, and messages were left to request further information.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision.

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] 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).

§ 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 703-872-9306

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 4

MAILED

MAR 3 1 2004

Technology Center 2100

Staas & Halsey LLP
Suite 700
1201 New York Avenue, N.W.
Washington, DC 20005

In re Application of: Ryan Wagener et al.	)	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102 AND M.P.E.P. §708.02(XI): COUNTERING TERRORISM**
Application No. 10/448,119	)	
Filed: May 30, 2003	)	
For: SYSTEM FOR MANAGING AND SEARCHING LINKS	)	

This is a decision on the petition to make special filed September 25, 2003 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 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..." ...
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

The petition provides a persuasive showing that there is a nexus between the disclosed invention and countering terrorism. Accordingly, the petition is **GRANTED**.

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

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-6-07

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/448133 Patent No.: 7185419

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 Inventors

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

C Young

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.

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

Comments: PLease approve with no edits or changes.

/Derris H. Banks/ — SPE

3729 — Art Unit

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

7/22/03

Stephanie L Seidman
Heller Ehrman White and McAuliffe LLP
4350 La Jolla Village Drive 7th Floor
San Diego CA 92122-1246

Dear Applicant:

The Box PGPub replacement drawings for application number 10/448,154 received on 7/16/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A./OPTV
P.O. BOX 2938
MINNEAPOLIS MN 55402-0938

COPY MAILED

SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Dean R. Cerrato :
Application No.10/448,157 : ON PETITION
Filed: May 29, 2003 :
Attorney Docket No.:109635.153US2 :

This is in response to the "Petition to revive Application Under 37 CFR 1.137(b) and Request For Refund of Petition Fee", filed August 22, 2005, to revive the above-identified application. This petition is being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed October 15, 2004. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on January 16, 2005. This decision precedes the mailing of a Notice of Abandonment.

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

However, petitioner asserts that a revocation and power of attorney which included a change of correspondence address was submitted on August 16, 2004, which precedes the date of mailing of the non-final Office Action. A review of the official application file reveals that, as asserted by petition, a revocation and power of attorney including a change of correspondence address was received on August 16, 2004, but was not

entered until November 12, 2004. The non-final Office Action was, therefore, improperly mailed and not received by petitioners.

In view of the evidence presented by petitioner and in light of the irregularity in the mailing of the Notices, the Notice of Abandonment in the above-referenced application is hereby **vacated** and the holding of abandonment **withdrawn**.

This application is being forwarded to Art Unit 2611 for re-mailing of the non-final Office Action to the correct correspondence address of record.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ONYX PHARMACEUTICALS, INC.
2100 POWELL STREET
12TH FLOOR
EMERYVILLE, CA 94608

COPY MAILED

AUG 17 2006

OFFICE OF PETITIONS

In re Application of
Matthew J. Hart
Application No. 10/448,162
Filed: May 27, 2003
Attorney Docket No. ONYX 1023.DIV2

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 11, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/865,960, filed May 25, 2001, as set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 1656 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
10/448,162	05/27/2003	1656	559	ONYX1023DIV2 ONYX1023div2		16	5

CONFIRMATION NO. 3241

CORRECTED FILING RECEIPT

OC000000020063625

37499
ONYX PHARMACEUITICALS, INC.
2100 POWELL STREET
12TH FLOOR
EMERYVILLE, CA 94608

Date Mailed: 08/17/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Matthew J. Hart, Berkeley, CA;

Power of Attorney:

Gregory Giotta--32028
Gary Fabian--33875

Domestic Priority data as claimed by applicant

This application is a DIV of 09/865,960 05/25/2001 PAT 6,569,655
which is a DIV of 08/943,768 10/06/1997 PAT 6,238,881
which claims benefit of 60/029,979 11/06/1996

Foreign Applications

If Required, Foreign Filing License Granted: 07/28/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/448,162

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Novel nucleic acids and polypeptides related to a guanine exchange factor of Rho GTPase

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

SEP 21 2004

rvk

Mailed:_____ Paper Number: ____

In re application of :
Taiji Kameoka : DECISION ON
Serial No. 10/448,195 : PETITION
Filed: May 30, 2003 :
For: TONER ADDITIVE, ELECTROSTATIC IMAGE DEVELOPING TONER AND ELECTROSTATIC IMAGE DEVELOPER :

This is a response to the PETITION TO WITHDRAW APPARENT HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION ,filed July 01, 2004. The petition requests withdrawal of any holding of abandonment which may be issued for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed December 11, 2003. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due of December 11, 2003 were not received by applicant. No actual Notice of Abandonment has as yet been mailed.

DECISION

The instant 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. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Allowability and Notice of Allowance and Issue Fee Due of December 11, 2003 were not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed December 11, 2003 were not received. Also provided is a copy of the Attorney's docket record for Serial No. 10/448,195 (Attorney Docket No. 033235-015) where the Notice of Allowability

and Notice of Allowance and Issue Fee Due of December 11, 2003 would have been posted had it been timely received.

Therefore, the application shall be forwarded to the examiner for prompt remailing of the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due of December 11, 2003 to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O.BOX 1404
ALEXANDRIA, VA 22313-1404

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Fernandez & Associates, LLP
PO Box D
Menlo Park CA 94026-6402

COPY MAILED

SEP 14 2004

OFFICE OF PETITIONS

In re Application of
Fernandez
Application No. 10/448,202
Filed: May 28, 2003
Attorney Docket No. FERN-P012

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed July 30, 2004, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on January 30, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

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

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth the projected publication date of December 23, 2004 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2171 for examination in due course.

E. Shirene Willis

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JAN 0 9 2004

OFFICE OF PETITIONS

In re Application of
Jun Nakamura et al.
Application No. 10/448,232
Filed: May 30, 2003
Attorney Docket No. 740250-877

ON PETITION

This is in response to the petition under 37 CFR 1.53, filed September 24, 2003, in response to the Notice of Incomplete Application mailed July 25, 2003, and requesting a filing date of May 30, 2003.

The petition under 37 CFR 1.53 is **GRANTED.**

The instant application was deposited with the USPTO on May 30, 2003. On July 24, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Application" indicating that the application was deposited without drawings and which set a two (2) month shortened statutory period for reply.

In response, on September 24, 2003, the present petition was filed, accompanied by, *inter alia*, eight (8) sheets of drawings. Because the return postcard receipt date-stamped May 30, 2003 properly itemizes the contents of the application package in accordance with MPEP § 503, the Office concludes that eight (8) sheets of drawings were filed on May 30, 2003 with the application papers but the drawings were misplaced in the office. The office apologizes for any inconvenience occasioned by the loss of the drawings.

In view of the foregoing, the **petition to accord a filing date of May 30, 2003** will be accorded this application. The petition fee in the amount of $130.00 will be credited to petitioner's deposit account no. 19-2380 as no fee is due.

This file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of May 30, 2003 using the eight (8) sheets of drawings supplied September 24, 2003.

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

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
10/448,232	05/30/2003	2854	750	740250-877	8	4	2

CONFIRMATION NO. 3704

CORRECTED FILING RECEIPT

OC000000011811251

22204
NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASINGTON, DC 20004-2128

Date Mailed: 02/02/2004

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)

Jun Nakamura, Amimachi, JAPAN;
Kenji Ohshima, Amimachi, JAPAN;

Assignment For Published Patent Application

RISO KAGAKU CORPORATION, Tokyo, JAPAN;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/858,557 05/17/2001 PAT 6,571,700

Foreign Applications

JAPAN 145776/2000 05/17/2000

If Required, Foreign Filing License Granted: 07/25/2003

Projected Publication Date: 02/19/2004

Non-Publication Request: No

Early Publication Request: No

Title

Method of and apparatus for making heat-sensitive stencil and heat-sensitive stencil material

Preliminary Class

101

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Bhargav R. Perepa	: DECISION ON REQUEST FOR
Patent Number	: 7607100	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/448,239	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1228** 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

JAN 10 2007

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

MARINA LARSON & ASSOCIATES LLC
RE: MSK
P. O. BOX 4928
DILLON CO 80435-4928

In re Application of	:
Michel Sadelain et al	:
Serial No.: 10/448,256	: PETITION DECISION
Filed: May 28, 2003	:
Attorney Docket No.: MSK.P-058	:

This is in response to the petition under 37 CFR 1.144, filed October 23, 2006, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained 75 claims, as filed. The examiner mailed to applicants on November 2, 2005, a restriction requirement, as follows:

Group I – claims 1-25, drawn to a nucleic acid polymer encoding a chimeric T cell receptor;
Group II – claims 26-50, drawn to a chimeric T cell receptor; and
Group III – claims 51-75, drawn to a method of stimulating a T-cell receptor immune response.

The examiner set forth as reasons for restriction that the claims of Groups I and II are to different products that are structurally and patentably distinct and Group III is to a method of using. An election of species within the Group elected was also required.

Applicants replied on November 14, 2005, electing with traverse Group I and a species (without traverse). Applicants argued that the examiner has alleged different searches for Groups I and II, but had not sustained that burden to justify the requirement. Applicants further argue that Group III is related to Group II and I as being linking claims therebetween.

The examiner mailed a new Office action to applicants on February 3, 2006, acknowledging the election of Group I and the traversal. The examiner maintained the requirement and made it Final on the basis that the nucleic acid and protein structures are very different and do not have a common structure. The examiner also maintained that the Group III claims were not linking claims but were to a method of using the protein and included no recitation of nucleic acids. The

examiner then rejected claims 1-4, 6-12, 14-19 and 21-25 under 35 U.S.C. 112, first and second paragraphs, as indefinite and as lacking enablement and adequate written description. Claims 1-4, 6-19 and 21-25 were rejected under 35 U.S.C. 102(b) as anticipated by Maher et al and under 35 U.S.C. 102(a) as anticipated by Roberts et al or Bebbington et al.

Applicants replied on May 10, 2006, by filing an amendment canceling claims 2, 8-15, 17, 23-24, 27, 33-40, 42, 48-49, 52, 58-65, 67 and 73-75, amending claims 1, 3, 18, 25-26, 28, 51, 53 and 68 and adding claim 76. Applicants again traversed the restriction requirement for the same reasons and responded to each of the rejections of record.

The examiner mailed a Final Office action to applicants on July 21, 2006, maintaining the restriction requirement and indicating claim 76 was withdrawn as being directed to a different invention. Claims 1, 16 and 25 were again rejected under 35 U.S.C. 112, first paragraph, as lacking enablement and proper written description. Claims 16, 18-19, 21-22 and 25 were again rejected under 35 U.S.C. 102(b) as anticipated by Maher et al. Claims 1, 3-4 and 6-7 were rejected under 35 U.S.C. 102(a) as anticipated by Maher et al.

Applicants filed a request for reconsideration of the Final Office action on October 23, 2006, and this petition asking review of the restriction requirement. The examiner has not yet considered to the amendment after Final Office action.

DISCUSSION

Applicants' claims are directed to nucleic acid polymers encoding chimeric T cell receptors, the chimeric T cell receptor (a protein), and a method of stimulating T cell mediated responses by administering a T cell receptor.

Applicants argue that although the nucleic acids of Group I and protein of Group II are stated by the examiner to have different properties and would require different searches this is nothing more than a conclusory allegation., and no reasons were given to support it. However, it is well recognized in the art that proteins are of a different structure than nucleic acid polymers even though one may encode the other (and thus be a complement to it). It is also well known that a protein may be encoded by different nucleic acid polymers. Thus different searches would be required for each.

Applicants also propound that the classifications of each Group are so broad as to be effectively meaningless. Applicants should realize that classification for purposes of restriction is to show, at least in part, that the compounds are recognized as different. The classification is not meant to be dispositive of a final classification of the subject matter, but a general indication of where the claimed inventions may be found. Nucleic acid polymers and proteins are rarely, if ever, classified together as they are different structures.

Applicants refer to M.P.E.P. 806.05 with respect to related product which applicants' allege states that two-way distinctness must be shown in order to support a restriction requirement, and that such distinctness can be shown by separate classification, status in the art, field of search, etc. Further that inventions are distinct if they (A) do not overlap in scope (i.e. are mutually

exclusive), (B) are not obvious variants and (C) are not capable of use together, etc. However, applicants' arguments that restriction is improper fail in that proteins and nucleic acids are mutually exclusive product/compounds which do not overlap in scope and are not obvious variants of each other. They may or may not be capable of use together in view of one possibly encoding the other.

Finally applicants argue that Group III should be rejoined, or be subject to rejoinder, with an allowed claim 1 as it is a linking claim, and also refer to claim 76, added by amendment, as a linking claim. As noted by the examiner claim 1 is directed to nucleic acid polymers and claim 51 is directed to the use of proteins. There is no link between the product (nucleic acid polymers) and process of use (of a protein) claims. The addition of new claim 76, purported to be a linking claim, at a late stage of the prosecution does require the examiner to consider it.

The restriction requirement as set forth and maintained is deemed to be proper.

DECISION

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

The application will be forwarded to the examiner for consideration of the amendment after Final Office action filed October 23, 2006, and such other action as deemed appropriate.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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MAR 23 2007

MARINA LARSON & ASSOCIATES LLC
RE: MSK
P. O. BOX 4928
DILLON CO 80435-4928

In re Application of	:
Michel Sadelain et al	:
Serial No.: 10/448,256	: PETITION DECISION
Filed: May 28, 2003	:
Attorney Docket No.: MSK.P-058	:

This is in response to the renewed petition under 37 CFR 1.144, filed January 25, 2007, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history is set forth in the previous decision, mailed January 10, 2007, and is not repeated herein. Since the mailing of the petition decision, the examiner conducted a telephone interview with applicants on January 16, 2007, and mailed an *ex parte Quayle* action to applicants on January 22, 2007, setting a two month period for reply. As of the date of this decision, no reply has been received.

DISCUSSION

Applicants' request for reconsideration of the previous petition decision addresses the three grounds on which the decision denying applicants' request to withdraw the restriction requirement was made. Each of these will be addressed in turn.

Applicants first argue that although the conclusion stated by the examiner and confirmed by the petition decision that the protein and nucleic acids claimed have different properties and would require different searches this is incorrect since a reasonable search by the examiner would have included both the nucleic acid and protein terms therein. However, as previously stated, it is well recognized in the art that proteins are of a different structure than nucleic acid polymers even though one may encode the other. It is also well known that a protein may be encoded by different nucleic acids. Thus a search for the nucleic acid, while possibly overlapping with a search for the protein to some extent, would not be a complete search for the protein. The converse is also true since a single protein may be encoded by different nucleic acids. That a reference discovered in a search for the elected nucleic acids might be applicable to the protein may possibly suggest the possibility of rejecting both, but would not be a complete search for the

protein. Further, overcoming the reference applicable to the nucleic acids, and thus the protein also, would leave open the question of patentability of the protein without additional searching.

Secondly, as asserted by the previous decision, the nucleic acids and proteins are distinct and properly restricted. Applicants assert that claim 1 includes all nucleic acids which encode the claimed proteins and that the nucleic acids and proteins are plainly capable of use together. Applicants' assertions are not disputed, however, proteins and nucleic acids are different compounds or structures and are searched differently and classified differently. Although they may be used together, a protein may be encoded by many different nucleic acids structures and a nucleic acid may encode different proteins dependent on many different factors.

Finally applicants argue that Group III should be rejoined, or be subject to rejoinder, with an allowed claim 1 as it is a method of using the protein or of using the nucleic acid, in situ, to produce the protein. However claim 1 is directed to the nucleic acid only, not the use of the protein and thus has a different scope from that of claim 1 and therefor not subject to rejoinder.

Applicants also argue that claim 76, presented in response to the first Office action on the merits, is a linking claim which requires rejoinder of restricted inventions upon allowance of a first invention. However, the originally presented claims did not contain a linking claim and were properly restricted into three separate and distinct groups. The elected group was then examined. Subsequent addition of a purported linking claim for the express purpose of linking groups together was noted, but the linking claim held to be not included with the already examined group, as was proper. Further, claim 76 is not a proper linking claim as it would link a product and a process which is improper.

Applicants' request to reconsider the previous decision has been made, but the decision is maintained for the reasons previously set forth as well as those above.

DECISION

The petition is again **DENIED**.

Applicants remain under obligation to reply to the outstanding *ex parte Quayle* action mailed January 22, 2007, within the time period set therein or as extended under 37 CFR 1.136(a).

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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Paper No. 5

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JAN 05 2004

OFFICE OF PETITIONS

In re Application of :
AMIR ORON : DECISION ON PETITION
Application No. 10/448,262 :
Filed: May 29, 2003 :
Attorney Docket No. ACULSR.019A :

This is a decision on the petition under 37 CFR 1.53(e) filed September 26, 2003 (certificate of mailing September 24, 2003), requesting that the above-identified application be accorded a filing date of May 29, 2003.

The application was deposited on May 29, 2003, without drawings. On July 24, 2003, the Office of Initial Patent Examination mailed a "Notice Of Incomplete," requiring drawings of applicant's invention and stating that the filing date would be the date of receipt of the omitted drawings. Additionally, the Notice stated that an oath or declaration and the basic filing fee were missing.

On September 26, 2003 (certificate of mailing September 24, 2003), applicant filed the present petition, a preliminary amendment, and copies of Figures 1 and 2. The specification filed on May 29, 2003, describes drawings containing Figures 1 and 2. Applicant acknowledges that the application was submitted without the requisite drawings. However, applicant contends that the application as filed specifically incorporated by reference Application No. 10/287,432, filed November 1, 2002. Applicant asserts that Figures 1 and 2 of the present application are identical to Figures 1 and 2 in Application No. 10/287,432.

A search of the official file reveals that on May 29, 2003, a specification was filed, which states that the present application is a "continuation-in-part of U.S. Patent Application Serial No. 10/287,432, filed November 1, 2002, the disclosures of which are hereby incorporated by reference in their entireties."

Section 201.06(c) of the Manual for Patent Examining Procedure permits the entering of a portion of the prior application into a continuation or divisional application when the portion of the prior application was inadvertently omitted from the continuation or divisional application. Based on applicant's representation that Figures 1 and 2 supplied with the present petition constitute a copy of the prior application, and the incorporation

by reference statement appearing in the specification deposited on May 29, 2003, it is appropriate, on petition, to accord the application the requested filing date with one sheet of drawings (Figures 1 and 2).

Accordingly, the petition is **granted**.

Counsel's deposit account will not be credited the $130.00 petition fee set forth in 37 CFR 1.17(h), because the petition was required to accord the application the requested filing date.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of May 29, 2003, using the application papers filed on that date and the copy of one sheet of drawings (Figures 1 and 2) submitted with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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ACULSR.019A/GVH/KAD

Paper No. 5

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OFFICE OF PETITIONS

In re Application of :
AMIR ORON : DECISION ON PETITION
Application No. 10/448,262 :
Filed: May 29, 2003 :
Attorney Docket No. ACULSR.019A :

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Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Preliminary Class
600

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.

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NOT GRANTED

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

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OFFICE OF PETITIONS

In re Application of :
Ryan B. Wicker et al :
Application No. 10/448,263 : DECISION GRANTING PETITION
Filed: May 29, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 125945-1001 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 20, 2006, as required by the Notice of Allowance and Fee(s) Due mailed June 20, 2006. A Notice of Abandonment was mailed on October 25, 2006, subsequent to the mailing of the present petition to revive.

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 ($700 and $300, respectively); (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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Leslie A. Van Leeuwen
IBM Corp, IP Law
11400 Burnett Road
Austin, TX 78758

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OFFICE OF PETITIONS

In re Application of

Currie, et al. :

Application No. 10/448,268

: DECISION ON PETITION

Filed: May 29, 2003

:

Attorney Docket No. GB920020048US1

This is a decision on the petition under 37 CFR 1.137(b), filed, September 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 28, 2007, 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 May 29, 2007. A Notice of Abandonment was mailed September 13, 2007.

The amendment filed September 5, 2007, is noted.

The application is being forwarded to Technology 2100, GAU 2194 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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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Anirban Chatterjee	: DECISION ON REQUEST FOR
Patent Number	: 7596539	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/448,270	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1888** 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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HARNESS, DICKEY, & PIERCE, P.L.C
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ST. LOUIS, MO 63105

Mail Date: 04/21/2010

Applicant	: Raju R. Viswanathan	: DECISION ON REQUEST FOR
Patent Number	: 7630752	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/448,273	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1927** 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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MAILED

JUN 0 1 2010

OFFICE OF PETITIONS

In re Patent No. 6,966,450 :
Issue Date: November 22, 2005 :
Application No. 10/448,281 : DECISION ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. **3745.00** :

This is a decision on the petition under 37 CFR 1.378(c), filed December 18, 2009, with a certificate of mailing dated December 15, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on November 22, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

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

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of :
Govari :
Application No. 10/448,289 : DECISION ON PETITION
Filed: May 29, 2003 : PURSUANT TO
Attorney Docket No.: BIO-179 : 37 C.F.R. § 1.181(A)
Title: HYSTERESIS ASSESSMENT :
FOR METAL IMMUNITY :

This is a decision on the petition filed November 4, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 1, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 2, 2009.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is

required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable.** It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by

the practitioner where the non-received Office action would have been entered had it been received is required.

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

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

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

(Emphases added).

ANALYSIS

This petition was filed by an attorney with the law firm of Scully, Scott, Murphy & Presser, P.C., and Practitioner has stated that his client (Johnson and Johnson, which represents the Assignee of record, Biosense, Inc.) failed to receive the non-final Office action (the correspondence address of record is the address of the client). A statement from Johnson and Johnson's patent counsel (Mr. Schoneman) indicates that a search was conducted of "the docket" and the non-final Office action of April 1, 2009 was not located.[1] This statement is being construed to mean that Mr. Schoneman personally reviewed both the file jacket and its contents, and the docket to which he has referred is maintained by Johnson and Johnson. Mr. Schoneman

1 Mr. Schoneman statement of facts, paragraph 3.

must notify the Office if this is not a correct interpretation of the statement contained in this statement of facts.

Mr. Schoneman has further indicated that "the Notice of Allowance[2] was never entered into the database," and that "no entry was made for the Office Action dated April 1, 2009 in our docketing system."

With this submission, Petitioner has further included, *inter alia*, Johnson and Johnson's individual docket report that is associated with this particular application.

Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.

First, a statement from a Johnson and Johnson employee has not been provided, asserting that the Office action was not received at the correspondence address of record.

Second, Petitioner has not provided a statement from an employee of Johnson and Johnson, describing the system used by Johnson and Johnson for recording an Office communication received at the correspondence address of record with the USPTO.

Third, it has not been established that Johnson and Johnson's docketing system is sufficiently reliable.

On renewed petition, Petitioner should provide a statement from an employee of Johnson and Johnson, explaining how the docketing system which Johnson and Johnson has in place serves to ensure that the correspondence recorded therein is responded to in a timely manner.

Fourth, a copy of Johnson and Johnson's master docket has not been provided, or a statement from one having firsthand knowledge of the fact that no such master docket exists has not been provided (coupled with the submission of other forms of evidence listed in the portion of the MPEP reproduced above, other than the individual docket report that is associated with this particular application).

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2 This is presumed to be a typographical error, as it appears that Mr. Schoneman meant to refer to the Office Action of April 1, 2009, and not a non-existent notice of allowance. Mr. Schoneman must notify the Office if this is not a correct interpretation of the statement contained in this statement of facts.

CONCLUSION

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted**. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[7] All other inquiries concerning examination procedures 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

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3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 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).

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.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza
Garden City, NY 11530

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAILED

MAR 30 2010

OFFICE OF PETITIONS

In re Application of :
Govari :
Application No. 10/448,289 : DECISION ON RENEWED PETITION
Filed: May 29, 2003 : PETITION PURSUANT TO
Attorney Docket No.: BIO-179 : 37 C.F.R. § 1.181(A)
Title: HYSTERESIS ASSESSMENT :
FOR METAL IMMUNITY :

This is a decision on the renewed petition filed February 2, 2010, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 1, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 2, 2009.

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on filed November 4, 2009, along with, *inter alia*, a copy of the Assignee's individual docket report that is associated with this particular application.

The decision was dismissed via the mailing of a decision on December 23, 2009, which set forth, *in pertinent part*:

> …a copy of Johnson and Johnson's master docket has not been provided, or a statement from one having firsthand knowledge of the fact that no such master docket exists has not been provided (coupled with the submission of other forms of evidence listed in the portion of the MPEP reproduced above, other than the individual docket report that is associated with this particular application).
>
> Decision on original petition, page 4.

With this renewed petition, Petitioner has included a statement from a Johnson and Johnson employee which asserts that the Office action was not received at the correspondence address of record, and a statement from an employee of Johnson and Johnson, describing the system used by Johnson and Johnson for recording an Office communication received at the correspondence address of record with the USPTO which establishes that this docketing system is sufficiently reliable. Petitioner has further included a copy of the individual docket for the attorney who is responsible for this application,[1] and it is noted that this application is not listed thereon.

Petitioner's assertion of non-receipt has not been adequately supported, for this renewed petition does not contain either a copy of Johnson and Johnson's master docket or a statement from one having firsthand knowledge of the fact that no such master docket exists (coupled with the submission of other forms of evidence listed in MPEP § 711.03(c)).[2]

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1 In the sixth paragraph of the Howd statement of facts, Ms. Howd has indicated that Louis Capezzuto is "the attorney responsible for the present application." This statement is being construed to mean that Mr. Capezutto is employed by Johnson and Johnson, and not Scully, Scott, Murphy & Presser, P.C. Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the Howd statement of facts submitted concurrently with this renewed petition.

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

CONCLUSION

The time period for filing a second renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[7] All other inquiries concerning examination procedures 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

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3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 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).

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.

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PHILIP S. JOHNSON
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NEW BRUNSWICK NJ 08933-7003

MAILED

JUN 29 2010

OFFICE OF PETITIONS

In re Application of :
Govari :
Application No. 10/448,289 : DECISION ON SECOND RENEWED
Filed: May 29, 2003 : PETITION PURSUANT TO
Attorney Docket No.: BIO-179 : 37 C.F.R. § 1.181(A)
Title: HYSTERESIS ASSESSMENT :
FOR METAL IMMUNITY :

This is a decision on the second renewed petition filed May 28, 2010, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This second renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED.**

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 1, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 2, 2009.

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on filed November 4, 2009, along with, *inter alia*, a copy of the Assignee's individual docket report that is associated with this particular application.

The decision was dismissed via the mailing of a decision on December 23, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on February 2, 2010, along with a statement from a Johnson and Johnson employee which asserts that the Office action was not received at the correspondence address of record, and a statement from an employee of Johnson and Johnson, describing the system used by Johnson and Johnson for recording an Office communication received at the correspondence address of record with the USPTO which establishes that this docketing system is sufficiently reliable. Petitioner further included a copy of the individual docket for the attorney who is responsible for this application,[1] and it is noted that this application is not listed thereon.

The renewed petition was dismissed via the mailing of a decision on March 30, 2010, which indicated that the renewed petition failed to contain either a copy of Johnson and Johnson's master docket or a statement from one having firsthand knowledge of the fact that no such master docket exists (coupled with the submission of other forms of evidence listed in MPEP § 711.03(c)).

With this second renewed petition, Petitioner has included a copy of the master docket for the relevant date, and it is noted that this application is not listed thereon.

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the non-final Office action of April 1, 2009 was not received.

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

The Technology Center will be notified of this decision, 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 re-mail the non-final Office action of April 1, 2009, and will set a new period for response.

---

1 In the sixth paragraph of the Howd statement of facts submitted with the renewed petition, Ms. Howd has indicated that Louis Capezzuto is "the attorney responsible for the present application." This statement is being construed to mean that Mr. Capezutto is employed by Johnson and Johnson, and not Scully, Scott, Murphy & Presser, P.C. Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the Howd statement of facts submitted concurrently with the renewed petition.

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

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

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

/Paul Shanoski/
Paul Shanoski
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Office of Petitions

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400 Garden City Plaza
Garden City, NY 11530

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2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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116 Woods Edge Drive
Belleville, IL 62221

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JUL 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Fraser et al.	:	
Application No. 10/448290	:	DECISION
Filing or 371(c) Date: 05/29/2003	:	ON PETITION
Title of Invention:	:	
METHODS AND APPARATUS FOR FABRICATING	:	
CELLULAR CUSHIONS	:	

This is a decision on the "Petition to Revive Patent Application for Failure to Timely Respond to an Office Action," filed May 21, 2007, pursuant to 37 CFR 1.137(a), to revive the above-identified application.

This Petition 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 "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.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 9, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on November 10, 2006. A Notice of Abandonment was mailed March 21, 2007.

The present petition

Applicant files the Present petition; Request for Continued Examination ("RCE") and fee, and amendment in response to the Office action. Applicant asserts that the application "was unavoidably abandoned due to mail delay during illness of Applicant." No documentary support has been provided for this assertion.

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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.

Applicable Law, Rules and MPEP

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,

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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]

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).

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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).

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Analysis

Applicant here asserts that the delay in responding to the Office action "was unavoidably abandoned due to mail delay during illness of Applicant." No documentary support has been provided for this assertion.

Applicant has failed to demonstrate that the application was abandoned unavoidably. The standard requires Applicant to demonstrate that he acted as a prudent and careful person in relation to is most important business. 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. Here, petitioner asserts 1) that there were mail delays, and 2) that he was ill. However, it is not enough that there may have been mail delays, Petitioner must prove that there were mail delays that at least contributed, or accounted for the delay. Evidence must come from the United States Postal Service. If applicant asserts that there was a Postal emergency, Applicant must prove that there was a postal emergency during the relevant period – from the time the reply was due (November 9, 2006), to the filing of a grantable petition.

Regarding Applicant's assertion, that he suffered an illness, Applicant must demonstrate that he was ill during the relevant time period, and that he was ill to the extent that he was unable to conduct business during that period. Applicant must support his assertions with documentary evidence such as medical records. A showing of "unavoidable" delay based upon incapacitation must establish that Applicant's 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 November 9, 2006 and the filing of a grantable petition. Such a showing must be supported by a statement from Applicant's treating physician, and such statement must provide the nature and degree of Applicant's incapacitation during this above-mentioned period.

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

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Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Finally, the address on the petition differs from the address of record. 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. Applicant is reminded that 37 CFR 1.4(c) requires that "[s]ince different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

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

Copied from 10488290 on 07/16/2007

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

Derek L. Woods
Attorney
Office of Petitions

CC: ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102-2740

Copied from 10488290 on 07/16/2007

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kevin Gerard Fraser
116 Woods Edge Drive
Belleville, IL 62221

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of
Fraser et al.
Application No. 10/448290
Filing or 371(c) Date: 05/29/2003
Attorney Docket Number: STAR-1

DECISION
ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

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 9, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 10, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and 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) 272-3232.

This application is being referred to Technology Center AU 3673 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted with the petition in accordance with 37 CFR 1.114.

Derek L. Woods
Attorney
Office of Petitions

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD, CT 06901

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FEB 16 2010

In re Application of	:	
BOONE, Keith W. et al.	:	
Application No. 10/448,317	:	DECISION ON PETITION
Filed: May 30, 2003	:	TO WITHDRAW
Attorney Docket No. **NU-147(US)**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 2009.

The request is moot because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to WOLF GREENFIELD & SACKS, P.C. has been revoked by the assignee of the patent application on August 12, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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

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KELLEY DRYE & WARREN LLP
TWO STAMFORD PLAZA
281 TRESSER BOULEVARD
STAMFORD, CT 06901

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OCT 3 0 2007

OFFICE OF PETITIONS

In re Application of :
Keith BOONE, et al. :
Application No. 10/448,320 : DECISION ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. NU-146 (US) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 07, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 26, 2007, which set a shortened statutory period for reply of three (3) months. A three (3) month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2165 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **KELLEY DRYE & WARREN LLP**
400 ATLANTIC STREET
13TH FLOOR
STAMFORD, CT 06901

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KELLEY DRYE & WARREN LLP
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STAMFORD CT 06901

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AUG 0 3 2009

OFFICE OF PETITIONS

In re Application of :
BOONE, Keith W. et al. :
Application No. 10/448,320 : DECISION ON PETITION
Filed: May 30, 2003 : TO WITHDRAW
Attorney Docket No. **NU-146(US)** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 2009.

The request is **APPROVED**.

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

The request was signed by Marvin Wachs on behalf of all attorneys of record who are associated with customer No. 47670. All attorneys/agents associated with the Customer Number 47670 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed April 13, 2009 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **KEITH W. BOONE**
17 NORROWAY AVENUE
RANDOLPH MA 02368

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

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STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
David M. Goldenberg et al	:
Serial No.: 10/448,327	: WITHDRAWAL OF ATTORNEY
Filed: May 30, 2003	:
Attorney Docket No.: 018734-1216	:

This is in response to applicants' attorneys' request, filed February 26, 2004, 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.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No. 7

GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON, VA 22204

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Masahiro Jinbo :
Application No. 10/448,355 : ON PETITION
Deposited: May 30, 2003 :
Attorney Docket No.:HOYA0031 :

This is a decision on the petition to accord a filing date filed August 21, 2003, requesting that the above-identified application be accorded a filing date of May 30, 2003.

Application papers in the above-identified application were deposited on May 30, 2003. However, on August 5, 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 specification did not include at least one claim and an abstract had not been provided.

In response, 50 sheets of specification including claims and the abstract and the present petition were filed on August 21, 2003. The petition contends that the application as filed included claims and the abstract. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of "specification, claims & abstract (50pp)" on May 30, 2003.

Applicant's postcard receipt is prima facie[1] evidence that 50 sheets of specification which included at least one claim and the abstract were received on May 30, 2003, but only sheets 1-31 of the specification which does not include at least one claim and the abstract 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 50 sheets of specification, including at least one claim and the abstract, were received on May 30, 2003, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted.

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[1]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.

Since the original specification sheets 32-50 which includes at least one claim and the abstract cannot be located in the Office, the copy of specification sheets 32-50 which includes at least one claim and the abstract supplied on August 21, 2003, will be used for processing and examination purposes.

No petition fee is due. Deposit account no. 50-1281 will be credited with the $130.00 petition fee.

The application will then be returned to the Office of Initial Patent Examination for further processing with a **filing date of May 30, 2003**, using the 18 sheets of pages 32-50 of the specification which includes at least one claim and the abstract supplied on August 21, 2003.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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JUN 01 2010

OFFICE OF PETITIONS

Capitol City TechLaw, PLLC
PO BOX 1210
VIENNA VA 22183

In re Application of
Wagner, et al.
Application No. 10/448,379
Filed: May 30, 2003
Attorney Docket No. 315-0051/US

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) &
: 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 4, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition. In addition, this decision addresses the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2010, to revive the above-identified application.

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

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

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

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

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

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

to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 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.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 18, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed July 18, 2006. Accordingly, the date of abandonment of this application is October 19, 2006. A Notice of Abandonment was mailed on November 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00, the publication fee of $300.00, and a completed PTOL-85(b); (2) the petition fee of $810.00; and (3) an acceptable explanation/statement of unintentional delay. All requirements under 37 CFR 1.137(b) being met, the petition is *granted.*

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2129 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/448,379	05/30/2003	2121	1266	315-0051/US	17	2

CONFIRMATION NO. 8926

CORRECTED FILING RECEIPT

75304
Capitol City TechLaw, PLLC
PO BOX 1210
VIENNA, VA 22183

Date Mailed: 06/01/2010

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)

Peter Wagner, Stockholm, SWEDEN;
Lene Martin, Stockholm, SWEDEN;

Power of Attorney: The patent practitioners associated with Customer Number 75304

Domestic Priority data as claimed by applicant

This application is a CON of PCT/SE01/02670 12/04/2001

Foreign Applications

SWEDEN 0004461.0 12/04/2000

If Required, Foreign Filing License Granted: 08/05/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/448,379**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

COMPUTERIZED IDENTIFICATION OF NORMAL AND ABNORMAL DIURNAL CORTISOL SECRETION PATTERNS AND LEVELS OF TESTOSTERONE FROM HUMAN SALIVA SAMPLES

Preliminary Class

706

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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Paper No. 021005

BORDEN, LADNER, GERVAIS LLP
World Exchange Plaza
100 Queen Street, Suite 1100
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FEB 11 2005

In re Application of:
Gagnon, et al
Serial No.: 10/448,384
Filed: May 30 2003
Attorney Docket No.: **PAT 325-2**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 09, 2004.

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

The request meets all the above stated requirements. The request was signed by Leslie Anne Kinsman, on behalf of herself and all the attorneys associated with Customer No. 22434.

The request is APPROVED. There are no attorneys of record at this time.

All future communications from the Office will be directed to, the law office of Smart & Biggar/Fetherstonhaugh, at the address indicated below until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward P Westin at (571) 272-1638.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

EPW/nmc

cc: Smart & Biggar/Fetherstonhaugh
1000 De La Gauchetiere Street West, Suite 3300
Montreal QC CANADA H3B 4W5

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DAVID J. ZIBELLI
KENYON & KENYON
SUITE 700
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WASHINGTON, DC 20005

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Kiyomi Yoshinari et al :
Application No. 10/448,385 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. 29287/139 :

This is a decision on the petition, filed October 27, 2004, which is being treated under 37 CFR 1.137(a) 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 21, 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 January 22, 2004.

Petitioner asserts that the delay was caused by nonreceipt of the non-final Office action of October 21, 2003. In support, petitioner has stated that he has searched the file jacket and docket records which failed to disclose receipt of the non-final Office action of October 21, 2003. Additionally, petitioner has supplied a copy of his docket report record to show where the October 21, 2003 Office action would have been docketed had it been received.

The showing of record is adequate to establish unavoidable delay within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a). Accordingly, the reply to the non-final Office action of October 21, 2003 is accepted as having been unavoidably delayed.

After this decision is mailed, deposit account No. 11-0600 will be charged $110 for the petition to revive an unavoidably abandoned application and the $1,370 fee assessed to the instant petition is unnecessary and will be credited to the above-noted deposit account.

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

This matter is being referred to Technology Center AU 2881.

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

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LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of :
Kouichi Kojima :
Application No. 10/448,394 :
Filed: May 30, 2003 :
Patent No: 6,852,495 :
Issued: February 8, 2005 :
Attorney Docket Number: OKA-0208 :

This is a decision on the petition filed June 21, 2005, under to 37 C.F.R. § 1.183, to correct the assignee data in the above-identified patent after payment of the issue fee. The petition is properly treated as a request under 37 CFR 3.81(b)[1]. The delay in treating this petition is regretted.

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FITZPATRICK CELLA (WYETH LLC)
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

Mail Date: 04/21/2010

Applicant	: G. Roger Askew	: DECISION ON REQUEST FOR
Patent Number	: 7625755	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/448,395	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **351** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 6

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
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LOS ANGELES, CA 90025

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OFFICE OF PETITIONS

In re Application of
Ginsburg, Kozhukh, and Talalaevsky
Application No. 10/448,408
Filed: May 30, 2003
Attorney Docket No. 042390P17728
For: Improvements for On-Die Reflectance Arrangements

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 20, 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.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (2). The declaration fails to state the residential and mailing addresses for the inventor. A supplemental declaration containing this information should be filed.

The petition states it is accompanied by a check for $130. However, Office records fail to indicate receipt of the check. Therefore, $130 has been charged to petitioner's deposit account.

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

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

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

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OFFICE OF PETITIONS

In re Application of	:	
Ginsburg, Kozhukh, and Talalaevsky	:	DECISION ACCORDING
Application No. 10/448,408	:	STATUS UNDER
Filed: May 30, 2003	:	37 CFR 1.47(a)
Attorney Docket No. 042390P17728	:	
For: Improvements for On-Die Reflectance Arrangements	:	

This is a decision in response to the Application Data Sheet filed on March 29, 2004, which is being treated in part as a renewed petition under 37 CFR 1.47(a).

The petition is **granted**.

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

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.

The file will now be forwarded to the Office of Initial Patent Examination for entry of the Application Data Sheet and for further processing.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 10

Michael Kozhukh
1036 Colorado Ave., #2-0
Palo Alto, CA 94304

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NOV 15 2004

OFFICE OF PETITIONS

In re Application of :
Ginsburg, Kozhukh, and Talalaevsky :
Application No. 10/448,408 :
Filed: May 30, 2003 : Letter
Attorney Docket No. 042390P17728 :
For: Improvements for On-Die :
Reflectance Arrangements :

Dear Mr. Kozhukh:

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 (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
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OFFICE OF PETITIONS

In re Application of	:	
Ginsburg, Kozhukh, and Talalaevsky	:	DECISION ACCORDING
Application No. 10/448,408	:	STATUS UNDER
Filed: May 30, 2003	:	37 CFR 1.47(a)
Attorney Docket No. 042390P17728	:	
For: Improvements for On-Die Reflectance Arrangements	:	

This is a decision in response to the Application Data Sheet filed on March 29, 2004, which is being treated in part as a renewed petition under 37 CFR 1.47(a).

The petition is **granted**.

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

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.

The file will now be forwarded to the Office of Initial Patent Examination for entry of the Application Data Sheet and for further processing.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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BLANK ROME LLP
THE WATERGATE BUILDING
600 NEW HAMPSHIRE AVENUE, NW
WASHINGTON DC 20037

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of :
Laurent :
Application No. 10/448,467 : DECISION ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. 113035-00125 :

This application is before this office due to the petition under 37 CFR 1.183 filed on April 7, 2005, requesting waiver of the rules such that the instant petition fee, and $1020 of the $1590 extension of time fee be refunded, as well as reconsideration of the decision of the Technology Center ("TC") mailed that withdraw the holding of abandonment in the above-identified application.

The petition, only considered by this office under 37 CFR 1.183, is GRANTED to the extent that $1140 of the extension of time fee is considered to have been paid in excess, but is DISMISSED as to all other requested waivers. Reconsideration of the TC decision mailed March 8, 2005, is a matter for the TC.

BACKGROUND

On November 5, 2004, the examiner issued a non-final Office action setting a one month shortened statutory period for reply that was mailed to the correspondence address specified on filing.

That Office action (sans envelope) was returned by the USPS as undeliverable on November 18, 2004, and a copy of the returned Office action is in the file.

According to PALM records (although there is no corresponding document entry in the Image File Wrapper ("IFW"), a change of correspondence address for this case (from the Farragut Building in Washington DC to the Watergate Building in Washington DC) was entered December 29, 2004.

According to a copy of the Office action included with the petition, although there is no PALM record of any remailing of the original Office action, or of the date that such remailing might have occurred, nor an IFW document entry, the TC remailed a copy of the returned Office action apparently to the address that had been changed on December 29, 2004. The TC unfortunately failed to ensure that the appropriate PALM and file record entries were made to document the exact date of mailing. Further, the TC did not reset the period for reply to start from the new mail date as specifically required by MPEP 707.13, when a returned Office action is remailed. According to petitioner, the remailed office action was received January 3, 2005.

On January 13, 2005, and again on January 18, 2005, applicant filed a petition requesting that the period for reply to the Office action be restarted to run from the date of receipt: January 3, 2005, based on the fact that the period for reply to an action supposedly mailed on November 5, 2005, [apparently remailed some time in late December, 2004, but without restarting the period] had already expired when the Office action was received by counsel.

The petition was apparently dismissed in a decision mailed March 8, 2005, according to PALM records (although there is no corresponding public document entry on that date in the IFW, there is a copy of such a decision having that mailing date submitted by applicant with the petition filed April 7, 2005). However, that decision gives as the reason for dismissal an alleged undue delay in applicant's reply to the *original* Mail date of November 5, 2004, asserts that the action was remailed November 18, 2004, contends that any delay was due to counsel's relocation and change of address, but does not also consider that the change of address was not entered until December 29, 2004 and as such the Office action could not have been remailed any earlier than December 29, 2004, and also overlooks the fact that the shortened statutory period was to have been reset with the remailing, per USPTO policy as set forth in MPEP 707.13.

On April 4, 2005, applicant filed a petition under 37 CFR 1.136(a), the fee for a four month extension of time, and a reply to the outstanding Office action,

On April 7, 2005 the instant petition was filed.

On November 4, 2005, applicant filed a status query.

OPINION

Initially, to the extent that petitioner grounds any request for waiver on the contention in the petition that a proper change of correspondence was herein filed June 13, 2003, that request must be refused. The copy of that request provided with the petition was not even captioned for this application as required by 37 CFR 1.5(a):

> [w]hen a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, **it must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; e.g., 07/123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office**, or the international application number of the international application (emphasis added).

Rather, the top page of the change of correspondence address specifically identified in a conspicuous location, at best, two application numbers, neither of which corresponds to this application. Indeed the only way permitted by the rules of practice and procedures of the USPTO for petitioner to seek, by way of a single communication, a change in correspondence address for a plurality of applications, is to employ the customer number practice set forth in MPEP 403, subsection I, which permits electronically, the submission of a computer-readable diskette to change the correspondence address of a list of applications associated with a Customer Number, and that diskette is sent to the Electronic Business Center. Since petitioner failed to follow the applicable rules and procedures, for changing the correspondence address for a plurality of applications that allegedly included this application herein, he cannot reasonably expect extraordinary relief. See Vincent v. Mossinghoff, 230 USPQ 621, 625 (D.D.C. 1985)(petitioner's failure to heed notice of the procedures of the USPTO and the rules of practice will not be permitted to shift, in equity his lack of diligence onto the

USPTO); Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party makes an avoidable mistake in filing papers).

In any event, as the fees for extensions of time are required by law, see 35 U.S.C. § 41(a)(8)(a)-(c), and 37 CFR 1.183, by its express terms is not available to waive any requirement of law, any extensions of time fees that were actually owed and paid are, simply put, not subject to waiver. The USPTO simply has neither the discretion or the power to relax any requirement of the law. See Baxter Int'l, Inc. v. McGaw, Inc., 149 F.3d 1321, 1334, 47 USPQ2d 1225, 1234-1235 (Fed. Cir. 1998)(the PTO cannot, by rule, or waiver of the rules, fashion a remedy that contravenes 35 U.S.C. §§ 112, 120); A. F. Stoddard v. Dann, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977), (since the USPTO is an executive branch agency, it must follow the strict provisions of the applicable statute).

Nevertheless, the statute does authorize that any fee that is paid in error or in excess may be refunded. See 35 U.S.C. § 42(d). Accordingly, the record must be consulted to determine to what extent, if any, the extension fees were paid in error or in excess. The extension fees actually due can only be established by ascertaining (1) the date when the Office action in question was actually "given or mailed" to applicant, and (2) pursuant to 37 CFR 1.136(a), the date when all of: the necessary reply, any necessary request for an extension of time, and the fee, were all received by the USPTO.

As to Item (1): When was the Office action mailed?

Unfortunately, the administrative record does not supply this information. What is certain is that applicant never received the copy of the Office action that was mailed November 5, 2004. As shown by the record herein an independent government agency, the USPS, returned that action as undeliverable to the USPTO, and that returned document was posted in this IFW with a receipt date of November 18, 2004. This returned Office action evidences independent corroboration by the USPS of the fact that the Office action, mailed November 5, 2004, was not received by applicants at the address to which that Office action was mailed. See Ex Parte Gourtoff, 1924 C.D. 153 (Comm'r Pat. 1924). Upon its return to the USPTO the action mailed November 5, 2004, was stamped with a TC date of receipt of November 18, 2004.

The returned Office action was clearly remailed as shown by (1) its receipt at counsel;'s firm on January 3, 2005, and (2) the change in correspondence address on the cover letter of that remailed action. That is, the action was first mailed on November 5, 2004, to counsel at the Farragut Building, whereas it was remailed to counsel's new address at the Watergate Building. Due to an unfortunate lack of complete data entry by the TC in both PALM and IFW records, it cannot be exactly determined when that action was remailed. PALM records show that the address change to the Watergate Building was entered on December 29, 2004, which was a Wednesday. Accordingly, the action could not have been remailed before December 29, 2004, as the mailing or remailing PALM transaction takes the current PALM address; in any event, the remailed action displays a correspondence address that was not in the IFW and PALM records prior to December 29, 2004. Accordingly, the action could not have been remailed, on this administrative record, before December 29, 2004. As Friday, December 31, 2004, was a Federal Holiday in the District of Columbia, the action could not have been mailed on that date, as there is no USPTO outgoing mail dated on a Saturday, and as the remailed action was received by counsel on Monday, January 3, 2005, it had to have been mailed at some earlier date, which is probably, but not certainly, either December 29 or 30, 2004. However, as that date of remailing was clearly not communicated to applicant by the remailed action and is likewise absent from official USPTO records, it

is improper for the USPTO to speculate, given the ambiguities and incompleteness of this administrative record, as to which date that action may have been mailed. Accordingly, the earliest that the record unequivocably shows that a copy of the Office action in question was remailed i.e., that "notice has been given or mailed to the applicant," as required by 35 U.S.C. § 133, is January 3, 2005.

Unfortunately, the TC also overlooked its obligation, per MPEP 707.13, when that Office action was remailed, to reset the period for reply. However, as the record clearly and unambiguously shows that the Office action of November 5, 2004, was never received by applicant, the remailed action was clearly received by applicant on January 3, 2005, which is certainly the first date that such was "given or mailed" to applicant. That action set a shortened, but extendable, period for reply of one month.

Accordingly, *on petition*, the period for reply will be considered to have clearly been started January 3, 2005, such that a reply was due February 3, 2005, one month later, subject to any extensions of time obtained under the provisions of 37 CFR 1.136(a).

As to item (2): What is the extension of time fee owed?

There no dispute that the earliest a proper reply (i.e., an election), a request for an extension of time, and any necessary fees were all received was April 4, 2005. Since April 3, 2005, was a Sunday, the reply was received in the third month, necessitating a two month extension of time fee of $450.

DECISION

Accordingly, it is found that as applicant paid $1590 in extension fees, but only owed $450, applicant paid $1140 in excess, which is refundable. Applicant may request a refund of $1140 in writing addressed to the USPTO Office of Finance, Refunds, (Mail Stop 16), and include a copy of this decision with his request.

As to the request for a refund of the petition fee, that is dismissed. As the fee was required for consideration of the petition, the fee is not refundable upon the rendering of the decision, regardless of the outcome of the decision. See Ex parte VENTURA CITRUS ASSOCIATION, 71 USPQ 103, 104 (Comm'r Pat. 1946).

This application is being referenced to the Technology Center to treat petitioner's requested reconsideration of the TC decision of March 8, 2005, as well as for the TC to treat the timely reply filed April 4, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
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

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of	:	
James P. DeYoung et al	:	DECISION GRANTING
Application No. 10/448,474	:	PETITION
Filed: May 30, 2003	:	
Attorney Docket No. 5697.45IP5	:	

This is a decision on the paper styled "PETITION TO ACCORD THE PROPER FILING DATE" filed August 28, 2003, which is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of May 30, 2003, rather than the presently accorded filing date of June 2, 2003.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on May 30, 2003, pursuant to the requirements of 37 CFR 1.10. In support, applicants provided, inter alia, a copy of the Express Mail label, receipt no. EV353609397US. The same Express Mail receipt number appears on the copy of the original Application Transmittal Letter submitted with the present petition. It is noted that while the "date-in" on the copy of the Express Mail receipt was left blank, it includes a receipt stamp dated "May 30, 2003" but the City and the State where the package was accepted is not legible. Further, the copy of the USPS Track/Confirm system information shows that the package in question was accepted on May 30, 2003.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on May 30, 2003.

The petition is granted.

No petition fee is required and none has been charged.

Receipt is acknowledged of the declaration filed in response to the Notice mailed July 21, 2003.

The application is being returned to Initial Patent Examination Division for correction of the filing date to May 30, 2003 and mailing of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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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RALEIGH, NC 27627

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of	:	
James P. DeYoung et al	:	DECISION GRANTING
Application No. 10/448,474	:	PETITION
Filed: May 30, 2003	:	
Attorney Docket No. 5697.45IP5	:	

This is a decision on the paper styled "PETITION TO ACCORD THE PROPER FILING DATE" filed August 28, 2003, which is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of May 30, 2003, rather than the presently accorded filing date of June 2, 2003.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on May 30, 2003, pursuant to the requirements of 37 CFR 1.10. In support, applicants provided, inter alia, a copy of the Express Mail label, receipt no. EV353609397US. The same Express Mail receipt number appears on the copy of the original Application Transmittal Letter submitted with the present petition. It is noted that while the "date-in" on the copy of the Express Mail receipt was left blank, it includes a receipt stamp dated "May 30, 2003" but the City and the State where the package was accepted is not legible. Further, the copy of the USPS Track/Confirm system information shows that the package in question was accepted on May 30, 2003.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on May 30, 2003.

The petition is granted.

No petition fee is required and none has been charged.

Receipt is acknowledged of the declaration filed in response to the Notice mailed July 21, 2003.

The application is being returned to Initial Patent Examination Division for correction of the filing date to May 30, 2003 and mailing of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

MW

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. 010904

DUCKOR SPRADLING METZGER
401 WEST A STREET, SUITE 2400
SAN DIEGO, CA 92101-7915

JAN 15 2004

In re Application of :
Smith et al. : DECISION ON PETITION
Application No. 10/448,508 :
Filed: May 29, 2003 :
Attorney Docket No. 7719.113 :

This is a decision on the petition under 37 C.F.R. § 1.102, filed May 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.

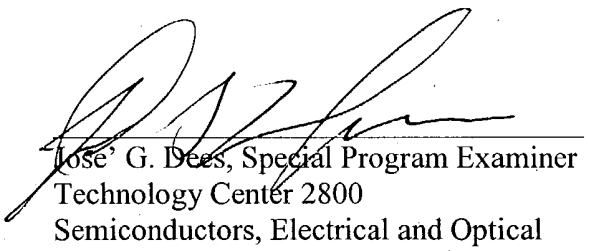
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent 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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Paper No. 4

BRIAN W. HAMEDER
C/O LADAS & PARRY
224 SOUTH MICHIGAN AVENUE
CHICAGO, IL 60604

COPY MAILED

FEB 0 6 2004

OFFICE OF PETITIONS

In re Application of
Horst Folkert
Application No. 10/448,520
Filed: May 30, 2003
Attorney Docket No. CU - 3254 RJS

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 2632.

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

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Belasco Jacobs & Townsley, LLP
Suite 330
100 Corporate Pointe
Culver City, CA
90230

MAILED

OCT 09 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 3

In re application of
Douglas Tharalson et al.
Application No. 10/448538
Filed: May 28, 2003
For: COMBINATION C0-SLEEPER
AND CHANGING TABLE

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on June 26, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition

for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703)308-0866

KJD/ekn 10/01/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA PA 19103

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JAN 19 2007

OFFICE OF PETITIONS

In re Patent No. 6,931,677	:	
Issued: August 23, 2005	:	
Application No. 10/448,538	:	DECISION ON PETITION
Filed: May 28, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 03-271-JB	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to prior-filed International Application, PCT/US00/14086, filed May 22, 2000.

The petition is **DISMISSED**.

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

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

However, since the instant application matured into Patent No. 6,931,677 on August 23, 2005, 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 prior-filed nonprovisional applications after issuance of the application into a patent. Petitioner did not include a Certificate of Correction with the instant petition.

Further, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional or PCT applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or

continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The instant petition fails to state the relationship of PCT Application No. PCT/US00/14086, filed May 22, 2000, to the instant application.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a Certificate of Correction (with requisite fee) stating the proper relationship of the two applications, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

By hand:
Customer Window located at:
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) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Tharalson et al. :
Application No. 10/448,538 : ON PETITION
Filed: May 28, 2003 :
Attorney Docket No. 03-271-JB :

CORRECTED DECISION

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed August 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §365(c) for the benefit of prior-filed PCT Application No. PCT/US00/14086, filed May 22, 2000. The previous decision mailed on January 19, 2007 is hereby VACATED.

The petition is **DISMISSED AS MOOT**.

Since there has been a reissue application filed, a petition under 37 CFR 1.78(a)(3) and the surcharge for adding the benefit claim to the patent is not required in any subsequent application. The petition under 37 1.78(a)(3) should be associated with the reissue application, which is Application No. 11/498,914.

Accordingly, the petition and surcharge will be relocated to Application No. 11/498,914, and the petition will be reviewed accordingly.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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Mark A. Tidwell
Jackson Walker L.L.P.
Suite 2100
112 East Pecan Street
San Antonio, TX 78205-1521

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SEP 26 2006

OFFICE OF PETITIONS

In re Application of
Ray et al.
Application No. 10/448,547
Filed: May 30, 2003
Attorney Docket No. 021120.0035.000

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 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.

This application became abandoned for failure to reply in a timely and proper manner to the Office Action mailed on September 18, 2005, which set a three-month shortened statutory period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on December 19, 2005.

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 § 1.137(d).

The present petition does not satisfy requirement (1) above.

On September 18, 2005, the examiner required petitioners to make an election between two inventions within the time period set forth in the Office action. Specifically, the examiner stated during a conversation with Mr. Tidwell on August 17, 2005, Mr. Tidwell made a provisional election without traverse to prosecute the invention of Group I. However, the examiner further stated that petitioners must make an affirmation of the election when replying to the Office action.

Upon reviewing the record, it does not appear that petitioners made an election of the invention to be examined. Pursuant to 37 CFR 1.143, a provisional election must be made in response to a Restriction Requirement even if the requirement is traversed. Accordingly, **this application cannot be revived until petitioners submit a complete response to the Office action that includes an election of the invention to be examined**.

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
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Mark A. Tidwell
Jackson Walker L.L.P.
Suite 2100
112 East Pecan Street
San Antonio, TX 78205-1521

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NOV 09 2006

OFFICE OF PETITIONS

In re Application of :
Ray et al. :
Application No. 10/448,547 : DECISION ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. 021120.0035.000 :

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

This application became abandoned for failure to reply in a timely and proper manner to the Office Action mailed on September 18, 2005, which set a three-month shortened statutory period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on December 19, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the requisite fees, and made the proper statement of unintentional delay.

Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 3662.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No. 4

SNELL & WILMER LLP
400 East Van Buren
Phoenix AZ 85004-2202

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DEC 22 2003

OFFICE OF PETITIONS

In re Application of
Broman, Marshall, Bellamkonda, Leyva & Hanson
Application No.: 10/448,552
Filed: May 30, 2003
Attorney Docket No.: 60655.0800
For: SPEAKER RECOGNITION IN A MULTI-SPEAKER ENVIRONMENT AND COMPARISON OF SEVERAL VOICE PRINTS TO MANY

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 3, 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 30, 2003 without an executed oath or declaration. On August 1, 2003, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed. This Notice required petitioners to file an executed declaration and a surcharge for its late filing within two months of the mail date of the Notice.

On November 3, 2003, petitioners filed a request for a one month extension of time and required fee, a declaration executed by 4 of 5 joint inventors, the instant petition, the surcharge for filing a late declaration, and the petition fee. A statement of facts of Attorney Lance Vietzke accompanies the petition. Attorney Vietzke explains that non-signing joint inventor Vicki Broman received a copy of the application and declaration for the above-identified application, but refused to sign the declaration for the patent application based on inventorship issues.

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. See MPEP 409.03(b). The declaration does not contain required information for the non-signing inventor. The inventor's name, citizenship, residence, and post office address must be included on the declaration. In addition, the citizenship of each joint inventor must be included on the oath or declaration. As listing the citizenship for each joint inventor is a statutory requirement under 35 USC 115, it cannot be waived.

The available inventors must execute a new declaration that lists complete information for all joint inventors. MPEP 605.03 An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Ms. Broman is REQUIRED. See MPEP 409.03(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 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

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

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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Paper No. 7

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MAR 0 2 2004

OFFICE OF PETITIONS

SNELL & WILMER LLP
400 East Van Buren
Phoenix AZ 85004-2202

In re Application of :
Broman, Marshall, Bellamkonda, Leyva & Hanson :
Application No.: 10/448,552 :
Filed: May 30, 2003 :
Attorney Docket No.: 60655.0800 :
For: SPEAKER RECOGNITION IN A MULTI-SPEAKER ENVIRONMENT AND COMPARISON OF SEVERAL VOICE PRINTS TO MANY

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed February 20, 2004.

The petition is granted.

Petitioners have shown that the non-signing inventor, Vicki Broman, has expressly refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Attorney Lance Vietzke establishes that the inventor received the application papers, including the specification, claims and drawings, but refused to sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VICKI BROMAN
6146 E. COCHISE ROAD
PARADISE VALLEY AZ 85253

COPY MAILED
MAR 0 2 2004
OFFICE OF PETITIONS

In re Application of :
Broman, Marshall, Bellamkonda, Leyva & Hanson :
Application No.: 10/448,552 : LETTER
Filed: May 30, 2003 :
Attorney Docket No.: 60655.0800 :
For: SPEAKER RECOGNITION IN A MULTI-SPEAKER ENVIRONMENT AND COMPARISON OF SEVERAL VOICE PRINTS TO MANY

Dear Ms. Broman:

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: SNELL & WILMER LLP
400 East Van Buren
Phoenix AZ 85004-2202

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 12 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SNELL & WILMER
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-2202

In re Application of:
Vicki Broman, et al.
Serial No.: 10/448,552
Filed: May 30, 2003
For: **SPEAKER RECOGNITION IN A MULTI-SPEAKER ENVIRONMENT AND COMPARISON OF SEVERAL VOICE PRINTS TO MANY**

DECISION *SUA SPONTE*
WITHDRAWING HOLDING
OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application. This decision is also responsive to the Change of Correspondence Address filed May 9, 2006.

A final Office action was mailed on August 15, 2005 setting a shortened statutory period of 3 months. A response to the outstanding final Office action has not been received. No Notice of Abandonment has been mailed.

A review of the file record finds that a "Notice of Change of Correspondence Address" and Reply to Election of Species Requirement" filed July 20, 2005 were improperly entered in the instant application due to a typographical error in the Application Serial Number provided in the header information of those filings. Accordingly, the Final Office action mailed August 15, 2005 was mailed to an incorrect correspondence address. Accordingly, there is evidence in the instant application that applicant did not receive the final Office action due to inadvertent Office error.

The Office sincerely apologizes for any inconvenience to applicant. Although no petition or request to withdraw the holding of abandonment has been filed, the holding of abandonment is hereby withdrawn and the Final Office action mailed August 15, 2005 is hereby vacated. Furthermore, the "Notice of Change of Correspondence Address" and the "Reply to Election of Species Requirement" filed July 20, 2005 have been removed from this application file and entered in the correct application file.

Given the time lapse from the mailing of the Final Office action until the date of this decision, the application is being returned to the examiner to update the search and to prepare a new copy of the Office action for mailing, as appropriate. The time period for response will be set to run three months from the mailing date of the new Office action.

Krista Zele
Special Programs Examiner
Technology Center 2600
Communications

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NOV 09 2005

TECHNOLOGY CENTER 3600

Raymond Sun
Law Offices of Raymond Sun
12420 Woodhall Way
Tustin, CA 92782

In re Application of
Yu Zheng
Application No. 10/448,553
Filed: May 30, 2003
For: COLLAPSIBLE ASSEMBLY

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on September 23, 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 signed on December 3, 2003 and supported by a statement under 37 C.F.R. 1.8(b)(3), by the attorney requesting withdrawal.

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

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

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

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

RAR/rwg: 1/29/05

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LADAS & PARRY
SUITE 1200
224 SOUTH MICHIGAN AVENUE
CHICAGO IL 60604

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OFFICE OF PETITIONS

In re Application of :
Wu-Sung Kim et al. :
Application No. 10/448,572 : ON PETITION
Filed: May 20, 2003 :
Attorney Docket No.: CU-3253 WWP

This is a decision on the petition filed July 11, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

At the outset and in view of the fact that two identical non-Final Office Actions were mailed, November 19, 2004 and January 10, 2005, petitioner seeks clarification as to which of the two is controlling and based on the response, revival of the application.

Petitioners are advised that if an Office Action is mailed and that in the absence of that Office Action not being withdrawn by the USPTO, then by law a response is required. The failure to file a response causes the application to become abandoned, even if that Office Action was sent in error. There is no evidence that the two Office Actions were conflicting in content and there is no evidence that the applicants filed a written response or query as is required by 37 CFR 1.2. Therefore, applicants are not afforded an opportunity then to withhold a response based on a perceived error on the part of the USPTO. It is understood that applicant on the advice of the agency thought the first Office Action was in error but again, in the absence of a written withdrawal of the Office Action, the applicant was under an obligation to file a timely response.

In view thereof, this application became abandoned February 20, 2005 for failure to file a

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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)).

timely reply to the non-Final Office Action mailed November 19, 2004. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 1616 for appropriate action on the amendment filed July 11, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

OIPE JC1 U.S.
SEP 30 2004
PATENT & TRADEMARK OFFICE

PET DEC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE: APPLICATION OF
LOREN M. COLLINS

SERIAL NO.: 10/448,601

FILED: MAY 30, 2003

FOR: NONWOVEN FLAME BLOCKING FABRIC AND METHOD

JAN 6 2004

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

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

PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(c)

Loren M. Collins inventor of the above application, makes this petition to make special under 37 CFR 1.102(c) to advance examination of the above application on the grounds the applicant's age is sixty-five (65) or more.

Loren M. Collins avers there he was born in Asheville, North Carolina on June 25, 1936. As such, he is currently sixty-eight (68) years old. In support of this petition please find the attached certified copy of the Birth Certificate of Loren M. Collins.

Accordingly, it is respectfully submitted that this application is in condition for advancement of examination and such action is respectfully requested.

Sincerely,
CRAVEN & REID, LLC

W. Pete Reid
Registration No. 52,160

10/01/2004 WABDELR1 00000010 10448601
01 FC:1460 130.00 OP

CRAVEN & REID, LLC
12 E. Stone Avenue
Greenville, S.C. 29601
Tel. No. (864) 242-9934

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OFFICE OF PETITIONS

Samuel Jackson Dunavant, Jr.
471 Mountain Rd.
P.O. Box 388
Halifax VA 24558

DECISION
ON PETITION

In re Application of
DUNAVANT, JR.
Application No. 10/448,619
Filed: November 10, 2000
Attorney Docket No. X-9474

This is a decision on the petition under 1.137(b) filed August 23, 2005, to revive the above-identified application, which is being treated as a request under 37 CFR 1.181 (no fee) for withdrawal of the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is vacated, and this application restored to pending status.

The two-month period for filing an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of receipt of the Notice of Appeal of May 9, 2005. Failure to timely take action to maintain pendency will result in the abandonment of the above-identified application. Extensions of time under the provisions of 37 CFR 1.136 are available.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP §§502 and 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted and the entire record, it is concluded that the information contained thereon was sufficient to associate the papers with the instant file. Our record reflects that on May 9, 2005 a Request for Reconsideration was filed improperly identifying the serial number and the filing date but otherwise having sufficient information to identify the correct application. This Request was eventually matched with U.S. Serial No. 10/448,619. Additionally in support of the petition, petitioner includes an itemized postcard receipt showing a USPTO date stamp of May 9, 2005 of a Request for Reconsideration, five (5) sheets of drawings, a Notice of Appeal and a check for $150. This postcard receipt again includes the incorrect serial number but otherwise contains sufficient information (Applicant's name) to identify the correct application. The holding of abandonment is withdrawn, and this application is recognized as never having been abandoned in the first instance.

The petition fee of $750 for the petition to revive based on 37 CFR 1.137(b) is unnecessary. Petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 3635.

Frances Hicks
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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INTERNATIONAL BUSINESS MACHINES CORPORATION
INTELLECTUAL PROPERTY LAW
650 HARRY ROAD
SAN JOSE, CA 95120

Mail Date: 04/20/2010

Applicant	: James H. Kaufman	: DECISION ON REQUEST FOR
Patent Number	: 7590984	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/448,625	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1258** 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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OCT 27 2003

OFFICE OF PETITIONS

ANDERSON KILL & OLICK, P.C.
1251 Avenue of the Americas
New York NY 10020

In re Application of
Yoshitaka Suzuki et al.
Application No. 10/448,630
Filed: May 29, 2003
Attorney Docket No MM4629DIV

: DECISION GRANTING PETITION

This is a decision on the petition filed September 11, 2003 under 37 CFR 1.53, in response to the "Notice of Omitted Items" mailed July 14, 2003.

The instant application was filed May 29, 2003 and a filing date was accorded. However, according to the Notice of Omitted Items, the application papers submitted did not include Figure 8.

Petitioner asserts that the paper containing Figure 8 was among the papers filed on May 29, 2003, and submits a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, the number of drawing sheets to be 9 and bears a United States Patent and Trademark Office date-stamp of May 29, 2003. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

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

Given the basis for granting the petition, no petition fee is due none will be charged.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on May 29, 2003 and the one sheet of drawing (sheet 8 of 9) containing Figure 8 submitted on petition September 11, 2003.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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AUG 14 2007

OFFICE OF PETITIONS

In re Application of :
Nigel John Forrow et al :
Application No. 10/448,643 : DECISION GRANTING PETITION
Filed: May 30, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7071.US.01 :

This is a decision on the petition, filed August 13, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 27, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Todd Obijeski appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If Mr. Obijeski desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Obijeski, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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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.*

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

This matter is being referred to Technology Center AU 1753 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Todd J. Obijeski
Merchant & Gould LLC
P. O. Box 2903
Minneapolis, MN 55402-0903

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OFFICE OF PETITIONS

BENJAMIN AARON ADLER
ADLER & ASSOCIATES
8011 CANDLE LANE
HOUSTON TX 77071

In re Application of :
Scheinberg, et al. : DECISION
Application No.: 10/448,647 :
Filing Date: 30 May, 2003 :
Attorney Docket No. D6514 :

This is a decision on the petition(s) filed on 25 January, 2007, to revive the instant application as abandoned, alternatively, due to unavoidable or unintentional delay (37 C.F.R. §1.137(a) or (b)).

Petitioner entitled his papers as a petition under 37 C.F.R. §1.137(a), but failed to pay the fee therefor or make a showing thereof, and, alternatively, paid a fee for a petition under 37 C.F.R. §1.137(b) and made a statement of unintentional delay. Out of an abundance of caution, the Office addresses herein both matters.

The Office regrets the delay in addressing this matter, however, the petition was received by the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(a) **DISMISSED**; the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

---

[1] **NOTES**:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Moreover, Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects that:

- Petitioner failed to reply to the Restriction Requirement mailed on 27 February, 2006, with reply, due absent extension of time on or before 27 April 2006;
- the application went abandoned by operation of law after midnight 27 April, 2006;
- the Office mailed the Notice of Abandonment on 26 September, 2006;
- on 25 January, 2007, Petitioner filed the instant petition, reply in the form of an election and while Petitioner entitled his paper as a petition under (37 C.F.R. §1.137(a), Petitioner failed to pay the fee therefor or make a showing thereof, however, Petitioner paid a fee for petition under 37 C.F.R. §1.137(b) and made a statement of unintentional delay.

As noted above, out of an abundance of caution, the Office addresses herein both matters .

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

As to the Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has not satisfied the "fee" or the "showing" requirements of the regulation.

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the regulatory requirements.

CONCLUSION

The petition under 37 C.F.R. §1.137(a) is **dismissed**, however, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 1600 for further processing in due course.

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[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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JENKENS & GILCHRIST
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SUITE 2700
HOUSTON, TX 77010

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OFFICE OF PETITIONS

In re Application of :
Armen Abazajian :
Application No. 10/448,663 : NOTICE
Filed: May 30, 2003 :
Attorney Docket No. 41290-16USPT :

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©) 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 1764.

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

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YOUNG & BASILE, P.C.
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OFFICE OF PETITIONS

In re Application of :
Dr. Alan W. Back, et. al. :
Application No. 10/448,688 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. CYS-100-A :

This is a decision on the petition under 37 CFR 1.137(b), filed on August 28, 2006, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to file a proper response to the final Office action mailed July 1, 2005.

It is noted that while the above application was technically abandoned after midnight October 1, 2005, the Examiner (Shian Luong) processed the application and a non-final Office action was mailed on October 18, 2006, to which applicant timely responded with an amendment on January 7, 2007.

Since the petition is found to be in compliance with 37 CFR 1.137(b), the petition is being treated as having been granted prior to the mailing of the October 18, 2006 Office action. Accordingly, the petition is **GRANTED** and this decision ratifies the ensuing prosecution.

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). Accordingly, since the $510 extension of time submitted with the petition on August 28, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 3728, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 21 2004

In re Application of :
John V. Smith *et al* : DECISION ON PETITION
Application No. 10/448,691 :
Filed: May 29, 2003 :
Attorney Docket No. 7719.111 :

This is a decision on the petition to make special originally filed on May 29, 2003 and resubmitted on July 26, 2004. The petition is based upon the practice described in MPEP § 708.02(VIII) "Accelerated Examination." The $130.00 petition fee has been paid.

The petition is dismissed.

The petition to make special based upon the practice in the above mentioned MPEP sections is not deemed to satisfy all of the requirements thereof. Specifically, although petitioners state that the claims are directed to a single invention for restriction purposes, petitioners do not state that an election of a single invention will be made without traverse in the event that restriction is required. See MPEP page 700-130 of the MPEP § 708.02(VIII), item (B).

As an Office action has been mailed in this application on July 13, 2004, it does not appear that petitioners may file a renewed petition.

The application remains pending in Technology Center 3700 awaiting a reply to the Office letter dated July 13, 2004.

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner
Technology Center 3700

Duckor Spradling Metzger
401 West A Street
Suite 2400
San Diego, CA 92101-7915

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STATTLER JOHANSEN & ADELI
P.O. BOX 51860
PALO ALTO, CA 94303

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FEB 09 2004

OFFICE OF PETITIONS

In re Application of	:	
Takatsugu Kamata and Kimitake Utsunomiya	:	
Application No. 10/448,740	:	DECISION REFUSING STATUS
Filed: May 29, 2003	:	UNDER 37 CFR 1.47(a)
For: IMAGE REJECTION QUADRATIC FILTER	:	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed January 20, 2004.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 29, 2003 without an executed oath or declaration and naming Takatsugu Kamata and Kimitake Utsunomiya as joint inventors.

Accordingly, on July 28, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, filing fee, and a surcharge for their late filing.

In response, on January 20, 2004, the instant petition and four (4) month extension of time were submitted.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (3), as set forth above.

As to item (3), the required $130.00 petition fee has not been submitted. Earl D. Brown, Jr. is not listed as an authorized user for Deposit Account No. 50-1128 and as such, the petition fee cannot be charged to the deposit account.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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PALO ALTO, CA 94303

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APR 22 2004

OFFICE OF PETITIONS

In re Application of
Takatsugu Kamata and Kimitake Utsunomiya
Application No. 10/448,740
Filed: May 29, 2003
For: IMAGE REJECTION QUADRATIC FILTER

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed January 20, 2004 and the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed April 12, 2004.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on May 29, 2003 without an executed oath or declaration and naming Takatsugu Kamata and Kimitake Utsunomiya as joint inventors.

Accordingly, on July 28, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, filing fee, and a surcharge for their late filing.

In response, on January 20, 2004, the petition under 37 CFR 1.47(a) and four (4) month extension of time were submitted.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (1), as set forth above.

As to item (1), applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See Manual of Patent Examining Procedure, Section 409.03(d).Petitioner should show that a copy of the application papers was presented to the inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of :
Takatsugu Kamata and Kimitake :
Utsunomiya : DECISION GRANTING PETITION
Application No. 10/448,740 : UNDER 37 CFR 1.47(a)
Filed: May 29, 2003 :
For: IMAGE REJECTION QUADRATIC FILTER

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed August 24, 2004 (Certificate of Mailing Date: August 19, 2004).

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 2600 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (703)306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. 4

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DEC 19 2003

OFFICE OF PETITIONS

Michael G. Petit
P.O. Box 91929
Santa Barbara CA 93190-1929

In re Application of :
Ron Del Rosso :
Application No.10/448,756 : DECISION GRANTING PETITION
Filed: November 14, 2003 :
Attorney Docket No. 02DEL1 :

This is a decision on the petition filed November 14, 2003, requesting that the above-identified application be accorded a filing date. The petition will be treated as a petition under 37 CFR 1.182.

The petition is **granted**.

On May 29, 2003, papers were filed with the Patent and Trademark Office that were given the application number 10/448,756. On July 28, 2003, a Notice of Incomplete Nonprovisional Application was mailed indicating that the application was not accorded a filing date because the specification was missing and that a proper oath or declaration was also missing. The notice advised that applicant should respond to the notice within two months of the mailing date of the notice or the application would be terminated. On November 14, 2003, applicant filed a petition under 37 CFR 1.137(b), a specification, and a declaration.

Applicant is advised that a petition under 37 CFR 1.137 is intended to provide relief for pending applications that have been removed from the Office docket, i.e.abandoned. A petition under 37 CFR 1.137 is not an appropriate remedy for an application that has been terminated, i.e. is not a part of the Office's pending docket because the requirements have not been met to receive a filing date. In the case of this application, a petition to accord a filing date under 37 CFR 1.182 is the most appropriate remedy.

With the filing of the specification and the declaration that complies with 37 CFR 1.63, the application is in condition to receive a filing date as of the date the application was complete. Accordingly, the application will be accorded a filing date of November 14, 2003.

The fee for the petition under 37 CFR 1.182 is $130.00 and the amount will be taken from the $665.00 remitted for the petition under 37 CFR 1.137(b). The remainder will be refunded, in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 14, 2003, the specification, drawings, and declaration filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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Hewlett Packard Company
PO Box 272400, 3404 E. Harmony Road
Intellectual Property Administration
Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
Culler and Moldauer :
Application No. 10/448,763 :
Filed: May 30, 2003 :
Attorney Docket No. 100202001-1 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 2, 2006, to change the order of the names of the inventors.

The petition is **granted**.

The Office of Petitions has changed the order of the names of the inventors in the USPTO computer records and printed a new bibliographic data sheet, which will be scanned into the Image File Wrapper.

A corrected filing receipt, reflecting the requested change, accompanies this decision.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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J. PETER FASSE
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JUN 21 2006
OFFICE OF PETITIONS

In re Patent No. 6,985,791	:	
Applicant MALKIN, et al	:	DECISION ON REQUEST
Application No. 10/448,772	:	FOR RECONSIDERATION OF
Filed: May 29, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 07880-066002	:	and
	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION
	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed February 13, 2006. Pursuant to patentee's duty of good faith and candor to the Office, patentee requests confirmation of the issuance of a patent term adjustment of 221 days.

The request for review of the determination of patent term adjustment (PTA) 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 **fifty-seven (57)** days.

On February 13, 2006, patentee submitted the instant comment. On January 10, 2006, the above-identified application matured into U.S. Patent No. 6,985,791, with a revised patent term adjustment of 221 days. Patentee states no basis for the request for review of the patent term adjustment. Nonetheless, a review of the application history confirms that an incorrect number of days were determined for USPTO delay.

The non-final action dated April 1, 2004 was a notification under 35 U.S.C. 132 mailed within 14 months after the date on

which the application was filed under 35 U.SC. 111(a); therefore, there were no grounds for an entry of a period of adjustment for USPTO delay for the mailing of the non-final action dated April 1, 2004. The entry of a period of adjustment of 164 days was entered in error. Specifically, a period of adjustment of 164 days was entered for Office delay in taking action in response to an incorrect PALM entry dated June 20, 2003. The entry of 'applicant response received' of June 20, 2003 is not considered to be a reply under 35 U.S.C. 1.111 within the meaning of 37 CFR 1.702(a), and therefore should not have been taken into account as a period of adjustment for USPTO delay. Accordingly, the entry of 164 days has been changed to zero days for USPTO delay.

In view thereof, the patent should have issued with a revised Patent Term Adjustment of fifty-seven (57) days (60 days for PTO delay and 3 days for Applicant delay).

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **fifty-seven (57)** days.

Telephone inquiries specific to this matter should be directed to Amelia Au, at (571) 272-7414.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction
Copy of Revised PAIR Screen

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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OCT 19 2007

OFFICE OF PETITIONS

PERLEGEN SCIENCES, INC.
LEGAL DEPARTMENT
2021 STIERLIN COURT
MOUNTAIN VIEW CA 94043

In re Application of :
COX et al. :
Application No. 10/448,773 : DECISION ON PETITIONS
Filed: May 30, 2003 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 100/1017-20 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 7, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed application data sheet and the amendment filed on June 15, 2007.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

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

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

Any questions concerning this matter may be directed to Denise Pothier at (571) 272-4787. 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 Group Art Unit 1631 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/448,773	05/30/2003	1631	1160	100/1017-20	15	2

CONFIRMATION NO. 4398

CORRECTED FILING RECEIPT

31662
PERLEGEN SCIENCES, INC.
LEGAL DEPARTMENT
2021 STIERLIN COURT
MOUNTAIN VIEW, CA 94043

Date Mailed: 10/16/2007

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

Applicant(s)

David R. Cox, Belmont, CA;
Nila Patil, Woodside, CA;
Anthony J. Berno, San Jose, CA;
David A. Hinds, Mountain View, CA;

Assignment For Published Patent Application

Perlegen Sciences, Inc., Mountain View, CA

Power of Attorney:

Gulshan Shaver--37496
Deana Arnold--52567

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/421,137 05/30/2002
and is a CIP of 10/106,097 03/26/2002 PAT 6,969,589
which claims benefit of 60/313,264 08/17/2001
and claims benefit of 60/327,006 10/05/2001

Foreign Applications

If Required, Foreign Filing License Granted: 07/24/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/448,773**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Methods for genomic analysis

Preliminary Class

702

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

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OFFICE OF PETITIONS

In re Application of :
Wilhelm ERWIG :
Application No. 10/448,777 : DECISION ON PETITIONS
Filed: May 29, 2003 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 1680A :

This is a decision on the petitions under 37 CFR § 1.55(c), filed December 22, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign German Application No. 101 28 455.1, filed June 12, 2001.

The petition is **DISMISSED AS MOOT.**

This application is a continuation-in-part of Application Serial No. 09/904,308 filed July 12, 2001, which is after November 29, 2000 and within 12 months of June 12, 2001 (the filing date of the foreign application to which benefit is now being claimed). On May 29, 2003, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date.

A claim for priority under 37 CFR § 1.55(c) was included in the oath or declaration or a transmittal letter filed with the application and the Office noted the claim for priority. Accordingly, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the acknowledgement of the foreign applications in the application within the time period set forth in 37 CFR § 1.55(c). In the present case, the Office noted the acknowledgement of the prior-filed applications in the oath or declaration filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to 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.

Application No. 10/448,777

This application is being forwarded to Technology Center AU 3671 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Brian Hearn
Petitions Examiner
Office of Petitions

PET DEC

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR 18 2004

VP
PAPER NO. __

In re Application of Gary N. Austin Serial Number10/448,779 Filed: May 29, 2003 For: METHOD FOR AFFECTING ULTRA-FAST PHOTODISSOCIATION OF WATER MOLECULES	: : : : : : :	DECISION ON PETITION UNDER M.P.E.P. 708.02 VI

This is in response to the petition filed December 12, 2003 requesting that the above-identified application be granted Special Status under Section 708.02 VI of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is granted.

The petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Clifford Perry
Ste. B
732 N. Coast Hwy 101
Encinitas CA 92024

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Paper No. 4

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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OCT 14 2003

OFFICE OF PETITIONS

In re Application of :
Boucher, Jr. et al. :
Application No.: 10/448,784 : ON PETITION
Filing Date: May 30, 2003 :
Attorney Docket No.: 5470-387 :

This decision concerns the September 22, 2003 "Petition to Accord the Proper Filing Date" which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

The petition requests an earlier filing date of May 30, 2003 rather than the presently accorded filing date of June 2, 2003, on the basis that the application was deposited on May 30, 2003 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service ("Express Mail") pursuant to the requirements of 37 CFR 1.10.

The petition is accompanied by a copy of Applicants' postcard receipt for this application, date-stamped by the USPTO. This postcard indicates receipt in the USPTO on June 2, 2003 of, *inter alia*, a specification including claims, as well as drawings.

However, the application transmittal which itemizes the application papers being mailed on May 30, 2003 contains, on page 2, a "Certificate of Express Mailing" that bears an "Express Mail" mailing label number "EV353609406US." According to the official USPS website, www.usps.gov (Track & Confirm), the package mailed under this label number was accepted by the USPS on May 30, 2003 at 5:37pm. The petition is thus granted. No petition fee is owed.

The application file is being forwarded to the Office of Initial Patent Examination for correcting the filing date to May 30, 2003, and for mailing a corrected filing receipt reflecting that filing date. Upon completion of pre-examination, the application file will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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RALEIGH NC 27627

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of
Boucher, Jr. et al.
Application No. 10/448,784
Filed: May 30, 2003
Attorney Docket No. 5470-387
For: ANIMAL MODEL FOR CRONIC OBSTRUCTIVE PULMONARY DISEASE AND CYSTIC FIBROSIS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on February 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action mailed August 8, 2006, which set an extendable three month period for reply. Applicants submitted a two month extension of time and an amendment after final on January 8, 2007. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the February 7, 2007 Advisory action. Accordingly, this application became abandoned on January 9, 2007. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicants have submitted a RCE and $395.00 required fee and amendment in reply to the August 8, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 8, 2006 final Office action, and the $750.00 petition fee.

After the mailing of this decision the application will be forwarded to Technology Center AU 1632 for consideration of the RCE and amendment filed on February 21, 2007.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No. 5

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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DEC 17 2003

OFFICE OF PETITIONS

In re Application of
Rizwan Bashirullah et al.
Application No. 10/448,785
Filed: May 30, 2003
Attorney Docket No. 5051-630

ON PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed August 11, 2003 to correct the filing date to May 30, 2003, rather than the presently accorded filing date of June 2, 2003.

Petitioner alleges that the application was deposited in Express Mail service on May 30, 2003. In support, on August 11, 2003, petitioner supplied a copy of Express Mail Label No. EV353595485US (the same Express Mail number found on the transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label is blank but the USPS post mark is May 30, 2003.

In view of the above, the petition is granted and since no fee is due, none will be charged to petitioner's deposit account.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to May 30, 2003** and for issuance of a corrected filing receipt.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SEP 2 8 2009

OFFICE OF PETITIONS

COGNEX CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
1 VISION DRIVE
NATICK, MA 01760-2077

In re Application of :
William EQUITZ, et al :
Application No. 10/448,790 : DECISION ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. C03-005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 5, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 6, 2009.

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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.
Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2622 for appropriate action by the Examiner in the normal course of business on the reply received August 10, 2009.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: STEPHEN D. LEBARRON
CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

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Paper No. 3

SOCAL IP LAW GROUP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE CA 91362

MAIL

NOV 17 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
WILLIAM A. MONTEMER :
Application No. 10/448,808 :
Filed: May 30, 2003 :
For: ENHANCED DIRECTORY ASSISTANCE :
SERVICES IN A TELECOMMUNICATIONS :
NETWORK :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw all attorneys/agents of record associated with customer service number 33356, filed on August 25, 2003 (paper No. 2).

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw,
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf,
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address, until a specific change of correspondence is specifically requested.

The file is being returned to the Technology Center's Central Files to await action by the examiner in appropriate time.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

Cc: DOUG NORMAN
INTERCHANGE CORP.
24422 AVENIDA DE LA CARLOTA
SUITE 120
LAGUNA HILLS, CA 92653

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CHEVRON SERVICES COMPANY
LAW, INTELLECTUAL PROPERTY GROUP
P.O. BOX 4368
HOUSTON TX 77210-4368

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Stephen B. Wetch :
Application No. 10/448812 : ON PETITION
Filing Date: 05/30/2003 :
Attorney Docket Number: :
012001-16 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 8, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 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 a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 3671 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.

Derek L. Woods
Attorney
Office of Petitions

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CHEVRON SERVICES COMPANY
LAW, INTELLECTUAL PROPERTY GROUP
P.O. BOX 4368
HOUSTON TX 77210-4368

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AUG 15 2008

In re Application of	:	
Stephen B. Wetch	:	
Application No.: 10/448812	:	ON PETITION
Filing or 371(c) Date: 05/30/2003	:	
Title of Invention:	:	
RISER SUPPORT SYSTEM	:	
FOR USE WITH AN	:	
OFFSHORE PLATFORM	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed June 5, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed October 9, 2007. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on January 10, 2008. A Notice of Abandonment was mailed April 17, 2008.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

A change of address was filed June 24, 2008 and July 29, 2008; however, the person signing the change of address request is not authorized to change the correspondence address.

The MPEP 601.03 provides:

Where a correspondence address has been established on filing of the application or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of an executed oath or declaration under 37 CFR 1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 CFR 1.63 and can only be subsequently changed pursuant to 37 CFR 1.33(a)(2). Under 37 CFR

1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a patent practitioner of record, (B) an assignee as provided for under 37 CFR 3.71(b), or (C) all of the applicants (37 CFR 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 37 CFR 3.71. See 37 CFR1.33(a)(2).

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 referred to Technology Center Art Unit 3671 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

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

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

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SEP 21 2005

OFFICE OF PETITIONS

In re Patent No. 6,897,216 :
Issued: May 24, 2005 :
Application No. 10/448,854 : DECISION REGARDING PTA
Filed: May 30, 2003 :
Atty. Dkt. No.: CN01180K1B :

This decision is in response to the "REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.703(a)(6) OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 1.54(b) INDICATED IN THE ISSUE NOTIFICATION," filed May 25, 2005. This matter is being treated under 37 CFR 1.705(d) as an application for patent term adjustment (PTA).

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 6,897,216 on May 24, 2005. The patent issued with an adjustment of 43 days. The instant application for PTA was timely filed within two months of the date of issuance on May 25, 2005. Applicants herein argue that the patent is entitled to an additional adjustment of three days related to the date of submission of the issue fee payment.

A review of the application history reveals that an adjustment of 163 days can be attributed to the Office under 37 CFR 1.702(a)(4). The adjustment began December 13, 2004, the day after the date that is four months after the date upon which the issue fee was received, and ended May 24, 2005, the date of issuance of the patent. *See*, 37 CFR 1.703(a)(6).

Applicants argue that the period of adjustment is 166 days, rather than 163 days, under 37 CFR 1.703(a)(6). However, petitioners are advised that the date indicated on any certificate of mailing or transmission under § 1.8 is not be taken into account for the purpose of calculation of PTA. Instead, it is the date of receipt, or August 12, 2004, that is used in calculation the period of adjustment under 37 CFR 1.703(a)(6).

The adjustment of 163 days is reduced 120 days, the maximum period of reduction allowed under 37 CFR 1.704(c)(10) in connection with the submission of an amendment under 37 CFR 1.312 on July 21, 2004.

Thus, at the time of issuance, the application was entitled to an adjustment of 43 days, as indicated in the patent.

The Office acknowledges receipt of the required application fee of $200.00.

Applicants are given one (1) month to request reconsideration of this decision. The period of time for reconsideration is not extendible under 37 CFR 1.136(a) or 37 CFR 1.136(b).

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3202.

Kery Fries

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

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SEP 02 2005

Director's Office
Group 3700

Bradley P. Sylvest6er
200 North Broadway
Wichita, Kansas 67202

In re application of
Davis Ralph

Serial Number: 10/448,858
Filed: May 3, 2003

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **NASAL BREATHING APPARATUS:**

This is a decision on the petition filed on May 31, 2003, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

/Richard A. Bertsch/

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 9/1/05

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Arthur J. Hansmann
5200 Washington Avenue
Racine, WI 53406-4288

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Application of :
James M. Walsh, et al. :
Application No. 10/448,880 : ON PETITION
Filed: June 2, 2003 :
Attorney Docket No. 982 :

This is a decision on the petition under 37 CFR 1.181 filed July 12, 2004, to withdraw the holding of abandonment.

The petition is **GRANTED.**

A non-final Office action was mailed to applicant on November 20, 2003, which set a three-month shortened statutory period for reply. As no reply was allegedly received, the application became abandoned on February 21, 2004.

Petitioner asserts that a reply was timely filed, which was received in the U. S. Patent and Trademark Office on January 2, 2004. In support of this assertion, petitioner has supplied a copy of a postcard receipt containing a USPTO date stamp, dated January 2, 2004. Petitioner argues that the application should not be regarded as abandoned since a reply was timely filed.

In view of the evidence provided, petitioner has shown that the application was improperly held abandoned. Additionally, Office records shows that the reply of January 2, 2004 has been located and is presently associated with the application file.

The application file is being referred to Technology Center 3700.

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

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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MCDERMOTT WILL & EMERY LLP
18191 VON KARMAN AVE.
SUITE 500
IRVINE CA 92612-7108

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OCT 26 2007

OFFICE OF PETITIONS

In re Application of :
Masoud Moshayedi :
Application Number: 10/448881 :
Filing Date: 05/30/2003 :
Attorney Docket Number: 069985-0018 :

DECISION ON PETITION

This is a decision on the petition filed on 24 September, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 27 June, 2007, for failure to timely file the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 26 March, 2007, which set a three (3) month statutory period for reply. On 29 June, 2007, the issue and publication fees were received. The filing of the present petition precedes the mailing of Notice of Abandonment. The application was withdrawn from issue, and prosecution reopened, by letter mailed on 21 September, 2007.

---

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

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

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

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

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

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The application is being forwarded to Technology Center Art Unit 2833 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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D. Peter Hochberg
D. Peter Hochberg Co., L.P.A.
The Baker Building - 6th Floor
1940 E. 6th Street
Cleveland, OH 44114

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of:
Brenda Ellner
Application No.: 10/448,886
Filed: May 30, 2003
Atty's Docket No.: XX0472US

DECISION ON PETITION

UNDER 37 CFR 1.137(a)

This is a decision on the petition under 37 CFR 1.137(a) filed December 11, 2006.

The petition is **DISMISSED as moot**.

On October 06, 2006, applicant was mailed a communication indicating that the above-identified application had become abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice Of Allowance mailed February 1, 2006, which set a statutory period for reply of three (3) months.

On December 11, 2006, applicant filed the present petition to revive an application for patent abandoned unavoidably under 37 CFR 1.137(a). A review of the application file (specifically examiner's interview summary notes of October 25, 2006) and present papers shows that applicant provided corrected, substitute drawings on October 2, 2003. These corrected drawings addressed the issues raised in the Notice Of Allowance mailed February 1, 2006, as such the mailing of the Notification of Abandonment was in error. The Notification of Abandonment mailed October 06, 2006 is hereby **VACATED**.

As the Notification of Abandonment was mailed in error there is no need to consider applicant's petition under 37 CFR 1.137(a) and the $250.00 petition fee will be refunded.

The application is being returned to Group Art Unit 2841.

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

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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United States Patent and Trademark Office
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DINSMORE & SHOHL LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Steven M. Byerly	: DECISION ON REQUEST FOR
Patent Number	: 7041932	: RECALCULATION of PATENT
Issue Date	: 05/09/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/448,897	: OF WYETH
Filed	: 05/30/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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Alexandria, VA 22313-1450
www.uspto.gov

VIC LIN
MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.
11TH FLOOR
IRVINE, CA 92612

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Jack A. Zeineh :
Application No. 10/448,913 : DECISION ON PETITION
Filed: May 30, 2003 : TO WITHDRAW
Attorney Docket No. TRE1.PAU.09 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 18, 2006.

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

A review of the file record indicates that the power of attorney to Vic Lin has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: The Law Office of Richard W. James
25 Churchill Road
Churchill, PA 15235

cc: Jack A. Zeineh
Trestle Corporation
199 Technology Drive, Suite 105
Irvine, CA 92618

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1601 BRYAN ST
ENERGY PLAZA - 30TH FLOOR
DALLAS TX 75201-3402

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APR 04 2005

OFFICE OF PETITIONS

In re Application of :
Zhang, et al. :
Application No. 10/448,926 : DECISION GRANTING PETITION
Filed: May 30, 2003 :
Attorney Docket No. 62817.4 :

This is a decision on the "RESPONSE TO NOTICE OF OMITTED ITEMS IN A NONPROVISIONAL APPLICATION", filed September 2, 2004, and the "PETITION TO CORRECT FILING DATE IN A NONPROVISIONAL APPLICATION", filed October 19, 2004, requesting that the above-identified application be accorded a filing date of May 30, 2003.

Application papers in the above-identified application were filed on May 30, 2003. On July 23, 2003 the Office mailed a "Notice to File Missing Parts of Nonprovisional Application", informing Applicants that the application had been accorded a filing date of May 30, 2003. The Notice set an extendable period of two months for applicant to submit: (1) an oath or declaration, (2) the late oath or declaration surcharge; (3) an English translation of the specification (together with a statement that the translation is accurate); (4) the surcharge for filing a non English specification; (5) replacement drawings; and (6) a proper Sequence Listing in compliance with 37 CFR 1.821 - 1.825.

On November 21, 2003, Applicants filed the above items in reply to the Notice to File Missing Parts. Applicants' submission was made timely with the purchase of a two month extension of time.

However, on August 4, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application". Applicants were informed that page 14 of the specification appeared to have been omitted. Applicants were notified that they could contend that page 14 had been previously filed, or submit page 14 and accept the date of submission as the filing date of the application.

In response, on September 2, 2004, Applicants submitted a copy of the English language translation, including page 14. Applicants stated that they believed the "Notice of Omitted Items" was mailed in error, that the complete Korean language application was filed on May 30, 2003, that the missing page 14 was in reference to the translation copy, and that the application should maintain its filing date of May 30, 2003.

With their petition filed October 19, 2004, Applicants have submitted a postcard receipt, itemizing "English Translation of the Specification (34 pgs.)" as enclosed, and bearing a USPTO date stamp of November 21, 2003.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office.[1]

In view of the above, the petition is **GRANTED**.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of May 30, 2003, using the application papers filed on that date and for mailing of a new filing receipt. Thereafter the application file will be forwarded to Group Art Unit 1631 for examination in due course.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 571-272-3207.

Charles Pearson
Director
Office of Petitions

[1] See MPEP 503.

C3 ✓

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HUNTON & WILLIAMS LLP
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DALLAS TX 75201-3402

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APR 04 2005
OFFICE OF PETITIONS

In re Application of Zhang, et al. Application No. 10/448,926 Filed: May 30, 2003 Attorney Docket No. 62817.4	:	DECISION GRANTING PETITION

This is a decision on the "RESPONSE TO NOTICE OF OMITTED ITEMS IN A NONPROVISIONAL APPLICATION", filed September 2, 2004, and the "PETITION TO CORRECT FILING DATE IN A NONPROVISIONAL APPLICATION", filed October 19, 2004, requesting that the above-identified application be accorded a filing date of May 30, 2003.

Application papers in the above-identified application were filed on May 30, 2003. On July 23, 2003 the Office mailed a "Notice to File Missing Parts of Nonprovisional Application", informing Applicants that the application had been accorded a filing date of May 30, 2003. The Notice set an extendable period of two months for applicant to submit: (1) an oath or declaration, (2) the late oath or declaration surcharge; (3) an English translation of the specification (together with a statement that the translation is accurate); (4) the surcharge for filing a non English specification; (5) replacement drawings; and (6) a proper Sequence Listing in compliance with 37 CFR 1.821 - 1.825.

On November 21, 2003, Applicants filed the above items in reply to the Notice to File Missing Parts. Applicants' submission was made timely with the purchase of a two month extension of time.

DOCKETED
By: NEW Date: 4/15/05
Docket Date: N/A

However, on August 4, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application". Applicants were informed that page 14 of the specification appeared to have been omitted. Applicants were notified that they could contend that page 14 had been previously filed, or submit page 14 and accept the date of submission as the filing date of the application.

In response, on September 2, 2004, Applicants submitted a copy of the English language translation, including page 14. Applicants stated that they believed the "Notice of Omitted Items" was mailed in error, that the complete Korean language application was filed on May 30, 2003, that the missing page 14 was in reference to the translation copy, and that the application should maintain its filing date of May 30, 2003.

With their petition filed October 19, 2004, Applicants have submitted a postcard receipt, itemizing "English Translation of the Specification (34 pgs.)" as enclosed, and bearing a USPTO date stamp of November 21, 2003.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office.[1]

In view of the above, the petition is **GRANTED**.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of May 30, 2003, using the application papers filed on that date and for mailing of a new filing receipt. Thereafter the application file will be forwarded to Group Art Unit 1631 for examination in due course.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 571-272-3207.

Charles Pearson
Director
Office of Petitions

---

[1] See MPEP 503.

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Paper 12

Denton L. Anderson
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9th Floor
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Pasadena CA 91101

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JUN 2 3 2004

OFFICE OF PETITIONS

In re Application of
Lane et al.
Application No. 10/448,933
Filed: May 30, 2003
Attorney Docket No.14555
Title of Invention: Container With Hinged Cover

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed March 24, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on August 8, 2003. The Notice to File Missing Parts set an extendable two (2) month period for reply. A three (3) month extension of time was obtained under the provisions of 37 CFR §1.136(a). A Notice of Incomplete Reply was mailed January 6, 2004 indicating the declaration submitted on December 15, 2003 was not fully responsive. Accordingly, this application became abandoned on January 9, 2004. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the declaration submitted with the instant petition.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Petitions Attorney

Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/14/05

TO SPE OF : ART UNIT **3764**

SUBJECT : Request for Certificate of Correction on Patent No.: ~~10/488942~~ 10/448942

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

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

Thank You For Your Assistance

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

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

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

Comments:

GREGORY L. HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE 3764 **Art Unit**

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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of :
Zhimin Ding et al :
Application No. 10/448,944 : DECISION GRANTING PETITION
Filed: May 30, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. ATMI-648 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 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 reply to the Nonfinal Rejection of July 5, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2186.

Karen Creasy
Petitions Examiner
Office of Petitions

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SCULLY SCOTT MURPHY & PRESSER
400 GARDEN CITY PLAZA, SUITE 300
GARDEN CITY, NY 11530

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of :
Stephen W. Bedell et al :
Application No. 10/448,948 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. YOR920030099US1 (16484)

This is a decision on the petition, filed January 31, 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 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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February 14, 2006

Bruce A. Johnson
Johnson & Associates
P. O. Box 90698
Austin, TX 78709-0698

Patent No.: **6816011 B2**
Application No.: 10/448963
Inventor(s): **Susanne A. Paul, et al.**
Issued: November 9, 2004
Title: **RF POWER AMPLIFIER AND METHOD FOR PACKAGING THE SAME**

Re: Request for Certificate of Correction

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

A petition under C.F.R. 1.182 is required to correct the alleged errors in incorrect inventor's name or order of inventor's names, since inventors' names are printed solely in accordance with the typed/printed names (not the signatures), and since non-initialed and non-dated changes are not taken into consideration. Therefore, no correction is in order here under the provisions of Rule 1.322 or 1.323 (required fee currently $100), unless a petition is granted (See M.P.E.P. 605.04(b).

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

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 1.182 should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

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

Virginia Tolbert
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

vt

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JJGJR.: 06-06

Paper No:__

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P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Koehler, et al. :
Application No. 10/448,971 :
Filing Date: 2 June, 2003 :
Attorney Docket No.: 100204257-1 :

DECISION

This is a decision on the petition filed on 25 April, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 29 September 2005, with reply due under a non-extendable deadline on or before 29 December, 2005;

- the instant application went abandoned by operation of law after midnight 29 December, 2005;

- the Office mailed the Notice of Abandonment on 25 February, 2006;

- on 25 April, 2006, Petitioner averred that on 28 December, 2005, he filed a Request for Continued Examination[1] with fee and submission under 37 C.F.R. §1.114, and the record evidences that filing, and–as noted below, the MPEP reference to filing an RCE after allowance but "prior to the payment of the Issue Fee" is that the RCE is a proper reply to the Notice of Allowance/Allowability and Fees Due;

- out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose;[2]

---

[1] The Commentary at MPEP §1308(I) provides in pertinent part:

* * *

I. WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE APPLICANT

A. Prior to the Payment of Issue Fee

If the applicant wishes to have an application withdrawn from issue, he or she must petition the Director under 37 CFR 1.313(a) or file a request for continued examination (RCE) under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e). A submission may be an information disclosure statement (37 CFR 1.97 and 1.98) or an amendment. The RCE practice does not apply to utility or plant applications filed before June 8, 1995 and design applications. See MPEP § 706.07(h), subsections I, II and IX. If an applicant files a RCE (with the fee and a submission), the applicant need not pay the issue fee to avoid abandonment of the application. Applicants are cautioned against filing a RCE prior to payment of the issue fee and subsequently paying the issue fee (before the Office acts on the RCE) because doing so may result in issuance of a patent without consideration of the RCE (if the RCE is not matched with the application before the application is processed into a patent).

* * *

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.

(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.

(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i)

- Petitioner now can be said to have made the required showing.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

---

through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

Petitioner now appears to have satisfied that construct.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, the 25 February, 2006, Notice of Abandonment is **vacated**, and the fees are waived and were not charged.

The instant application is released and forwarded to Technology Center 2800 to await the Examiner's decision on the petition under 37 C.F.R. §1.48 in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

---

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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In re Application of	:	
Edward Goldberg	:	
Application No. 10/448,995	:	DECISION ON PETITION
Filed: May 30, 2003	:	TO WITHDRAW
Attorney Docket No. 287/7	:	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 29, 2008.

The request is **APPROVED**.

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

The request was signed by Michael R. Gilman 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.

All future correspondence will be directed to the first named inventor Edward Goldberg at the address indicated below.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Edward Goldberg**
501 Reis Avenue
Teaneck, NJ 07666

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
10/448,995	05/30/2003	Edward Goldberg	287/7

CONFIRMATION NO. 7914

POWER OF ATTORNEY NOTICE

83336
Kaplan Gilman & Pergament LLP
1480 Route 9 North
Woodbridge, NJ 07095

OC000000033126875

Date Mailed: 11/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/29/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

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

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Paper No. 9

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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DEC 19 2003

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Filed: May 29, 2003 : ON PETITION
Application No. 10/449,041 :
Attorney Docket No.: 03982-P0002A :

This decision is in response to the "Petition to Correct Filing Date (37 C.F.R. §1.53(b))," filed October 31, 2003, requesting that the above-identified application be accorded a filing date of May 29, 2003 instead of the presently accorded filing date of August 14, 2003.

The petition is hereby **GRANTED**.

The above-identified application was filed May 29, 2003. The "Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed July 30, 2003 indicated that the application had been accorded a filing date but that Figure 5A described in the specification appeared to have been omitted from the application.

The Notice permits applicant to either: (1) establish prior receipt in the PTO of page 7 of the specification; (2) submit the omitted page of specification and accept the date of such submission as the application filing date. An assertion that the missing page of specification was in fact deposited in the PTO with the application papers must made by way of petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)); or (3) take no action thereby constructively accepting the application filed as in the USPTO without the omitted item. Failure to take any action requires amendment of the specification to cancel reference to the omitted item.

Petitioner responded to the Notice on August 14, 2003 by submitting an amendment to the specification canceling reference to Figure 5A. A request for corrected filing receipt was submitted via a certificate of mailing (37 CFR 1.8) on September 26, 2003 whereby applicant requested that the application be accorded a filing date of May 29, 2003 instead of the presently accorded filing date of August 14, 2003. A Response to Request for Corrected Filing Receipt was mailed October 10, 2003 wherein it indicated the filing date of the application would be the date the application met the filing date requirements of 37 CFR 1.53(b) or (c).

Petitioner argues that given the constructive acceptance of option (3) contained in the Notice, the application is entitled to a filing date of May 29, 2003.

Petitioner's arguments have been considered and found convincing. Accordingly, the application is entitled to a filing date of May 29, 2003.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 29, 2003. Thereafter the application will be forwarded to the appropriate group art unit for examination of the merits and for consideration of the amendment submitted August 14, 2003.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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Paper No. 5

MORGAN & FINNEGAN, L.L.P.
345 PARK AVENUE
NEW YORK NY 10154

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FEB 09 2004

OFFICE OF PETITIONS

In re Application of
Jean-Pierre Aynie, Benoist Fleury, and Norbert Brun
Application No. 10/449,044
Filed: May 29, 2003
Attorney Docket No. 1948-4802
Title: INDICATOR LIGHT COMPRISING AN OPTICAL PIECE FULFILLING AN INDICATING FUNCTION IN A SELF-CONTAINED MANNER

DECISION REFUSING STATUS UNDER 37 CFR § 1.47(a)

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47(a)," filed December 30, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on May 29, 2003, without an executed oath or declaration. Accordingly, on July 30, 2003, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and payment of the surcharge for late filing under § 1.16(e). This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicants timely[1] filed the instant petition, along with payment of the petition fee[2] and of the late surcharge; and a declaration for patent executed by inventors Aynie and Fleury on behalf of themselves and on behalf of non-

[1] This reply was made timely by an accompanying petition (and fee) for extension of time within the third month.

[2] The required petition fee of $130 has been charged to Deposit Account No. 13-4500, as authorized. It was stated that a check for $130 was among the items submitted on petition; however, no such check for payment of the petition fee was present in the papers filed December 30, 2003. (A check for $130 for payment of the late surcharge is acknowledged).

signing inventor Brun. On petition, applicants assert that status under § 1.47(a) is proper because inventor Brun is unavailable to join in the application.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (2).

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition includes a declaration of the relevant facts by foreign patent attorney Jacques Houplain. Attorney Houplain's statement details the presentation of all of the application papers to inventor Brun. The petition includes payment of the petition fee and a statement of the last known address of non-signing inventor Brun.

As to the deficiency in meeting requirement (2), the declaration is unacceptable as it does not include the residence and/or mailing address of inventor Brun. 37 CFR § 1.63(c) provides that unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify ... [t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.

On renewed petition, a new oath or declaration properly executed by all available joint inventors on behalf of themselves and on behalf of non-signing inventor Brun, including the information required for inventor Brun, should be supplied. Alternatively, petitioner may satisfy the deficiencies of the declaration by way of submission of a supplemental application data sheet. See 37 CFR §§ 1.67(a)(3) and 1.76(c)(1).

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions
ATTN: NANCY JOHNSON

By hand: CUSTOMER SERVICE WINDOW
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. 8

MORGAN & FINNEGAN, L.L.P.
345 PARK AVENUE
NEW YORK, NY 10154

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MAR 24 2004

OFFICE OF PETITIONS

In re Application of :
Jean-Pierre Aynie, Benoist Fleury, :
and Norbert Brun :
Application No. 10/449,044 :
Filed: May 29, 2003 :
Attorney Docket No. 1948-4802 :
Title: INDICATOR LIGHT COMPRISING :
AN OPTICAL PIECE FULFILLING AN :
INDICATING FUNCTION IN A :
SELF-CONTAINED MANNER :

DECISION ACCORDING STATUS
UNDER 37 CFR § 1.47(a)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(A)," filed March 12, 2004.

The petition is **GRANTED**.

The above-identified application was filed on May 29, 2003, without an executed oath or declaration. In response to the "Notice to File Missing Parts of Nonprovisional Application," mailed July 30, 2003, rule 47 applicants filed the initial petition asserting that status under § 1.47(a) is proper because inventor Brun is unavailable to join in the application. However, the petition was dismissed for failure to submit an acceptable declaration (Decision mailed February 9, 2004).

On instant renewed petition, petitioner submitted a supplemental application data sheet to cure the deficiencies in the declaration. See 37 CFR §§ 1.67(a)(3) and 1.76(c)(1).

In view thereof, the declaration filed December 30, 2003 is now acceptable.

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

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette. The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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NORBERT BRUN
7, ALLEE JEHAN DE BRIE
77600 GUERMANTES
FRANCE

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MAR 24 2004

OFFICE OF PETITIONS

In re Application of
Jean-Pierre Aynie, Benoist Fleury, and Norbert Brun
Application No. 10/449,044
Filed: May 29, 2003
Attorney Docket No. 1948-4802
Title: INDICATOR LIGHT COMPRISING AN OPTICAL PIECE FULFILLING AN INDICATING FUNCTION IN A SELF-CONTAINED MANNER

LETTER

Dear Mr. Brun:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

MORGAN & FINNEGAN, L.L.P.
345 PARK AVENUE
NEW YORK, NY 10154

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JUN 20 2005

Leong C. Lei
PMB #1008
1867 Ygnacio Valley Road
Walnut Creek, CA 94598

In re Application of	:	DECISION ON PETITION
Chih-Chuan Wu	:	TO WITHDRAW
Serial No. : 10/449,101	:	HOLDING OF
Filed : June 2, 2003	:	ABANDONMENT
For : Pruning Hook	:	

This is a decision on a request filed March 4, 2005, to review the holding of abandonment mailed December 9, 2004, for failure to respond to the Office action mailed April 1, 2004. The request is based on an allegation that applicant did not receive the Office action mailed April 1, 2004. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received, and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed March 4, 2005 includes items (1) and (2) and (3). However, the above-noted items do not appear to come from the individual to whom the Office action was properly mailed to by the Office. The Office action was mailed to the person (i.e., Mr. Wu, the inventor) and address provided in the declaration filed with the instant application papers. The appointment of Mr. Lei as applicant's representative was filed only recently, well after the mailing of the Office action of April 1, 2004 and the Notice of Abandonment. The request is therefore dismissed and the holding of abandonment stands. Any request for reconsideration of this decision should be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181". Telephone inquiries regarding this decision should be directed to Special Program Examiner Andres Kashnikow at (571) 272-4361.

Summary: Petition to Withdraw Holding of Abandonment is Dismissed pending the submission of a renewed petition.

/Richard A. Berman/

E. R. Kazenske, Director
Technology Center 3700
Phone: (571) 272-4050

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Leong C Lei
PMB #1008
1867 Ygnacio Valley Road
Walnut Creek, CA 94598

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Wu :
Application No. 10/449,101 : Decision on Petition
Filed: June 2, 2003 :
For: Pruning Hook :

This is a decision on the petition under 37 CFR 1.137(b), filed July 24, 2005, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed April 1, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on midnight of July 1, 2004. A Notice of Abandonment was mailed on December 9, 2004.

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

Technology Center Art Unit 3724 will be informed the application has been revived and will consider the amendment filed with the petition in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL J. MAURIEL
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

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MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Y.P. CHENG :
Application No. 10/449,157 : DECISION ON PETITION
Filed: May 29, 2003 : TO WITHDRAW
Attorney Docket No. 544152000100 : 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 31, 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 Katherine D. Lee on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed March 28, 2006 that requires a reply from the applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **Y.P. CHENG**
ROOM 1201 PENINSULA CENTRE
67 MODY ROAD
TSIMSHATSUI EAST KOWLOON
HONG KONG

cc: **GOLDPEX TECHNOLOGY LTD.**
98 GRANVILLE ROAD, ROOM 901
EAST OCEAN CENTRE
TSIMSHATSUL EAST KOWLOON
PEOPLE'S REPUBLIC OF CHINA

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BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, L.L.C.
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH, MA 01581

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JUL 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Daniel Harple, Jr.	:	
Application No. 10/449,159	:	DECISION ON PETITION
Filed: May 30, 2003	:	
Attorney Docket No. OID05-08(37501)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed February 1, 2007, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 3, 2007. A Notice of Abandonment was mailed October 9, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Non-Compliant Amendment mailed February 1, 2007 is accepted as having been unintentionally delayed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

The application file is being referred to Technology Center AU 2164 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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JUL 14 2005

MEDLEN & CARROLL, LLP
SUITE 350
101 HOWARD STREET
SAN FRANCISCO CA 94105

In re Application of	:
Rokbert E. Fischell et al	:
Serial No.: 10/449,162	: PETITION TO MAKE SPECIAL
Filed: May 30 2003	:
Attorney Docket No.: S1-02	:

This is in response to the petition filed May 30 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. The delay in acting on this petition is regretted, however, it appears the application has been handled expeditiously.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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J. NEVIN SHAFFER, JR., P.A.
913 GULF BREEZE PARKWAY
SUITE 43
GULF BREEZE FL 32561

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AUG 10 2007

OFFICE OF PETITIONS

In re Application of
John D. Martelli
Application No. 10/449,167
Filed: June 2, 2003
Attorney Docket No. 111-1368

ON PETITION

This is a decision on the petition filed July 12, 2007 under 37 CFR 1.137 (b) to revive the above-identified application.

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

This application became abandoned for failure to timely pay the issue fee on or before August 24, 2004. This application became abandoned August 25, 2004. Accordingly, a Notice of Abandonment was mailed August 16, 2005.

A review of the record reveals that the Issue Fee Transmittal Form (PTOL-85b) has not been supplied. If petitioner desires to have the information normally found thereon printed on the patent, an Issue Fee Transmittal Form should be completed and returned to the Publishing Division within ONE (1) MONTH from the mail date of this decision.

This application is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 0 8 2006

OFFICE OF PETITIONS

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

In re Application of :

Khanh Hoang :
Application No. 10/449,171 : DECISION ON PETITION
Filed: May 29, 2003 : TO WITHDRAW
Attorney Docket No. SPRN.P0001 : 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 7, 2006.

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

A review of the file record indicates that the power of attorney to Amir H. Raubvogel, along with all of the other attorneys associated with Customer No. **00758** has been revoked by the assignee of the patent application on February 7, 2006. 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/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 2163 to consider the response received May 30, 2006.

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

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc:

MANI ADELI, ESQ.
STATTLER JOHANSEN & ADELI LLP
1875 CENTURY PARK EAST SUITE 1360
LOS ANGELES, CA 90067-2514

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
po box 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 4

Attention: Nancy J. Parsons
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis MN 55402-0903

DGS

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AUG 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Knudson and Conrad :
Application No. 10/449,186 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. 13033.1USC7 :

This is a decision on the petition under 37 CFR 1.182, filed September 9, 2003, to change the order of the names of the inventors. The application file was recently forwarded to the Office of Petition for a decision on the merits. The Office apologizes for any inconvenience.

The petition is **granted.**

The order of the names of the inventors will be changed as follows:

1. Mark B. Knudson
2. Timothy R. Conrad

The Office records have been corrected to reflect the change of the order of inventorship as indicated above. A corrected filing receipt accompanies this decision.

The application file is being forwarded to Technology Center Art Unit 3736.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
David Nir	:	
Application No. 10/449,214	:	
Filed: June 2, 2003	:	DECISION ON PETITION
Atty Docket No.:	:	
42P22242	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed June 30, 2005.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed March 26, 2004. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 27, 2004. A Notice of Abandonment was mailed August 3, 2004.

With the instant petition Applicant has submitted the issue fee.

The Change of Correspondence Address, Power of Attorney and Revocation of Previous Powers has been entered and made of record.

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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FEB 22 2007

OFFICE OF PETITIONS

In re Application of :
Frame, et al. :
Application No. 10/449,216 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. 42P16387 :
For: TREE BASED MEMORY STRUCTURE

This is a decision on the petition under 37 CFR 1.137(a), filed January 8, 2007 (certificate of mailing date January 5, 2007), requesting revival of the above-identified application. The petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment of the above-identified application.

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

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed December 5, 2005, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on March 6, 2006. A Notice of Abandonment was mailed on December 20, 2006.

Petitioners assert an amendment and a request for a two month extension of time were timely filed on certificate of mailing date May 5, 2006.

Petitioners have submitted a copy of, *inter alia*, the amendment and the itemized transmittal form allegedly filed on May 5, 2006. The itemized transmittal form contains a proper certificate of mailing bearing a May 5, 2006 date of deposit.

Under 37 CFR 1.8(a)(1), correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark

Office in accordance with 37 CFR 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The itemized transmittal form bears a proper certificate of mailing, dated May 5, 2006, in compliance with the requirements of 37 CFR 1.8(a)(1) as set forth above. In addition, the person signing the certificate, Amber D. Saunders, had reasonable basis to expect that the correspondence would be mailed on May 5, 2006.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the December 20, 2006 Notice of Abandonment is **vacated**.

Regarding fees: the $500.00 petition fee is unnecessary and will be refunded to deposit account no. 02-2666. A two month extension of time fee should have been charged on certificate of mailing date May 5, 2006. Accordingly, deposit account no. 02-2666 will be charged $450.00.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 2186 for consideration of the amendment and Rule 131 Declarations filed on certificate of mailing date May 5, 2006 and resubmitted with the present petition..

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

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

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P.O. BOX 2550
SALT LAKE CITY, UT 84110

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MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Vernon M. Williams, et al. :
Application No. 10/449,219 : ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. 2269-4209.1US(99-0174.01 :

This is a decision on the petition, filed March 1, 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 7, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2822 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

10 449222 SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-11-05

Pape

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction on Patent No.: 6819907

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

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

With respect to the change(s) requested, correcting Office and/or Applicant's errors, sho patent read as shown in the certificate of correction? No new matter should be introduced, r the scope or meaning of the claims be changed.

Please check drawing figs

Thank You For Your Assistance

Certificates of Correction

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
- [ ] Denied — State the reasons for denial below.

Comments:

Anthony Wyrozen
PR. EX. 2854
3/21/2005

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2854

SPE A

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and

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Paper No. 4

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

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OCT 22 2003

OFFICE OF PETITIONS

In re Application of :
Chloupek, et al. :
Application No. 10/449,240 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. TI-31207.1 :

This is a decision on papers styled "Petition" filed on September 15, 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 30, 2003, including Figure 7 as described in the specification.

The application was submitted on May 30, 2003. However, on July 16, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s) In a Nonprovisional Application" that stated the application had been accorded a filing date, and that Figure 7 appeared to have been omitted.

In response, on September 15, 2003, the present petition was filed wherein petitioner argues that Figure 7 was filed on May 30, 2003. In support, petitioner has submitted a copy of the transmittal letter that accompanied the application as filed and a copy of one (1) page of drawings that contains Figure 7 which petitioner claims was submitted with the application on May 30, 2003.

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 seven (7) pages of drawings were filed on May 30, 2003. The page containing Figure 7 was not filed on May 30, 2003, since no such page is present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The

only evidence relied on to support petitioner's allegation is the copy of the transmittal letter that accompanied the application as filed. However, this item is not more probative than the official file record of what was actually filed on May 30, 2003, which does not contain Figure 7 as described in the specification.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503.

A copy of a postcard receipt that would indicate receipt of the omitted figure has not been submitted. If petitioner has a postcard receipt date stamped by the Office that indicates receipt of Figure 7 (or eight (8) pages of drawings), on May 30, 2003, then the postcard receipt or a copy thereof should be supplied.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. If petitioner has a postcard receipt acknowledging receipt of Figure 7 (or eight (8) pages of drawings) on May 30, 2003, the postcard receipt or a copy thereof should be supplied, accompanied by a letter requesting reconsideration of this decision. No additional petition fee is required for such a request.

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 maintain the May 30, 2003 filing date, and the application papers (i.e. the original disclosure of the invention) will include only those application papers present in the USPTO on the filing date.

The $130.00 petition fee has been charged to deposit account no. 20-0668.

The application will be forwarded to The Office of Initial Patent Examination for further processing.

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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SUITE 1500
HOUSTON, TX 77056-6582

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OFFICE OF PETITIONS

In re Application of :
Chadwick et al. :
Application No. 10/449,247 : ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. SVL920030021US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 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.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 7, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further, Examiner has responded to the Amendment After Final with an Advisory Action (copy enclosed).

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

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

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/449,247	Applicant(s) CHADWICK ET AL.	
	Examiner SHAWN AN	Art Unit 2621	

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

THE REPLY FILED 22 May 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 _____ 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 proposed amendment to claim 10*. (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: Applicant's remarks/arguments are not pursuasive.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

7/31/08

/SHAWN AN/
Primary Examiner, Art Unit 2621

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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK, NEW YORK 10017

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JAN 25 2008

OFFICE OF PETITIONS

Applicant: Al-Anizi
Appl. No.: 10/449,267
Filing Date: May 29, 2003
Title: "Anti-Corrosion Protection for Heat Exchange Tube Sheet"
Attorney Docket: 205,995
Pub. No.: US 2004/0238161 A1
Pub. Date: December 2, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 14, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein "Antit-Corrosion Protection for Heat Exchange Tube Sheet" is misprinted as "Anti-Corrosion Proteftion for Heat Exchange Tube Sheet" in the title of the invention.

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

The request for corrected publication, received on February 14, 2007, was not timely filed under 37 CFR 1.221(b).

The error on the front page of the publication wherein "Anit-Corrosion Protection for Heat Exchange Tube Sheet" is misprinted as "Anit-Corrosion Proteftion for Heat Exchange Tube

[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).

Sheet" in the title of the invention may be an Office error, but it is a not material Office error under 37 CFR 1.221. The misspelling of the word "protection" in the title does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

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

By facsimile: 571-273-8300

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

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

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C. ROBERT VON HELLENS
CAHILL, VON HELLENS & GLAZER P.L.C.
155 PARK ONE,
2141 E. HIGHLAND AVENUE
PHOENIX AZ 85016

In re Application of
JENSEN
Application No.: 10/449,280
Attorney Docket No.: 1228-A-139

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed May 12, 2006.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed October 19, 2005, which set a shortened statutory period of reply of three (3) months. A response was filed on April 11, 2006 and a request for extensions of time under the provisions of 37 CFR 1.136(a) was filed. However, the response was not a proper reply to the final Office action. Accordingly, the application was abandoned as of midnight on April 19, 2006.

On May 12, 2006, applicants filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of a Request For Continued Examination (RCE) accompanied by the necessary fee and submission (the "Amendment" referred to in the RCE satisfies the submission requirement of 37 CFR 1.114). Accordingly, the reply to the final Office action of May 12, 2006 (in the form of the RCE and submission) is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 1732.

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

Cynthia M. Kratz
Attorney Advisor
(571) 272-3286

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Paper No. 8

Deborah A. Neville, Esq.
4328 Canoas Drive
Austin, TX 78730

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OFFICE OF PETITIONS

In re Application of :
Josh Hogan :
Application No. 10/449,291 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. CA 1161 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 22, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed July 18, 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 September 18, 2003. A Notice of Abandonment was mailed October 6, 2004.

In response, petitioner submitted with the instant petition $685 for the petition to revive fee, and an Oath/Declaration along with the late filing surcharge of $65.

The petition is **GRANTED**.

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 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: Deborah Neville
P.O. Box 61063
Palo Alto, CA 94306

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ONE LOGAN SQUARE
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PHILADELPHIA, PA 19103-6996

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DEC 12 2005

OFFICE OF PETITIONS

In re Application of :
Vernon E. Anderson, et al. :
Application No. 10/449,299 : ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. 9555-040-999 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 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/Election Requirement mailed January 19, 2005, 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 on February 22, 2005.

In view of the submission of the petition fee in the large entity amount of $1,500, status as a small entity has been removed.

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) and a supplemental response to the non-final office action filed on October 18, 2005; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed October 13, 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 1600, Art Unit 1654 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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JOHN F. SALAZAR
MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

Mail Date: 04/21/2010

Applicant	: Randy (Randall) Julian	: DECISION ON REQUEST FOR
Patent Number	: 7644902	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/449,335	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1991** 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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PROSKAUER ROSE L.L.P.
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

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JUL 2 3 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bander et al. :
Application No. 10/449,379 :
Filed: May 30, 2003 :
Attorney Docket No. BZL-009CP2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 12, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the date of abandonment of this application is March 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $255.00. and an amendment; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Further, 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 $525.00 three month extension of time fee submitted with the petition on June 24, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The Notice of Appeal filed June 24, 2008, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

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

This application is being referred to Technology Center AU 1643 for further processing and to await the Appeal Brief.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No. 4

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

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of
Unknown
Application No. 10/449,436
Filed: May 30, 2003
Attorney Docket No. INTV.024A
Title of Invention: SYSTEMS AND METHODS FOR IMPROVING BIT RATE CONTROL OF VIDEO ENCODING BY CORRECTING FOR THE EFFECTS OF SCENE CHANGES AND BIT STUFFING IN A VIDEO BUFFER VERIFIER (VBV) BUFFER MODEL

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on September 10, 2003, requesting that the above-identified application be accorded a filing date of May 30, 2003, rather than the presently accorded filing date of May 31, 2003.

Petitioner alleges that the application was deposited in Express Mail service on May 30, 2003. In support, petitioner has supplied a copy of Express Mail receipt No. EV319017425US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) showing a United States Postal Service "date-stamp" of May 30, 2003.

In view of the above, the petition is granted. No petition fee is required.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **May 30, 2003** and issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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FOURTEENTH FLOOR
IRVINE, CA 92614

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of
Unknown
Application No. 10/449,436
Filed: May 30, 2003
Attorney Docket No. INTV.024A
Title of Invention: SYSTEMS AND METHODS FOR IMPROVING BIT RATE CONTROL OF VIDEO ENCODING BY CORRECTING FOR THE EFFECTS OF SCENE CHANGES AND BIT STUFFING IN A VIDEO BUFFER VERIFIER (VBV) BUFFER MODEL

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on September 10, 2003, requesting that the above-identified application be accorded a filing date of May 30, 2003, rather than the presently accorded filing date of May 31, 2003.

Petitioner alleges that the application was deposited in Express Mail service on May 30, 2003. In support, petitioner has supplied a copy of Express Mail receipt No. EV319017425US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) showing a United States Postal Service "date-stamp" of May 30, 2003.

In view of the above, the petition is granted. No petition fee is required.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **May 30, 2003** and issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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GENERAL ELECTRIC COMPANY
GE AVIATION
ONE NEUMANN WAY MD H17
CINCINNATI OH 45215

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OFFICE OF PETITIONS

In re Application of	:	
Niedermeier et al.	:	
Application No. 10/449,439	:	ON PETITION
Filed: May 30, 2003	:	
Attorney Docket No. 13DV-14179	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 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 Office Action Response; (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 2100 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/449,442	05/30/2003	Donald C. Soltis JR.	100110430-1	8326

22879 7590 07/08/2010

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER	
TSAI, SHENG JEN	
ART UNIT	**PAPER NUMBER**
2186	

NOTIFICATION DATE	DELIVERY MODE
07/08/2010	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
laura.m.clark@hp.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100704

DATE : July 6, 2010

TO SPE OF : ART UNIT 2186

SUBJECT : Request for Certificate of Correction on Patent No.: 7680990

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 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: /Matt Kim/ **Art Unit** 2186

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NANCY R. GAMBURD
DYKEMA GOSSETT PLLC
55 EAST MONROE STREET
SUITE 3050
CHICAGO IL 60603

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DEC 3 1 2003

OFFICE OF PETITIONS

In re Application of
Krause et al.
Application No. 10/449,453
Filed: May 28, 2003
Attorney Docket No. 0002505.0002

DECISION ON PETITION

This is a decision on the petition filed September 22, 2003, requesting that the above-identified application be accorded a filing date of May 29, 2003, rather than the presently accorded filing date of May 30, 2003. This petition is being treated as a petition under 37 CFR 1.10(d).

Petition under 37 CFR 1.10(d)

Petitioners state that the application was submitted by Express Mail on May 29, 2003, as reflected in their postcard receipt. Petitioners request that the Office correct the filing date from May 30, 2003 to May 29, 2003. A copy of Express Mail label No. EV349269224US, indicating a "date-in" of May 28, 2003, accompanies the present petition. The same Express Mail label No. is indicated on the transmittal sheet submitted on filing.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a) (Emphasis supplied).

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. Such a petition should:

(1) be 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) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing by "Express Mail;" and,

(3) 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. 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 review of the Express Mail label indicates a "date-in" of May 28, 2003. However, petitioners request a filing date of May 29, 2003. The Office notes that petitioners bear the burden to prove that the "date-in" was incorrectly entered on the "Express Mail" mailing label. Petitioners have provided no direct evidence of the delivery of the present application to the USPS on May 29, 2003. Absent 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" service, which corroborates the allegation that the application was, in fact, deposited with the USPS on May 29, 2003, before the last scheduled pick-up for that day, the application will be accorded the date indicated in the Express Mail label as the date the application was accepted by the USPS (May 28, 2003).

Accordingly, the petition is **dismissed** as to according the application a filing date of May 29, 2003. **However, the application will be accorded a filing date of May 28, 2003, as indicated as the "date-in" on the Express Mail label.**

Any request for reconsideration of the decision under 37 CFR 1.10(d) must be filed within two (2) months of the date of this decision. See 37 CFR 1.181(f). No extensions of time are available.

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

By Mail: Commissioner for Patents
Mail Stop Petitions
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA

The Office of Initial Patent Examination is directed to correct the filing date of the above-identified application to **May 28, 2003**, and to mail a corrected filing receipt.

Telephone inquiries regarding this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DEC -1 2004

In re Application of	:	
Edward J. Blauvelt	:	
Serial No. 10/449,472	:	DECISION ON PETITION
Filed: May 30, 2003	:	TO WITHDRAW AS ATTORNEY
For: GOLF TEE MARKING TEMPLATE	:	

By papers filed on July 30, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the correspondence address for this application is:

Edward J. Blauvelt
P.O. Box 432
New Haven, IN 46774

E. Rollins-Cross, Director
Technology Center 3700

David A. Lundy
Krieg, DeVault & Lundy, LLP
825 Anthony Wayne Bldg, 203 E. Berry St.
Fort Wayne, IN 46802

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PATENT DEPARTMENT
98 SAN JACINTO BLVD.
SUITE 1500
AUSTIN TX 78701-4039

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OFFICE OF PETITIONS

In re Application of	:	
Larry J. Miller	:	
Application No. 10/449,476	:	DECISION GRANTING PETITION
Filed: May 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 073252.0107	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 19, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 1, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3733 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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ALEXANDRIA, VA 22313-1450
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Paper No. 4

SCHULTE ROTH & ZABEL LLP
ATTN: JOEL E. LUTZKER
919 THIRD AVENUE
NEW YORK, NY 10022

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SEP 02 2003

OFFICE OF PETITIONS

In re Application of
Matsumura
Application No. 10/449,484
Filed: May 29, 2003
Attorney Docket No.: 848075/0047

ON PETITION

This is a decision on the "PETITION TO RECAPTURE ORIGINAL FILING DATE," filed August 18, 2003. This petition is being treated under 37 CFR 1.182 to accord the above-identified application a filing date of May 29, 2003.

The application was deposited on May 29, 2003. On August 7, 2003, a Notice of Omitted Items in a Nonprovisional Application ("Notice") was mailed indicating that the application had not been accorded a filing date because the application was deposited without drawings in accordance with 35 USC 113(first sentence).

Petitioner argues that the application as deposited included two (2) sheets of drawings. Petitioner has included as proof of mailing and proof of receipt of the two (2) sheets of drawings a return postcard date stamped by the Office on May 29, 2003. Petitioner has also provided a copy of the drawing sheets purportedly filed with the application on March 6, 2003.

The original two (2) drawings sheets submitted with the application papers have not been located. However, in view of the evidence presented, the Notice is hereby **WITHDRAWN** and the petition to accord the application a filing date of May 29, 2003 is **GRANTED**.

Since the original two (2) sheets of drawings cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

The petition fee of $130.00 submitted with the instant petition is unnecessary. Petitioner may request a refund of the previously submitted petition fee of $130.00 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of May 29, 2003 with an indication in Office records that two (2) sheets of drawings were present on filing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BERKELEY LAW & TECHNOLOGY GROUP, LLP
17933 NW Evergreen Parkway, Suite 250
BEAVERTON, OR 97006

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of :
Kelvin Spencer, et. al. :
Application No. 10/449,485 : ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. 012.P45002 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on March 28, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the Office action mailed November 21, 2005, which re-set the period for reply of two months from the mail date of the letter. A Notice of Abandonment was mailed on July 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2186, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 07/06/2010

Applicant	: Edward Alan Clark	: DECISION ON REQUEST FOR
Patent Number	: 7639664	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/449,521	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1947** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/449,522	05/30/2003	2818	1302	5649-929DV	7	46	4

CONFIRMATION NO. 7283

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

CORRECTED FILING RECEIPT

OC000000011505849

Date Mailed: 12/16/2003

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)

Jong-Myeong Lee, Kyungki-do, KOREA, REPUBLIC OF;
Byung-Hee Kim, Seoul, KOREA, REPUBLIC OF;
Myoung Bum Lee, Seoul, KOREA, REPUBLIC OF;
Ju-Young Yun, Seoul, KOREA, REPUBLIC OF;
Gil-Heyun Choi, Kyungki-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

This application is a DIV of 10/098,029 03/13/2002 PAT 6,586,340

Foreign Applications

REPUBLIC OF KOREA 2001-12901 03/13/2001

If Required, Foreign Filing License Granted: 07/18/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Wafer processing apparatus and wafer processing method using the same

Preliminary Class

438

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. 3

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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OCT 14 2003

OFFICE OF PETITIONS

In re Application of
William Chris Eaton
Application No. 10/449,523
Filed: May 30, 2003
Attorney Docket No. 9314-46

ON PETITION

This is a decision on the "Petition to Accord the Proper Filing Date", filed August 14, 2003, which is being treated as a petition under 37 CFR 1.10 to accord the above-identified application a filing date of May 30, 2003.

The petition is **GRANTED**.

Petitioner argues that the above-identified application was filed on May 30, 2003, not June 2, 2003. In support thereof, petitioner has included a copy of a cover sheet itemizing the application, including a Certificate of Express Mail bearing the Express Mail number EV 353609370 US, and dated May 30, 2003. Petitioner has also included a copy of a printout from the United States Postal Service (USPS) website, indicating that Express Mail number EV 353609370 US was accepted by the USPS on May 30, 2003.

37 CFR 1.10(c) states that any person filing correspondence under 37 CFR 1.10, who can show that there is a discrepancy between the filing date accorded by the Office and the date of deposit as shown by the "date-in" on the Express Mail mailing label, may petition the Office to accord the correspondence a filing date as of the "date-in" on the Express Mail mailing label, provided:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fees(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Here, Petitioner has not included a true copy of the Express Mail label. However, this requirement is being waived by the Office *sua sponte* in light of the corroborating USPS website evidence.

In view of the above, the application is entitled to a filing date of May 30, 2003.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **May 30, 2003, not June 2, 2003.**

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff by

Cliff Congo
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 3 - 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MYERS BIGEL SIBLEY & SAJOVEC
P.O. BOX 37428
RALEIGH, N.C. 27627

In re Application of
William Chris Eaton
Application No. 10/449,523
Filed: May 30, 2003
For: REVERSE MOUNTED MICRO-SPEAKER ASSEMBLIES AND MOBILE TERMINALS INCLUDING THE SAME

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on November 29, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

A Revocation and Power of Attorney was filed April 14, 2005. Accordingly, the request is **DISMISSED**.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Dominic J. Chiantera
Moore & Van Allen, PLLC
P.O. Box 13706
Research Triangle Park, N.C. 27709

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

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MAY 11 2007

OFFICE OF PETITIONS

In re Patent No. 6,843,245	:	DECISION GRANTING PETITION
Issue Date: January 18, 2005	:	UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/449,529	:	REQUEST FOR CERTIFICATE
Filed: May 29, 2003	:	OF CORRECTION
Attorney Docket No. 2000P16032WOUS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on January 18, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) and add the claim for priority on the front page of the Letter Patents by way of a Certificate of Correction to prior-filed international Application No. PCT/EP01/13280, filed November 16, 2001.

The petition is **GRANTED**.

A review of the record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional 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 1.78a(2)(i) and 1.78(a)(2)(iii). The present request for a Certificate of Correction is being construed as the amendment required under 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

This application was filed May 29, 2003. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with the 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, Rev. 2, May 2004, page 1400-85, second column.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § §120 and 365(c) to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. **A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.**

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

This patented file is being forwarded to the Certificates of Correction Branch for processing the request for a Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/449,529	05/29/2003	3749	1180	2000P16032WOUS	20	1

CONFIRMATION NO. 7219

CORRECTED FILING RECEIPT

OC000000023792722

46726
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 05/10/2007

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)

Klemens Roch, Trostberg, GERMANY;
Christian Zimmermann, Garching/Alz, GERMANY;
Peter Mallinger, Traunreut, GERMANY;
Wolfgang Schnell, Trostberg, GERMANY;
Klaus Rabenstein, Trostberg, GERMANY;
Josef Gerl, Palling, GERMANY;
Michael Wagner, Grabenstatt, GERMANY;
Reinhard Fleissner, Altenmarkt, GERMANY;
Christian Unterreiner, Ainring, GERMANY;
Johann Herbst, Traunreut, GERMANY;
Bernd Hopfenmuller, Traunreut, GERMANY;
Edmund Kuttalek, Grassau, 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/EP01/13280 11/16/2001

Foreign Applications

GERMANY 10059651.7 12/01/2000

If Required, Foreign Filing License Granted: 07/29/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/449,529

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

HIGH-LEVEL BUILT-IN OVEN UNIT

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.

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The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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SEP 02 2008

In re Patent No. 7,217,784 :
Issued: May 15, 2007 :
Application No. 10/449,531 : NOTICE
Filed: May 29, 2003 :
Attorney Docket No. 08919-081001/ :
14A-890330

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.

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 any future correspondence solely to the address of record.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Y. ROCKY TSAO
OCCHLUTI, ROHLICEK & TAO, LLP
ATTN: JAN ROBIN ROHLICEK
10 FAWCELL STREET
CAMBRIDGE, MA 02138

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of :
Dengler KLAUS et al. : DECISION ON PETITIONS
Application No. 10/449,560 : UNDER 37 CFR 1.183,
Filed: May 29, 2003 : UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 2000P16027WOUS : UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the accompanying Application Data Sheet.

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

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

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

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

All requirements being met, the petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(3) is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

As the previously claimed filing date of the foreign priority document is that of the requested change, 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 **DISMISSED** as moot.

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 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 applications, and the foreign priority claim, 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 to Technology Center Art Unit 1761 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) of the prior-filed applications.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/449,560	05/29/2003	1761	880	2000P16027WOUS	7	20	2

CONFIRMATION NO. 9242

46726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

CORRECTED FILING RECEIPT

OC000000020081884

Date Mailed: 08/17/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Klaus Dengler, Schonau, GERMANY;
Felix Hangl, Freilassing, GERMANY;
Wolfgang Schnell, Trostberg, GERMANY;
Josef Gerl, Palling, GERMANY;
Christian Zimmerman, Garching/Alz, GERMANY;
Klemens Roch, Trostberg, GERMANY;
Klaus Rabenstein, Trostberg, GERMANY;
Michael Wagner, Grabenstatt, GERMANY;
Reinhard Fleissner, Altenmarkt, GERMANY;
Christian Unterreiner, Ainring, GERMANY;
Johann Herbst, Traunreut, GERMANY;
Bernd Hopfenmuller, Traunreut, GERMANY;
Peter Mallinger, Traunreut, GERMANY;
Ingo Bally, Tittmoning, GERMANY;
Edmund Kuttalek, Grassau, 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/EP01/13380 11/19/2001

Foreign Applications

GERMANY 10059658.4 12/01/2000

If Required, Foreign Filing License Granted: 08/01/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/449,560

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

HIGH-LEVEL BUILT-IN OVEN UNIT

Preliminary Class

099

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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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

9/24/03

Fay Sharpe Fagan Minnich and McKee LLP
Seventh Floor
1100 Superior Avenue
Cleveland OH 44114-2579

Dear Applicant:

The Box PGPub replacement drawings for application number 10/449,562 received on 8/11/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-06

Paper No: __

JENKI NS WILSON
TAYLOR & HUNT
3100 TOWER BLVD
SUITE 1200
DURHAM NC 27707

COPY MAILED

JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Borri, et al. :
Application No. 10/449,580 : ON PETITION
Filed: 30 May, 2003 :
Attorney Docket No. 1406/149 :

This is a decision on a petition filed on 18 April, 2006, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the Notice of Allowance/Allowability and Fees Due mailed on 14 November, 2005, with reply due under a non-extendable deadline on or before Monday, 14 February, 2006;
- the application went abandoned by operation of law after midnight 14 February, 2006;
- the record reflects that the 26 January, 2006, attempt to pay the Fees Due failed because of insufficient funds in the deposit account designated;
- the Office mailed the Notice of Abandonment on 6 April, 2006;
- Petitioner filed the instant petition on 18 April, 2006, with fee, reply in the form of fees

due, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAY 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Kumar et al.	:	DECISION ON PETITION
Application No. 10/449,600	:	TO WITHDRAW
Filed: June 2, 2003	:	FROM RECORD
Attorney Docket No. BTU-A-126XX	:	

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 14, 2006.

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

A review of the file record indicates that on August 14, 2006 the power of attorney to Finnegan, Henderson, Farabow, Garrett & Dunner LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

UNITED STATES 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

Foley and Lardner
Suite 500
3000 K Street, NW
Washington, DC 20007

COPY MAILED

SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Chen :
Application No. 10/449,609 :
Filed: June 2, 2003 :
Attorney Docket No. 035879-0163 :

DECISION ON PETITION

This is a decision on the petition filed August 26, 2003, requesting that the above-identified application be accorded a filing date of June 2, 2003.

On June 2, 2003, applicant deposited the above-identified application. On August 8, 2003, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (Notice), stating, inter alia, that the application had not been accorded a filing date and that a complete specification including at least one claim was omitted.

In response, on August 26, 2003, petitioner submitted, inter alia, the present petition, the petition fee, and a copy of the application as filed. Petitioner argues that 44 pages of specification and claims were included with the application papers deposited on June 2, 2003. As evidence thereof, petitioner submitted a copy of his postcard receipt, which acknowledges receipt of "Patent Application Specification (44 pgs.)" on June 2, 2003. Petitioner requests that the application be accorded a filing date of June 2, 2003, and the USPTO refund the petition fee.

A review of the record reveals that pages 41-44 of specification and claims have not been located among the application papers deposited on June 2, 2003. However, the evidence is convincing that the application papers deposited on June 2, 2003, included pages 41-44 of specification and claims, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application was complete on filing and will be accorded a filing date of June 2, 2003.

In view of the above, the petition is granted. The copies of the pages 41-44 of specification and claims submitted with the present petition will be used for examination purposes. The $130.00 petition fee will be refunded by treasury check, as petitioner requested. The requirement for a complete specification and claims as set forth in the Notice of Incomplete of August 8, 2003, was sent in error.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a **filing date of June 2, 2003**, using the application papers filed June 2, 2003, and the copies of pages 41-44 of the specification and claims filed with the present petition.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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

Foley and Lardner
Suite 500
3000 K Street, NW
Washington, DC 20007

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Chen :
Application No. 10/449,609 :
Filed: June 2, 2003 :
Attorney Docket No. 035879-0163 :

DECISION ON PETITION

This is a decision on the petition filed August 26, 2003, requesting that the above-identified application be accorded a filing date of June 2, 2003.

On June 2, 2003, applicant deposited the above-identified application. On August 8, 2003, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (Notice), stating, inter alia, that the application had not been accorded a filing date and that a complete specification including at least one claim was omitted.

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In view of the above, the petition is granted. The copies of the pages 41-44 of specification and claims submitted with the present petition will be used for examination purposes. The $130.00 petition fee will be refunded by treasury check, as petitioner requested. The requirement for a complete specification and claims as set forth in the Notice of Incomplete of August 8, 2003, was sent in error.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a **filing date of June 2, 2003**, using the application papers filed June 2, 2003, and the copies of pages 41-44 of the specification and claims filed with the present petition.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Ralf Roddiger	: DECISION ON REQUEST FOR
Patent Number	: 7659074	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/449,633	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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

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

JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

Mail Date: 04/21/2010

Applicant	: S.M.L. Chamindrani Mendis-Handagama	: DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION
Patent Number	: 7595056	:
Issue Date	: 09/29/2009	:
Appliction No	: 10/449,634	:
Filed	: 05/30/2003	:

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

The patent term adjustment has been determined to be **1003** 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
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/449,662	05/30/2003	Jetze J. Tepe	MSU 4.1-650	6139

21036 7590 11/21/2005

MCLEOD & MOYNE, P.C.
2190 COMMONS PARKWAY
OKEMOS, MI 48864

EXAMINER	
STOCKTON, LAURA	

ART UNIT	PAPER NUMBER
1626	

DATE MAILED: 11/21/2005

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Ian C. McLeod
MCLEOD & MOYNE, P.C.
2190 COMMONS PARKWAY
OKEMOS, MI 48864

Date: November 9, 2005
Application No. 10/449,662
Filed: May 30, 2003
Subject: **NF-kB inhibitors and uses thereof**

ON PETITION
37 CFR 1.48(a)

Receipt is acknowledged of the petition filed May 27, 2005 under 37 CFR 1.48(a) for correction of inventorship. The petition has been **DENIED**.

In the papers filed on May 27, 2005, a new Declaration listing JETZE J. TEPE and SATYAMAHESHWAR PEDDIBHOTLA as the inventors has been found but the Declaration has not been executed by JETZE J. TEPE as required by 37 CFR 1.48(a). Accordingly, the inventorship in this application has not been changed by the **addition of SATYAMAHESHWAR PEDDIBHOTLA.**

Joseph K. McKane

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-1807

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/449,669 Patent No.: _____

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.

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. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Jack K Chiang

JACK CHIANG
SUPERVISORY PATENT EXAMINER

SPE

2825
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Jan-06

GREENBERG & LIEBERMAN, LLC
2141 WISCONSIN AVE, N.W.
SUITE C-2
WASHINGTON DC 20007

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JAN 20 2006

OFFICE OF PETITIONS

In re Application of :
Christoper O'Donnell : DECISION ON PETITION
Application No. 10/449,675 :
Filed: 2 June, 2003 :
Atty Docket No. 2450009292004a :

This is a decision on the petition[1] under 37 CFR 1.137(b),[2] filed on 28 October, 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 decision.

---

[1] It is noted that the petition miscaptions the Application Number as "10/499,675". As the invention title, inventor name, art unit, and examiner name corresponding to Application No. 10/449,675 are listed on the petition, however, it is obvious that the petition is directed to Application No. 10/449,675, **not** Application No. 10/499,675. Additionally, the correct application number is listed on the Power of Attorney and Correspondence Address Indication Form filed with the present petition.

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

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

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

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

This application became abandoned on 15 May, 2005, for failure to timely file a response to the non-final Office action mailed on Notice of Non-compliant Amendment mailed on 14 February, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 4 October, 2005.

The petition lacks the required reply. Although the petition states than an amendment and response has been filed therewith, no amendment or other response to the non-final Office action is located among the papers received with the petition on 28 October, 2005.

Petitioner should resubmit a copy of the reply with a renewed petition.

Receipt of the power of attorney and change of correspondence address is acknowledged.

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

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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DTW Mar-06

GREENBERG & LIEBERMAN, LLC
2141 WISCONSIN AVE, N.W.
SUITE C-2
WASHINGTON DC 20007

COPY MAILED

MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Christoper O'Donnell	:	LETTER DISMISSING PETITION
Application No. 10/449,675	:	
Filed: 2 June, 2003	:	
Atty Docket No. 2450009292004a	:	

This is a communication in response to the paper styled as a renewed petition, filed on 6 February, 2006, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is dismissed for the reasons stated below.

This application became abandoned on 15 May, 2005, for failure to timely file a response to the non-final Office action mailed on Notice of Non-compliant Amendment mailed on 14 February, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 4

---

[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 require additional information where there is a question whether the delay was unintentional; and

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

October, 2005. The petition filed on 28 October, 2005, was dismissed on 20 January, 2006.

The petition is unsigned. 37 CFR 1.4 requires that all papers filed in the USPTO must be signed by either a registered patent attorney or the inventor(s).

Additionally, it is noted that on the original petition filed on 28 October, 2005, it is written next to the statement of unintentional delay: "I have had knowledge of the delay since the power of attorney was executed 1-27-05." Petitioner is reminded that a grantable petition under 37 CFR 1.137(b) requires petitioner provide 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.[2] The Commissioner may require additional information where there is a question whether the delay was unintentional.

Applicant should file a properly signed petition. No additional petition fee is necessary.

A reply to this communication should be submitted within two (2) weeks of receipt of this communication.

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

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

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

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

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[2] 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).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREENBERG & LIEBERMAN, LLC
2141 WISCONSIN AVE, N.W.
SUITE C-2
WASHINGTON DC 20007

COPY MAILED

JUL 21 2006

OFFICE OF PETITIONS

In re Application of :
Christoper O'Donnell :
Application No. 10/449,675 : ON PETITION
Filed: 2 June, 2003 :
Atty Docket No. 2450009292004a :

This is a decision in response to the renewed petition, filed on 16 March, 2006, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 15 May, 2005, for failure to timely file a response to the non-final Office action mailed on Notice of Non-compliant Amendment mailed on 14 February, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 4 October, 2005. The petition filed on 28 October, 2005, was

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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 require additional information where there is a question whether the delay was unintentional; and

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

dismissed on 20 January, 2006. The paper filed on 6 February, 2006, was dismissed in a letter mailed on 6 March, 2006.

A reply was filed on 6 February, 2006.

The application is being referred to Technology Center Art Unit 2643 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed:

RPG
Paper No. December 12, 2005

In re Application of BARAN et al.
Serial No.: 10/449,677
Filed: May 30, 2003

DECISION ON PETITION
UNDER *37 CFR 1.48(b)*

For: STABILIZED PARTICLE DISPERSIONS CONTAINING NANOPARTICLES

This is a decision on the PETITION TO DELETE CORRECTLY NAMED PERSONS WHO ARE NOT INVENTORS OF INVENTION NOW BEING CLAIMED (37 C.F.R. ∋ 1.48(b), filed December 2, 2005 to correct inventorship under 37 CFR 1.48(b) by deleting the names of Brian J. Gabrio and Stephen W. Stein from the present inventorship.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Randy Gulakowski
Supervisory Patent Examiner
Art Unit 1712
Technology Center 1700

3M Innovative Properties Company
P.O. Box 33427
St. Paul, MN 55133-3427

UNITED STATES PATENT AND TRADEMARK OFFICE

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

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

COPY MAILED

MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Jensen et al. :
Application No.10/449,679 : ON PETITION
Filed: May 30, 2003 :
Title of Invention: THERMALLY :
CONDUCTING FOAM INTERFACE :
MATERIALS

This is a decision on the petition under 37 CFR §1.137(b), filed January 26, 2006.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of July 14, 2005. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on December 7, 2005 with a request for a two month extension of time. An Advisory Action mailed on December 21, 2005 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on December 15, 2005. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

Pursuant to petitioner's request deposit account will be charged the $1500.00 petition fee and the $790.00 to deposit account 13-3723.

The Request for Continued Examination (RCE), and the amendment submitted with the instant petition will be forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at

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

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

FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS, MN 55439

Mail Date: 04/20/2010

Applicant	: Dieter H. Nattkemper	: DECISION ON REQUEST FOR
Patent Number	: 7599484	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/449,682	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **403** 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

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

COPY MAILED

MAR 15 2010

In re Patent No. 7,569,252
Issued: November 24, 2009
Application No. 10/449,685
Filed: June 2, 2005
Attorney Docket No. 083847-0217

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

This is a decision on theREQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed on October 2, 2009 and resubmitted January 13, 2010, requesting that the patent term adjustment be corrected from 663 to 1332 days. The Office will consider the PTA request of October 2, 2009 and not the supplemental request of January 13, 2010.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred thirty-two days is **GRANTED.**

It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is 703 days. The "B" delay period, the over three year period begins on June 2, 2006 and ends on August 4, 2009, considering the 34 days of overlap and is therefore 1159 days. As such, the patent term adjustment is 1332 days (703 plus 1159 minus 34 days minus 496 days for applicant delay).

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 three hundred thirty-two (1332)** days.

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

/Kery Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,569,252 B2

DATED : August 4, 2009

INVENTOR(S) : Chad A. Mirkin

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 (663) days

Delete the phrase "by 663 days" and insert – by 1332 days--

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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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MAR 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Neil N. Deeman et al :
Application No. 10/449,727 : ON PETITION
Filed: June 2, 2003 :
Attorney Docket No. 50103-503 :

This is a decision on the petition, filed March 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 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) 272-3208.

The examiner of Technology Center AU 2651 will consider the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : March 9, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

COPY MAILED
MAR 0 9 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Neil N. Deeman et al
Application No. :10/449,727
Filed :June 2, 2003

The above-identified application has been assigned Patent No. 7,012,776 and an issue date of March 14, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 14, 2006:

"All reference to Patent No. 7,012,776 to Neil N. Deeman et al of California for EXPOSURE DOSE CONTROL OF ROTATING ELECTRON BEAM RECORDER appearing in the Official Gazette of March 14, 2006 should be deleted since no patent was granted."

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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

NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

Applicant	: Steven Frank	: DECISION ON REQUEST FOR
Patent Number	: 7653912	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/449,732	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1008** 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

JOHN R BENEFIEL
280 DAINES ST
SUITE 100B
BIRMINGHAM MI 48009

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OFFICE OF PETITIONS

In re Application of :
Gregory P. Ruhlander :
Application No. 10/449,744 :
Filed: May 30, 2003 : DECISION ON PETITION
Attorney Docket No. DUR-102 :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed September 9, 2005.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on June 25, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement,

that requires publication of applications 18 months after filing.

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

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Receipt of the $1500 petition fee is acknowledged.

A "Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing" is enclosed.

The application is being forwarded to Group Art Unit 3679 for examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: "Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing" (1 page)

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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GRAYBEAL JACKSON HALEY LLP
SUITE 350
155-108TH AVENUE N.E.
BELLEVUE, WA 98004-5973

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of :
Roberto Tiziani et al :
Application No. 10/449,749 : ON PETITION
Filed: March 29, 2003 :
Attorney Docket No. 2110-69-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 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 final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 14, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 15, 2007.

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

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, there was no response to the August 17, 2007 Advisory action. A courtesy copy of this Advisory action is being mailed with this decision.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: courtesy copy of the August 17, 2007 Advisory action.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/449,749	05/29/2003	Roberto Tiziani	2110-69-3	5623

7590 08/17/2007

GRAYBEAL JACKSON HALEY LLP
Suite 350
155-108th Avenue N.E.
Bellevue, WA 98004-5973

EXAMINER	
VU, DAVID	

ART UNIT	PAPER NUMBER
2818	

MAIL DATE	DELIVERY MODE
08/17/2007	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.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/449,749	Applicant(s) TIZIANI ET AL.	
	Examiner DAVID VU	Art Unit 2818	

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

THE REPLY FILED 30 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,3-5,9-21,30 and 31*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

Continuation of 11. does NOT place the application in condition for allowance because: The Examiner has considered the Applicant's arguments and does not find them to be persuasive. As clearly indicated in Tsai (col. 3, lines 35-36), gold bumps are formed on the exposed Al bonding pads and UBM layer is formed of Au (i.e, TiW/Au). Therefore, the Au layer is in physical contact with the Al bonding pad. The Al bonding pad is considered to be a monolithic conductive contact pad. Noted that the structure and number of conductive layers (Al contact pads 6/(Au/Pd/ alloy or any conductive material) stud pump 7) forming on the die 2 (Please refer to specification, fig. 1) of the present invention is the same as Tsai 's device (fig. 4; Al contact pads 310a/(Au/TiW alloy) stud pump 310b/UBM).

DAVID VU
PRIMARY EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GRAYBEAL JACKSON HALEY LLP
SUITE 350
155-108TH AVENUE N.E.
BELLEVUE, WA 98004-5973

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OFFICE OF PETITIONS

In re Application of :
Roberto Tiziani et al :
Application No. 10/449,749 : DECISION ON PETITION
Filed: May 29, 2003 :
Attorney Docket No. 2110-69-3 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2818 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KLARQUIST SPARKMAN LLP
121 SW SALMON STREET, SUITE 1600
ONE WORLD TRADE CENTER
PORTLAND, OR 97204

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MAR 12 2007

OFFICE OF PETITIONS

In re Application of
Chad Scherrer et al
Application No. 10/449,755
Filed: May 29, 2003
Attorney Docket No. BAT 03.01

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 25, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

This pending nonprovisional application was filed on May 29, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/384,592, which was filed on May 31, 2002, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. 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).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

As authorized, the $1370 fee required by 37 CFR 1.78(a)(6)(ii) has been charged to petitioner's Deposit Account No. 02-4550.

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

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

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

Frances Hicks
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
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/449,755	05/29/2003	Chad Scherrer	BAT 03.01

CONFIRMATION NO. 5658

OC000000022817189

OC000000022817189

32215
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET, SUITE 1600
ONE WORLD TRADE CENTER
PORTLAND, OR 97204

Date Mailed: 03/08/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/30/2007.

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

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
10/449,755	05/29/2003	Chad Scherrer	BAT 03.01

CONFIRMATION NO. 5658

OC000000022817169

OC000000022817169

48008
VIRTUAL LEGAL, P.C.
MICHAEL A. KERR
3476 EXECUTIVE POINTE WAY, UNIT 16
CARSON CITY, NV 89706

Date Mailed: 03/08/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/30/2007.

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

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

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121 SW SALMON STREET, SUITE 1600
ONE WORLD TRADE CENTER
PORTLAND, OR 97204

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NOV 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Chad Scherrer et al :
Application No. 10/449,755 : DECISION ON PETITION
Filed: May 29, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. BAT 03.01 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed March 21, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

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

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

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.

The application is being forwarded to Technology Center AU 2123 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/449,755	05/29/2003	2123	1043	BAT 03.01	73	6

CONFIRMATION NO. 5658

CORRECTED FILING RECEIPT

32215
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET, SUITE 1600
ONE WORLD TRADE CENTER
PORTLAND, OR 97204

Date Mailed: 11/20/2007

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

Applicant(s)

Chad Scherrer, Pasco, WA;
Bradley Woodworth, Richland, WA;

Assignment For Published Patent Application

Battelle, Richland, WA

Power of Attorney: The patent practitioners associated with Customer Number 32215

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/384,592 05/31/2002

Foreign Applications

If Required, Foreign Filing License Granted: 07/23/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/449,755**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

System and method for anomaly detection

Preliminary Class

703

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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DIW Jan-06

MRS. JOYCE ELLIS
1616 MICHELLE CIRCLE
MEMPHIS TN 38107

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Joyce M. Ellis :
Application No. 10/449,779 : DECISION ON PETITION
Filed: 2 June, 2003 :
For: FIREARM SAFETY TRACKING :
SYSTEM :

This is a decision on the petition filed on 10 August, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 19 August, 2004, for failure to timely reply to the non-final Office action mailed on 18 May, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 7 January, 2005.

---

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

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

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

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

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

Petitioner has submitted an amendment with the present petition.

This application is being referred to Technology Center Art Unit 3662 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DRW Oct-06

AVAGO TECHNOLOGIES, LTD.
P.O. BOX 1920
DENVER CO 80201-1920

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OFFICE OF PETITIONS

In re Application of	:	
Kakarala et al.	:	DECISION ON PETITION TO
Application No. 10/449,783	:	WITHDRAW HOLDING OF
Filed: 30 May; 2003	:	ABANDONMENT
Attorney Docket No. 10021046-1	:	

This is a decision on the petition to withdraw the holding of abandonment, filed on 14 August, 2006.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Office action requiring restriction or election mailed on 23 December, 2005. Notice of Abandonment was mailed on 31 July, 2006.

Petitioner asserts that a response to the Office action was timely filed on 21 February, 2006. In support, petitioner has supplied a copy of an amendment and transmittal letter, including an election and a one (1) month extension of time, which contains a Certificate Under 37 CFR 1.8 dated 21 February, 2006, signed by registered patent attorney Robert A. Blaha. Petitioners have also supplied a copy of the USPTO's Auto-Reply Facsimile Transmission showing 11 pages, including the first page of the reply, were received at the USPTO on 21 February, 2006. Petitioners further note that the application number was miscaptioned on petitioners' reply to the Office action as Application No. "10/499,783".

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the ***original*** response on the date indicated on the Certificate of Transmission (*see* 37 CFR 1.8 and MPEP 512).

As petitioner has provided convincing evidence that a reply to the Office communication requiring restriction or election was transmitted to the USPTO on 21 February, 2006, 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.

A review of the papers filed with the petition reveals that the copy of the postcard, extension of time request, and response to the Office communication miscaption the application number as 10/4**9**9,783. 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.

The papers filed on 21 February, 2006, have been located in the Office.

The address in the petition is different than the correspondence address. A copy of this decision is being mailed to the address listed in the petition. All future correspondence will be mailed solely to the address of record.

The application is being referred to Technology Center Art Unit 2629 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC
P.O. BOX 88148
ATLANTA, GA 30356

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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April 2004

Duckor, Spradling & Metzger
1940 Duke Street
Alexandria, VA 22314

APR - 8 2004

In re Application of	:	
John V. Smith et al.	:	DECISION ON PETITION
Application No.: 10/449,799	:	TO MAKE SPECIAL
Filing Date: May 29, 2003	:	
Attorney's Docket No.: 7719.110	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed via Express Mail on May 29, 2003, to make the above-identified application special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by:

(a) the required petition fee set forth in 37 C.F.R. § 1.17(h),
(b) a statement that all claims are directed a single invention or in the event that the United States Patent and Trademark Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse as a prerequisite to the grant of special status,
(c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass,
(d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and
(e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition includes a showing that complies with the above requirements to permit the application to be made special under the accelerated examination procedure.

Accordingly, the petition is **granted**.

The application will be indicated to be special and prosecution will proceed according to the accelerated examining procedures set forth in MPEP § 708.02 (VIII). However, as also set forth in MPEP § 708.02 VIII, if a restriction requirement is made by the Office and applicant refuses to make an election without traverse, the petition will be denied on the ground that all the claims are not directed to a single invention and the application will await action in its regular turn.

Inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/449,808	05/30/2003	Gopal Vasudevan	040092-029400US	8900

31824 7590 09/02/2004

MCDERMOTT WILL & EMERY LLP
18191 VON KARMAN AVE.
IRVINE, CA 92612-7107

EXAMINER	
ART UNIT	PAPER NUMBER
2872	

DATE MAILED: 09/02/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

Paper No. 072804

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

AUG 27 2004

In re Application of:	:	
GOPAL VESUDEVAN	:	DECISION ON REQUEST TO WITHDRAW
Serial No.: 10/449,808	:	FROM RECORD
Filed: May 30, 2003	:	
Attorney Docket No.: **040092-029400US**	:	

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 6, 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: MARK J. ITRI
MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVE., SUITE 400
IRVINE, CA 92612-0187

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JAN 05 2010

OFFICE OF PETITIONS

In re Application of :
Morten Middelfart :
Application No. 10/449,811 : NOTICE
Filed: May 29, 2003 :
Attorney Docket No. **1032927-000076** :

This is a notice regarding your request filed November 4, 2009, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **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) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

Mail Date: 04/21/2010

Applicant	: Sergey S. Grigoryants	: DECISION ON REQUEST FOR
Patent Number	: 7625346	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/449,826	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **908** 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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

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MAR 3 1 2008

In re Application of :

IVANOV, Vadim et al. :
Application No. 10/449,828 : DECISION ON PETITION
Filed: May 30, 2003 : TO WITHDRAW
Attorney Docket No. **11957/47401** : 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 05, 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).

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).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, (assignee has failed to honor its financial obligations), 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 the undersigned at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ALI KAMAREI, ESQ.**
280 COLORADO AVENUE
PALO ALTO, CA 94301

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OFFICE OF PETITIONS

In re Application of

IVANOV, Vadim et al.
Application No. 10/449,828
Filed: May 30, 2003
Attorney Docket No. **11957/47401**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 02, 2008.

The request is **APPROVED**.

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

The request was signed by John Resek on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **VADIM IVANOV**
4699 OLD IRONSIDES DRIVE
SUITE 300
SANTA CLARA, CA 95054

cc: **ALI KAMAREI, ESQ.**
280 COLORADO AVENUE
PALO ALTO, CA 94301

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DAVID A. JACKSON
KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

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JAN 23 2004

OFFICE OF PETITIONS

In re Application of
Jonathan Alexander Terrett et al
Application No. 10/449,829
Filed: May 30, 2003
Attorney Docket No. 2543-1-029

NOTICE

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

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

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

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

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
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Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

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

The centralized facsimile number is **(703) 872-9306.**

This file is being forwarded to Technology Center AU 1645.

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

10 SEP 2004

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

In re Application of
PELLETIER, Jerry et al.
Application No.: 10/449,830
Filing Date: 31 May 2003
Attorney Docket No.: 073406-0304
For: COMPOSITIONS AND METHODS INVOLVING AN ESSENTIAL STAPHYLOCOCCUS AUREUS GENE AND ITS ENCODED PROTEIN STAAU_R2

DECISION ON

PETITION

UNDER 37 CFR 1.182

This decision is in response to applicants' "Petition For Conversion of National Application Filed Under 35 U.S.C. §111 to National Stage Application Under 35 U.S.C. §371," filed on 22 December 2003. It has been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 30 November 2001, applicants filed international application PCT/CA01/01754, which claimed a priority date of 30 November 2000. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 May 2003.

On 31 May 2003, applicants filed a continuation-in-part (CIP) application, which was accompanied by, *inter alia*, utility filing fee and a preliminary amendment.

On 22 December 2003, applicants filed the instant petition to convert.

DISCUSSION

This decision is in response to applicants' petition filed on 22 December 2003 requesting to convert the above-captioned application to a national stage application of PCT/CA01/01754 pursuant to 35 U.S.C. 371. Applicants CIP application was not filed prior to the expiration of thirty months from the priority date. The international application was abandoned when the CIP was filed.

Further, a review of the above-captioned application file verifies that it was properly filed under 35 U.S.C. 111(a). The USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

The Patent and Trademark Office is continuing to receive application papers

> which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111 . . .

If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

Here, the reference to 37 CFR 1.53(b) at the top of the transmittal letter filed on 31 May 2003 is an instruction to process the application pursuant to 35 U.S.C. 111(a). Thus, the application was correctly accepted as a filing under 35 U.S.C. 111(a) pursuant to 1077 OG 13. Nevertheless, applicants filed the instant petition to convert to a national stage application which is treated as a petition under 37 CFR 1.182. The $130.00 petition fee has been paid.

U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available.

In the present petition, applicants have not made a showing that a loss of patent rights would occur if the above-captioned application is a filing under 35 U.S.C. 111(a).

Applicants may wish to consider claiming benefit of the PCT application under 35 USC 120 and filing a petition to revive an unintentionally abandoned international application for continuity.

CONCLUSION

As discussed above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

As of 01 October 2004, the undersigned's phone number will be (571) 272-3292 and PCT Legal Administration's facsimile number will be (571) 273-0459.

This application is being forwarded to OIPE for further processing under 35 U.S.C. 111(a).

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

22 DEC 2004
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

In re Application of	
PELLETIER, Jerry et al.	
Application No.: 10/449,830	DECISION ON
Filing Date: 31 May 2003	
Attorney Docket No.: 073406-0304	PETITION
For: COMPOSITIONS AND METHODS INVOLVING AN ESSENTIAL STAPHYLOCOCCUS AUREUS GENE AND ITS ENCODED PROTEIN STAAU_R2	UNDER 37 CFR 1.182

This decision is in response to applicants' "Response to Decision On Petition Under 37 C.F.R. §1.182," filed on 03 November 2004.

BACKGROUND

On 30 November 2001, applicants filed international application PCT/CA01/01754, which claimed a priority date of 30 November 2000. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 30 May 2003.

On 31 May 2003, applicants filed a continuation-in-part (CIP) application, which was accompanied by, *inter alia*, utility filing fee and a preliminary amendment.

On 22 December 2003, applicants filed a petition to convert.

On 10 September 2004, the Office mailed Decision On Petition, dismissing applicants' petition without prejudice.

On 03 November 2004, applicants filed "Response to Decision On Petition Under 37 C.F.R. §1.182."

DISCUSSION

Applicants claim that international application PCT/CA01/01754 filed 30 November 2001 has a priority date of 01 December 2000. The published international application lists the priority date as 30 November 2000. Under PCT Rule 26*bis*.1(a), applicants had until 16 months from the priority date to correct the priority claim. Records do not reflect that such a correction was made. As such, PCT/CA01/01754 expired at midnight on 30 May 2003.

Applicants may wish to consider claiming benefit of the PCT application under 35 USC 120 and filing a petition to revive an unintentionally abandoned international application for continuity. Applicants may also wish to file a petition to correct the filing date in 09/727,892.

CONCLUSION

As discussed above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

This application is being forwarded to OIPE for further processing under 35 U.S.C. 111(a).

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

11 MAR 2005

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

In re Application of	:	
PELLETIER, Jerry et al.	:	
Application No.: 10/449,830	:	DECISION ON
Filing Date: 31 May 2003	:	
Attorney Docket No.: 073406-0304	:	PETITION
For: COMPOSITIONS AND METHODS	:	
INVOLVING AN ESSENTIAL	:	UNDER 37 CFR 1.181
STAPHYLOCOCCUS AUREUS GENE	:	
AND ITS ENCODED PROTEIN	:	
STAAU_R2	:	

This decision is in response to applicants' "Second Response to Decision On Petition Under 37 C.F.R. §1.182," filed on 18 February 2005. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 30 November 2001, applicants filed international application PCT/CA01/01754. On 03 June 2002, applicants filed a 26*bis* change with the Canadian Receiving Office, changing the priority date to 01 December 2000. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 June 2003.

On 31 May 2003, applicants filed a continuation-in-part (CIP) application, which was accompanied by, *inter alia*, utility filing fee and a preliminary amendment.

On 22 December 2003, applicants filed a petition to convert.

On 10 September 2004, the Office mailed Decision On Petition, dismissing applicants' petition without prejudice.

On 03 November 2004, applicants filed "Response to Decision On Petition Under 37 C.F.R. §1.182."

On 22 December 2004, the Office mailed Decision On Petition, dismissing applicants' petition and indicating that the Office had no record of a 26*bis* change for the international application.

On 18 February 2005, applicants submitted the instant petition, including a copy of Notification Relating to Priority Claim, mailed 16 August 2002, indicating that the priority date had been corrected to 01 December 2000.

DISCUSSION

On 16 August 2002, the Canadian Receiving Office entered a correction to the priority date received from applicant on 03 June 2002. The correction changed the priority date to 01 December 2000. As such, applicants filed this patent application prior to the expiration of PCT/CA01/01754 on 31 May 2004.

CONCLUSION

As discussed above, the petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to OIPE for further processing under 35 U.S.C. 111(a), including treatment of the Request For Corrected Official Filing Receipt, filed 18 February 2005.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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TECHNOLOGY CENTER 2600

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of
Karl Schmidt
Application No. 10/449,846
Filed: May 30, 2003

For: **SHADING COMPUTER-GENERATED OBJECTS USING GENERALIZED SHADING REGIONS**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on April 25, 2004.

A grantable request to withdraw as agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Agent Robert A. Hulse (00758) listed in the Request to withdraw is withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to TC 2600 Technical Support Staff.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc:

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

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Paper No. 6

SCHWEGMAN, LUNDBERG,
WOESSNER & KLUTH, P.A.
PO BOX 2938
MINNEAPOLIS, MN 55402

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AUG 1 8 2004

OFFICE OF PETITIONS

In re Application of
Baumann et al.
Application No. 10/449,856
Filed: May 29, 2003
Attorney Docket No. 1154.002US2

ON PETITION

This decision concerns the March 11, 2004 "Response to Notice of Omitted Item - Petition under 1.182." The petition asserts filing with the original application of the allegedly omitted page of specification and is being properly treated as a petition under 37 CFR 1.53(e)(2).

The petition is **GRANTED.**

The application was filed on May 29, 2003. As indicated in the January 6, 2004 "Notice of Omitted Item in a Nonprovisional Application" ("1/6/04 Notice"), a filing date had been accorded this application, but Page 4 of the specification appeared to have been omitted from the filed application. The petition then followed.

The petition contends that the allegedly omitted page of specification was filed with the other application papers on May 29, 2003. In support, the petition is accompanied by a copy of Applicants' postcard receipt, indicating receipt in the USPTO for this application on May 29, 2003 of, *inter alia*, 58 pages of specification (including 51 claims and 1 page of Abstract). The petition also encloses a copy of the Page 4 purportedly filed on May 29, 2003.

The Office file for this application contains 57 pages of specification (including 51 claims and 1 page of Abstract), but not a Page 4. Based on the information contained in Applicants' postcard receipt, the Office concludes that Page 4 of the specification had been filed on May 29, 2003, but was later misplaced. The petition is thus granted.

The 1/6/04 Notice is hereby vacated.

No petition fee is owed. The $130 petition fee has been credited to Deposit Account No. 19-0743 as authorized in the instant petition.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of May 29, 2003, using the papers filed on that date and supplemented with the Page 4 of specification submitted with the instant petition. Thereafter, the file will be forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Edward Tannouse
Senior Petitions Attorney
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 :
Gennadiy G. Kolomeyer, et al. :
Application No. 10/449,859 : ON PETITION
Filed: May 30, 2003 :
Atty Docket No. 07050.0010U1 :

This is a decision on the petition, filed November 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 8, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1621 for further processing of the request for continued examination under 37 CFR 1.114 filed November 22, 2004.

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

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

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MAY - 4 2004

M. WAYNE WESTERN
THORPE NORTH & WESTERN, LLP
P.O. BOX 1219
SANDY UT 84091-1219

In re Application of	:
Angela Anibogu et al	:
Serial No.: 10/449,861	: PETITION TO MAKE SPECIAL
Filed: May 30,2003	:
Attorney Docket No.: 21767.NP	:

This is in response to applicants' petition filed December 22, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The petition could not be addressed until after completion of processing by OIPE.

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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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
Sirota et al. :
Application No. 10/449,863 : DECISION ON PETITION
Filed: May 30, 2003 :
Attorney Docket no.: 14618-010001 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed December 1, 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 March 2, 2007. A Notice of Abandonment was mailed on June 25, 2007.

This petition is hereby **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 of $750.00 , and (3) an adequate statement of unintentional delay.

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

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being referred to Technology Center AU 2144 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

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

2171

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HICKMAN PALERMO TRUONG & BECKER
1600 WILLOW STREET
SAN JOSE, CA 95125

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OFFICE OF PETITIONS

In re Application of
Edwina Lu et al
Application No. 10/449,873
Filed: May 30, 2003
Attorney Docket No. 50277-2087

: DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed November 20, 2003, requesting that the above-identified application be accorded a filing date of May 30, 2003, rather than the presently accorded filing date of May 29, 2003.

Applicants request the later filing date on the basis that the application was purportedly deposited in Express Mail service on May 30, 2003, pursuant to the requirements of 37 CFR 1.10. While the copy of the Express Mail label receipt No. EV323354217US bears a handwritten "date-in" of May 20, 2003, it also includes a "San Jose, CA USPS" receipt stamp dated May 30, 2003.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date-In" on the Express Mail label, MPEP 513. In view of the evidence presented, the Office concludes that the correct "date-in" is May 30, 2003. Accordingly, the instant application is entitled to a filing date of May 30, 2003, and has been so accorded.

The petition is granted.

The $130.00 petition fee is unnecessary, applicants may request a refund of this fee by writing to: Mail Stop 16, Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The application is being returned to the Office of Initial Patent Examination for preexamination processing.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

This application is being referred to Technology Center AU 2171 for examination in due course.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Edwina Lu	: DECISION ON REQUEST FOR
Patent Number	: 7613741	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/449,873	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **173** 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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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 05/18/2010

Applicant : Edwina Lu
Patent Number : 7613741
Issue Date : 11/03/2009
Application No: 10/449,873
Filed : 05/30/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **221** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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FRANCIS B. FATATO
302 OAK LANE EAST
EXTON, PA 19341

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NOV 2 1 2003

OFFICE OF PETITIONS

In re Application of
Francis B. Fatato and Eric K. Staudt
Application No. 10/449,923
Filed: June 2, 2003
Title: MONOLAYER FOAMED CORRUGATED SLEEVE

Dear FRANCIS B. FATATO:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

SYNNESTVEDT & LECHNER, LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA, PA 19107-2950

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MAR 29 2004

Office of the Director
Group 3600

Delbert J. Barnard
Barnard, Loop & McCormack LLP
P.O. Box 58888
Seattle WA 98138

In re application of : **DECISION ON PETITION**
Raymond Keith Foster : **TO MAKE SPECIAL**
Application No. 10/449,933 : **(APPLICANT'S AGE)**
Filed: May 30, 2003 :
For: HEAVY-DUTY RECIPROCATING SLAT CONVEYOR

This is a decision on the petition submitted on August 1, 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 an affidavit signed by Mr. Foster indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/mjz: 3/23/04

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OFFICE OF PETITIONS

In re Application of :
Chicklis et al. :
Application No. 10/449,974 : DECISION ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. 20030009 US :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed with a Certificate of Facsimile dated October 27, 2004, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice to File Missing Parts (Notice) mailed on July 30, 2003, which set a two (2) month shortened statutory period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. A reply was due on or before September 30, 2003.

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 September 22, 2003 of, *inter alia,* a Declaration and Power of Attorney, a copy of the Notice, a response to the Notice, and an addressed postage paid receipt postcard. A copy of the previously submitted reply accompanies the petition. Also, the reply has a Certificate of Mailing under 37 CFR 1.8 dated September 19, 2003

The reply, including a declaration and authorization to charge the late declaration surcharge to a deposit account, acknowledged as having been received in the USPTO on September 22, 2003 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply, with a Declaration and authorization to charge the late declaration surcharge to a deposit account, was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on September 22, 2003.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received with petition.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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John S. Pratt, Esq.
Kilpatrick Stockton, LLP
1100 Peachtree Street
Atlanta, GA 30309

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AUG 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Richard N. Terry, et al. :
Application No. 10/449,977 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. 02706-0491 (42276-286226) :

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 1700.

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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United States Patent and Trademark Office
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KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH, WI 54956

Mail Date: 04/21/2010

Applicant	: Jerome Steven Veith	: DECISION ON REQUEST FOR
Patent Number	: 7604624	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/449,988	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **565** 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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Paper No.

Alex L. Yip
Kaye Scholer LLP
425 Park Avenue
New York NY 10022

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MAY 12 2008

OFFICE OF PETITIONS

In re Application of :
Marc. J. Apfelbaum :
Application No. 10/449,991 : DECISION ON PETITION
Filed: May 30, 2003 : PURSUANT TO
Attorney Docket Number: 61575-1033 : 37 C.F.R. § 1.137(B)
Title: TECHNIQUE FOR RECORDING ENTERTAINMENT PROGRAMMING CONTENT WITH LIMITED MEMORY CAPACITY :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 22, 2007, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 12, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on April 13, 2007.

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.

Rule 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 this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this 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 this petition.

With this petition, Petitioner has submitted an amendment, the petition fee, and a statement that is being construed as the proper statement of unintentional delay. A terminal disclaimer is not required. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

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 was intentional, Petitioner must notify the Office.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was filed concurrently with this petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: STRAUB & POKOTYLO
620 TINTON AVENUE
BLDG. B, 2ND FLOOR
TINTON FALLS, NJ 07724

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1 See 37 C.F.R. § 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

12 MAY 2004

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Ken J. Pedersen
Barbara Pedersen
Pedersen & Company
P.O. Box 2666
Boise, Idaho 83701-2666

In re Application of :
AGRAMONT CRUANYES et al. :
Application No.: 10/450,004 : DECISION VACATING
PCT No.: PCT/ES02/00440 : NOTIFICATION OF MISSING
Int. Filing Date: 17 September 2002 : REQUIREMENTS
Priority Date: 04 October 2001 :
Attorney Docket No.: 3495 :
For: CONTAINER FOR DISPENSING SHAMPOO, GEL AND OTHER SIMILAR PRODUCTS

This is a response to applicants' "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office" dated 11 May 2004, which has been treated as a request to vacate the Notification of Missing Requirements (PCT/DO/EO/905) mailed 15 April 2004 in view of the filing of the English translation of the international application on 05 April 2004.

On 17 September 2002, applicants filed international application PCT/ES02/00440 which claimed a priority date of 04 October 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 05 April 2004. (04 April 2004 was a Sunday.)

On 04 June 2003, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee; a copy of the international application; and an executed declaration.

On 14 April 2004, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring an English translation of the international application was needed. The notification set a time limit of two (2) months in which to respond.

On 11 May 2004, applicants filed "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office" which was accompanied by a copy of the English translation of the international application filed on 05 April 2004 and a postcard receipt evidencing its receipt in the Patent and Trademark Office on 05 April 2004 and requests, in effect, that the copy of the English translation of the international application be accepted as a true copy of the translation filed 05 April 2004.

Applicants have provided a copy of their date-stamped postcard receipt. The receipt identifies the application by applicants, application number, title of invention, and the docket number. The receipt itemizes, among other things, an English translation of the international application. The receipt is stamped "Rec'd. PCT/PTO 05 APRIL 2004" across its face is sufficient to indicate that the English translation of the international application was in fact received in the Office on 05 April 2004. Therefore, applicants' request to vacate the Notification of Missing Requirements is **GRANTED**.

In view of the English translation of the international application filed 05 April 2004, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 14 April 2004 is hereby **VACATED**.

The application has an international filing date of 17 September 2002 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **05 April 2004**.

This application is being returned to the United States/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: (703) 308-6314
Fax: (703) 308-6459

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BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

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OFFICE OF PETITIONS

In re Application of	:	
Knoll et al.	:	
Application No.: 10/450006	:	ON PETITION
Filing or 371(c) Date 11/20/2003	:	
Title of Invention:	:	
METHOD FOR PRODUCING	:	
HIGH-SPEED VERTICAL NPN	:	
BIOPOLAR TRANSISTORS AND	:	
COMPLEMENTARY MOS	:	
TRANSISTORS ON A CHIP	:	

This is a notice regarding request for acceptance of a fee deficiency submission on September 11, 2006 bnder 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.

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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ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

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MAR 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Knoll et al.	:	
Application No.: 10/450006	:	ON PETITION
Filing or 371(c) Date 11/20/2003	:	
Title of Invention:	:	
METHOD FOR PRODUCING	:	
HIGH-SPEED VERTICAL NPN	:	
BIOPOLAR TRANSISTORS AND	:	
COMPLEMENTARY MOS	:	
TRANSISTORS ON A CHIP	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 7, 2006. 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 Notice of Allowance and Issue Fee Due, mailed February 6, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on May 7, 2007. A Notice of Abandonment was mailed august 11, 2006.

Applicant has submitted the issue and publication fees With the petition[1]. Accordingly, the petition is granted.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] Applicant filed a fee deficiency payment on September 11, 2006. A letter of acceptance of fee deficiency follows under separate cover.

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Joseph S Tripoli
Thomson Multimedia Licensing Inc
Patent Operations CN 5312
Princeton NJ 08543-0028

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APR 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Andreaux et al. :
Application No.: 10/450013 : ON PETITION
Filing or 371(c) Date: 12/10/2003 :
Attorney Docket Number: :
PF000125 :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed February 8, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed June 19, 2007. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on September 20, 2007. The mailing of 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 an Amendment; (2) the petition fee; and (3) a proper statement of unintentional delay.

The application is being referred to Technology Center Art Unit 2131 for processing of the Amendment/reply filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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NOV 27 2006

OFFICE OF PETITIONS

Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

In re Application of :
Michael Lopez :
Application No. 10/450,022 : DECISION ON PETITION
Filed: June 5, 2003 : TO WITHDRAW
Attorney Docket No. 4662-364 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with the firm Morrison & Foerster has been revoked by the assignee of the patent application on October 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Nixon & Vanderhye, PC**
901 North Glebe Road, 11th Floor
Arlington, VA 22203

12 JAN 2005

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ASTRA ZENECA PHARMACEUTICALS LP
GLOBAL INTELLECTUAL PROPERTY
1800 CONCORD PIKE
WILMINGTON DE 19850-5437

In re Application of	:	DECISION ON
BARLAAM et al.	:	
Application No.: 10/450,023	:	PETITION
PCT. No.: PCT/SE01/02724	:	
Int'l Filing Date: 07 December 2001	:	UNDER 37 CFR §1.78(a)(6)
Attorney Docket No.: 100216-1P US	:	
For: THERAPEUTIC COMPOUNDS	:	

This is a decision on applicant's "Petition Under 37 CFR §1.78(a)(6)" to accept an unintentionally delayed claim of benefit under 37 U.S.C.119(e) for the benefit of two prior-filed provisional applications set forth in the concurrently filed amendment. The petition was filed in the United States Patent and Trademark Office on 21 April 2004.

BACKGROUND

On 07 December 2001, applicant filed international application PCT/SE01/02724, which claimed priority of two earlier U.S. provisional applications filed 07 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 13 June 2003. The deadline for payment of the basic national fee was to expire 30 months from the priority date, or on 07 June 2003.

On 06 June 2003, applicant filed a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO/1390), accompanied by, *inter alia*, the basic national filing fee.

On 21 April 2004, applicant filed the present petition under 37 CFR §1.78(a)(6).

DISCUSSION

A petition for acceptance of a claim for late priority under 37 CFR §1.78 (a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §1.78(a)(6), petitioner submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications.

The instant pending nonprovisional application was filed on 07 December 2001 and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications was not included in the first sentence of the specification following the title, reference nevertheless was made in the declaration filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §1.78(a) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§1.78(a)(2)(ii) and 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim priority under 37 CFR §§1.78(a)(3) and 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the declaration filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the petition fee of $1330 is unnecessary and will be refunded to petitioner's deposit account in due course.

CONCLUSION

For the reasons above, the petition under 37 CFR §1.78(a)(6) is **MOOT**.

Any questions concerning this decision may be directed to the undersigned. All other inquires concerning either the examination procedures or status of the application should be directed to the Technology Center.

The examiner of Technology Center Art Unit 3626 will take appropriate action on the amendment filed 21 April 2004 including consideration of the claim under 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed provisional applications.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Cynthia M. Kratz
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

[1] *Note* MPEP 201.11(V), page 200-63 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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WILMINGTON DE 19850-5437

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OFFICE OF PETITIONS

In re Patent No. 7,256,201	:	DECISION ON REQUEST
Barlaam et al.	:	FOR RECONSIDERATION OF
Issue Date: August 14, 2007	:	PATENT TERM ADJUSTMENT
Application No. 10/450,023	:	and
Filed: June 6, 2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 100216-1P US	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)" filed August 29, 2007. Patentees request correction of the Patent Term Adjustment as shown on the Issue Notification (on the patent) from two hundred sixty-eight (268) days to three hundred twenty-one (321) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred twenty-one (321) days.

On August 14, 2007, the above-identified application matured into U.S. Patent No. 7,256,201. The instant request for reconsideration filed August 29, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 268 days. In essence, patentees dispute the entry of both a reduction of 10 days for an amendment and a reduction of 61 days associated

with the filing of drawings after the mailing of the notice of allowance. Patentees maintain that the newly submitted drawings were part of the complete, single response, i.e., an amendment under 37 C.F.R. §1.312, to the Notice to File Corrected Application Papers, which response also included the amendments to the specification required in connection with the drawings. Accordingly, patentees contend that the second reduction of 61 days is not warranted.

Patentees' contention is well taken. 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) 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; …

On June 5, 2007, patentees filed an amendment under § 1.312 which included drawings. On June 14, 2007, the examiner mailed a Response to 312 Communication. This paper was responsive to both the amendment and drawings. Accordingly, a single period of reduction of 10 days should have been entered for both papers. Accordingly, the reduction of 61 days is being removed.

In view thereof, the patent term adjustment indicated on the patent should be THREE HUNDRED TWENTY-ONE (321) 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 THREE HUNDRED TWENTY-ONE (321) 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 : 7,256,201 B2

DATED : **August 14, 2007**

INVENTOR(S) : Barlaam 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 268 days

Delete the phrase "by 268 days" and insert – by 329 days--

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OFFICE OF PETITIONS

In re Patent No. 7,256,201	:	**CORRECTED** DECISION ON
Barlaam et al.	:	REQUEST FOR RECONSIDERATION
Issue Date: August 14, 2007	:	OF PATENT TERM ADJUSTMENT
Application No. 10/450,023	:	AND
Filed: June 6, 2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 100216-1P US	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)" filed August 29, 2007. Patentees request correction of the Patent Term Adjustment as shown on the Issue Notification (on the patent) from two hundred sixty-eight (268) days to three hundred twenty-nine (329) days.

By telephone call on February 5, 2008, an attorney of record called and advised the undersigned that there was an error in the decision mailed January 30, 2008. Specifically, although a Certificate of Correction stating the correct number of days of 329 days accompanied the decision (and the Office records were properly corrected to show 329 days), the decision stated that the PTA was corrected to 321 days. This error has been corrected with the mailing of this decision correctly stating 329 days as the requested and granted PTA throughout.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a

revised Patent Term Adjustment of three hundred twenty-nine (329) days.

On August 14, 2007, the above-identified application matured into U.S. Patent No. 7,256,201. The instant request for reconsideration filed August 29, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 268 days. In essence, patentees dispute the entry of both a reduction of 10 days for an amendment and a reduction of 61 days associated with the filing of drawings after the mailing of the notice of allowance. Patentees maintain that the newly submitted drawings were part of the complete, single response, i.e., an amendment under 37 C.F.R. §1.312, to the Notice to File Corrected Application Papers, which response also included the amendments to the specification required in connection with the drawings. Accordingly, patentees contend that the second reduction of 61 days is not warranted.

Patentees' contention is well taken. 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) 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; …

On June 5, 2007, patentees filed an amendment under § 1.312 which included drawings. On June 14, 2007, the examiner mailed a Response to 312 Communication. This paper was responsive to

both the amendment and drawings. Accordingly, a single period of reduction of 10 days should have been entered for both papers. Accordingly, the reduction of 61 days is being removed.

In view thereof, the patent term adjustment indicated on the patent should be THREE HUNDRED TWENTY-NINE (329) 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 THREE HUNDRED TWENTY-NINE (329) 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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,256,201 B2

DATED : **August 14, 2007**

INVENTOR(S) : Barlaam 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 268 days

Delete the phrase "by 268 days" and insert – by 329 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 12/15/08

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/450624 Patent No.: 7129271 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ Approved	All changes apply.
☐ Approved in Part	Specify below which changes **do not** apply.
☐ Denied	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE 1625 Art Unit

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February 17, 2009

Lisa M. Caldwell
One World Trade Center
Suite 1600
121 S. W. Salmon Street
Portland, OR 97204

Patent No.: 7,129,271 B2
Application No.: 10/450,024
Inventor(s): Gary O. Maupin, et al.
Issued: October 31, 2006
Title: **COMPOUNDS FOR PEST CONTROL AND METHODS FOR THEIR USE**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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OFFICE OF PETITIONS

In re Application of
Gary O. Maupin et al
Application No. 10/450,024
Filed: November 10, 2003
Attorney Docket No. 6395-66067

: DECISION DISMISSING PETITION
: UNDER 37 CFR 3.81(b)

This is a decision on the petition, filed June 5, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **dismissed**.

Petitioner states that the assignee is The Government of the United States of America as represented by the Secretary of the Department of Health and Human Services, Centers for Disease Control and Prevention, Washington, DC (US) & State of Oregon acting by through the State Board of Higher Education on behalf of Oregon State University, Corvallis, OR (US) and that The Government of the United States of America as represented by the Secretary of the Department of Health and Human Services, Centers for Disease Control and Prevention, Washington, DC (US) & State of Oregon acting by through the State Board of Higher Education on behalf of Oregon State University, Corvallis, OR (US) was unintentionally not included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee.

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(h) of this chapter.

[1] See Official Gazette of June 22, 2004

The patent issued on October 31, 2006 with State of Oregon Acting by and through the State Board of Higher Education on Behalf of Oregon State University as the assignee. Therefore, this petition is hereby dismissed.

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Irvin Dingle
Petitions Examiner
Office of Petitions

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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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DEC 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,129,271 :
Issue Date: October 31, 2006 :
Application No. 10/450,024 : ON PETITION
Filed: November 10, 2003 :
Attorney Docket No. 6395-66067 :

CORRECTED DECISION

This is a decision on the petition filed June 5, 2009, under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The decision mailed December 8, 2009 is hereby vacated as of the mail date of this decision.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

30 SEP 2003
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Arthur R. Crawford
Nixon & Vanderhye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of	:	
Muruganadam et al.	:	
Application No. 10/450,036	:	DECISION ON
PCT No.: PCT/CA01/00783	:	
Int. Filing Date: 25 May 2001	:	PETITION UNDER
Priority Date: 26 May 2000	:	
Atty. Docket No.: 1339-25	:	37 CFR 1.137(b)
For: Development Of Single-Domain	:	
Brain-Targeting Antibody Fragments	:	
Derived From Llama Antibodies	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 10 June 2003.

BACKGROUND

This international application was filed on 25 May 2001, claimed an earliest priority date of 26 May 2000, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 25 July 2002. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 26 November 2002, This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the basic national fee.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes a statement that "The delay in prosecuting this case (i.e. filing the declaration and paying the filing fee) up to the date of filing this Petition was unintentional." This statement is being construed as a statement that

"the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED** as to the national stage in the United States.

Applicant is advised that the declaration is defective in that the name of the third listed inventor, "Saran Narang," differs from that of the third inventor named in the published international application, "Saram Narang."

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration of the inventors.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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#6

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
KONDO et al	:	DECISION ON
Application No.: 10/450,041	:	
PCT No.: PCT/JP02/10574	:	
Int. Filing Date: 11 October 2002	:	PETITION UNDER
Priority Date: 11 October 2001	:	
Attorney Docket No.: 238016US6PCT	:	
For: INFORMATION PROCESSING APPARATUS AND PROGRAM	:	37 CFR 1.181

This decision is in response to the "PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW HOLDING OF ABANDONMENT" received 13 October 2004 requesting that applicants timely and properly replied to the Notification of Missing Requirements on August 6, 2004. Applicants have submitted, inter alia, a copy of the 06 August 2004 PTO stamped itemized postcard receipt. The itemized postcard lists, inter alia, the following item: Declaration, Petition & Power of Attorney.

BACKGROUND

On 10 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter at such time.

On 10 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by the International application number and international filing date. The notice indicated that the items above must be submitted within two (2) months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 23 August 2004, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that the application is abandoned because applicant has failed to respond to the notification mailed 09/10/2003 within the time period set therein.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 23 August 2004, applicants submitted on 13 October 2004 the instant petition requesting withdrawal of the Notice of Abandonment. In support of the request, applicants have provided a copy of the returned/stamped receipt card acknowledging a receipt date of 06 August 2004, within the time period of response due to the extension of time of two(2) months petitioned by applicants.

DISCUSSION

Applicants' present petition accompanied by a copy of the following documents, filed purportedly with the USPTO as indicated in the stamped postcard:

(1) Credit Card Payment Form for $680.00
(2) Response to Notice to File Missing Parts of Application
(3) Combined Declaration, Petition & Power of Attorney
(4) Corrected English Translation

The postcard lists the above items and bears a USPTO date of stamp as 06 August 2004.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 06 August 2004.

Accordingly, the date of receipt for the Declaration is 06 August 2004, which is considered timely. Accordingly, the instant application has been improperly abandoned.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Abandonment (PCT/DO/EO/909) mailed 23 August 2004 was in error and is hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1),(c)(2), and (c)(4) date is **06 August 2004**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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Oblon, Spivak, McClelland, Maier & Neustadt, PC
1940 Duke Street
Alexandria, VA 22314

Applicant : Juichi Kasai
Serial No.: 10/450060
Filed : June 11, 2003
For : PLASTIC CHUCK WITH WRONG OPENING PREVENTING SLIDER, AND BAG WITH THE CHUCK

) **INFORMATION**
) **DISCLOSURE**
) **STATEMENT**
) *37 CFR 1.181*

An Information Disclosure Statement (IDS) was filed on October 22, 2003, and refiled on November 10, 2005. A Notice of Allowance in the instant application was mailed on February 14, 2006. The IDS was considered and mailed with the Supplemental Notice of Allowance on April 10, 2006. A petition to have the IDS considered was filed March 17, 2006, crossed in the mail with the considered IDS document.

Therefore, the petition filed March 17, 2006 is Dismissed as MOOT.

SUMMARY: IDS consideration already completed, petition **Dismissed as MOOT**.

Any question regarding this decision should be directed to Judy Swann at (571) 272-7075.

Donald Hajec
Director, TC 3600
(571) 272-5150

jjs/snm: 04/03/07
JM

24 FEB 2004
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Raymond B. Churchill, Jr.
Gottlieb, Rackman & Reisman, P.C.
270 Madison Avenue
New York, NY 10016-0601

In re Application of WRIGHT et al	:	
U.S. Application No.: 10/450,068	:	
PCT Application No.: PCT/AU01/01595	:	
Int. Filing Date: 11 December 2001	:	DECISION
Priority Date Claimed: 11 December 2000	:	
Attorney Docket No.: 3869/026	:	
For: METHODS AND APPARATUS FOR STROKE PATIENT TREATMENT	:	

This is in response to applicant's "Transmittal of Response to Notification of Defective Response" filed 05 February 2004, which is being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 11 December 2001, applicant filed international application PCT/AU01/01595, which claimed priority of an earlier United States application filed 11 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 20 June 2002. The thirty-month period for paying the basic national fee in the United States expired on 11 June 2003.

On 09 June 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 October 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 16 December 2003, applicant filed an executed declaration.

On 05 January 2004, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 16 December 2003 does not list Michael Berthon-Jones as an inventor even though Berthon-Jones is listed as an inventor in the published international application.

On 05 February 2004, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) 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).

With regard to item (1) above, the requisite statement has been provided.

With regard to item (2) above, the requisite processing fee will be charged to Deposit Account No. 07-1730 as authorized in the petition.

With regard to item (3) above, the requisite written consent has been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 11 December 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 16 December 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 703-308-6614
Facsimile: 703-308-6459

27 OCT 2003

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Lawrence E. Ashery
Ratner & Prestia
Suite 301, One Westlakes
P.O. Box 980
Valley Forge, PA 19482-0980

In re Application of	:	
ASANO, Hiromasa	:	
Application No.: 10/450,082	:	
PCT No.: PCT/JP02/10261	:	DECISION ON REQUEST
Int. Filing Date: 02 October 2002	:	UNDER 37 CFR 1.42
Priority Date: 03 October 2001	:	
Attorney Docket No.: MAT-841US	:	
For: HIGH FREQUENCY DEVICE	:	

This is a response to the declaration filed 15 October 2003 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 02 October 2002, applicant filed international application PCT/JP02/10261, which claimed a priority date of 03 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 April 2003. No Demand was filed with the International Preliminary Examining Authority prior to the expiration of 19 months from the priority date. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 03 April 2004.

On 09 June 2003, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment, and an unexecuted declaration.

On 10 September 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 15 October 2003, applicants filed the present petition.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed on 15 October 2003 is executed by Noriko Asano as the "legal representative" of the deceased inventor, Hiromasa Asano. The declaration fulfills the requirements of 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 15 October 2003.

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

The application has an international filing date of 02 October 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **15 October 2003**.

This application is being forwarded to the United Stated Designated/Elected Office for national stage processing and correcting the name of the inventor to HIROMASA Asano in the PALM database.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

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4501 North Fairfax Drive
Suite 920
Arlington, VA 22313

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AUG 2 5 2008

In re Application of	:	
Alberto Franchini, et al.	:	
Application No. 10/450,092	:	DECISION ON PETITION
Filed: June 10, 2003	:	TO WITHDRAW
Attorney Docket No. 2545-0417	:	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 21, 2004.

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 J. Scott Davidson on behalf of all attorneys of record. All attorneys/agents have been withdrawn.

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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Timothy J. Klima, Esq.**
Harbin King & Klima
500 Ninth Street, S.E.
Washington, DC 20003

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901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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JUL 0 1 2008

OFFICE OF PETITIONS

In re Application of :
NATHALIE COLLIN : LETTER REGARDING
Application No. 10/450,108 : PATENT TERM ADJUSTMENT
Filed: June 11, 2003 :
Attorney Docket No. 05725.1198 :

This letter is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT," filed February 5, 2008. Pursuant to applicant's duty of good faith and candor to the Office, applicant requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment is **granted to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **538 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 6, 2007, 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 578 days. On February 5, 2008, applicant submitted the instant comment.

Applicant asserts that applicant should be assessed a delay of 30 days pursuant to 37 CFR 1.704(b). Specifically, applicant states that a Request for Continued Examination was filed on July 23, 2007, in excess of the three month period from the mailing date of the final Office action on March 21, 2007.

Applicant avers that the period of adjustment should be reduced by 30 days because the three-month shortened statutory period for reply fell on Saturday, July 21, 2007.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 578 days is incorrect.

Pursuant to 37 CFR 1.704(b), the period of adjustment of the term of the patent should be reduced by 32 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, June 22, 2007, and ending on the date the reply was filed, July 23, 2007. The calculation of 32 days of applicant delay is based on the date of receipt of the Request for Continued Examination in the Office. The Office notes that 35 U.S.C. 154(b)(2)(C)(ii) does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. 21(b) does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

Additionally, applicant should have been assessed a delay under 37 CFR 1.704(c)(8) for submission of a supplemental reply or paper after a reply had been filed, without the express request of the examiner.

Pursuant to 37 CFR 1.704(c)(8):

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed[.]

On July 31, 2007, applicant submitted an Information Disclosure Statement (IDS) after filing an initial reply on July 23, 2007. The record does not support a conclusion that the examiner expressly requested the IDS. Further, a review of the IDS,

filed July 31, 2007, reveals that applicant did not include a statement under 37 CFR 1.704(d).[1] Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application.

In accordance with 37 CFR 1.704(c)(8), the period of adjustment should be reduced by 8 days, the number of days beginning on the day after the date the initial reply was filed, July 24, 2007, and ending on the date that the IDS was filed, July 31, 2007.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **538 days** (667 days of Office delay - 129 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicant for applicant's good faith and candor in bringing this to the attention of the Office.

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

---

[1] Pursuant to 37 CFR 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

Enclosure: Copy of updated PAIR screen

Day : Monday
Date: 6/30/2008

PALM INTRANET

Time: 15:16:31

PTA Calculations for Application: 10/450108			
Application Filing Date:	06/11/2003	PTO Delay (PTO):	667
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	89
Post-Issue Petitions:	0	Total PTA (days):	618
PTO Delay Adjustment:	40		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
53	06/30/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	40		
44	11/06/2007	MAIL NOTICE OF ALLOWANCE			
43	11/03/2007	ISSUE REVISION COMPLETED			
42	11/03/2007	DOCUMENT VERIFICATION			
41	07/31/2007	REFERENCE CAPTURE ON IDS			
40	07/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	12/07/2006	REFERENCE CAPTURE ON IDS			
38	12/07/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	20
37	11/03/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	11/03/2007	CASE DOCKETED TO EXAMINER IN GAU			
35	09/17/2007	NOTICE OF ALLOWABILITY			
34	07/31/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	07/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	07/30/2007	DATE FORWARDED TO EXAMINER			
31	07/23/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
30	07/30/2007	DATE FORWARDED TO EXAMINER			
29	07/23/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
28	07/30/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
27	07/23/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

26	07/23/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
25	12/07/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	12/07/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	03/21/2007	MAIL FINAL REJECTION (PTOL - 326)			
22	03/19/2007	FINAL REJECTION			
21	12/21/2006	DATE FORWARDED TO EXAMINER			
20	12/07/2006	RESPONSE AFTER NON-FINAL ACTION		89	18
19	12/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	06/09/2006	MAIL NON-FINAL REJECTION	667		-1
17	06/07/2006	NON-FINAL REJECTION			
16	08/08/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	05/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	05/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	01/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	01/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	08/08/2005	REFERENCE CAPTURE ON IDS			
10.7	08/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	08/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	08/19/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	07/23/2004	MISCELLANEOUS INCOMING LETTER			
7	07/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
6	07/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
5	11/04/2003	CLEARED BY OIPE CSR			
4	06/12/2003	371 COMPLETION DATE			
3	09/24/2003	APPLICATION DISPATCHED FROM OIPE			
2	09/25/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	06/11/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of
Koji Kawai
Application No. 10/450,110
Filed: June 11, 2003
Attorney Docket No. 046124-5223

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 24, 2006 to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Paul A. Fournier appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Fournier desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Fournier, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

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 relating to this decision should be directed to the undersigned at (571) 272-3204.

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 2821 for further processing of the request for continued examination under 37 CFR 1.114 filed February 24, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: PAUL FOURNIER
DRINKER BIDDLE & REATH LLP
1500 K. STREET, N.W., SUITE 1100
WASHINGTON, DC 20005-1209

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/10/08

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction on Patent No.: 7368414

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

/Johann Richter/
SPE

1616
Art Unit

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NEW YORK NY 10281-2101

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OFFICE OF PETITIONS

In re Application of :
Seth Lederman :
Application No. 10/450,131 : DECISION ON PETITION
Filed: May 30, 2003 : TO WITHDRAW
Attorney Docket No. 4128-4000US1 : 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 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 Kenneth H. Sonnenfeld on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending office actions at the present time.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SETH LEDERMAN
143 EAST 95TH STREET
NEW YORK, NY 10128

cc: BIOACCELERATE, INC.
712 FIFTH AVENUE
19TH FLOOR
NEW YORK, NY 10019

19 MAR 2004

#5

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SQUIRE, SANDERS & DEMPSEY LLP
14 TH FLOOR
8000 Towers Crescent Drive
14th Floor
Tyson Corner, Virginia 22182-2700

In re Application of	:	
PARANTAINEN et al	:	DECISION ON
Application No.: 10/450,141	:	
PCT No.: PCT/FI01/00900	:	
Int. Filing Date: 17 October 2001	:	
Priority Date: NA	:	PETITION UNDER
Attorney Docket No.: 60091.00210	:	
For: INFORMING NETWORK ABOUT	:	
AMOUNT OF DATA TO BE TRANSFFERED	:	37 CFR 1.181

This decision is in response to the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS" filed 24 November 2003, which is being treated as a petition under 37 CFR 1.181 requesting acceptance of a copy of the Declaration purportedly filed in the USPTO on 25 August 2003. Applicants have submitted, inter alia, a copy of the 25 August 2003 PTO stamped itemized postcard receipt. The itemized postcard lists, inter alia, the following item, declaration.

BACKGROUND

On 12 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and a copy of the international application. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed declaration or oath was provided with the transmittal letter at such time.

On 23 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date" must be submitted within two months from its 23 September 2003 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application. In addition, the surcharge for providing the oath or declaration later that the appropriate 30 months from the priority date (37 CFR 1.492(e)).

On 24 November 2003 submitted this petition indicating that the response to the Notification of Missing Requirements was timely and that the copies submitted with this petition is a copy of the submission which was made on August 2003.

DISCUSSION

Applicant's present petition accompanied by a copy of the following documents, filed purportedly with the PTO as indicated in the stamped postcard:

(1) Declaration
(2) Assignment
(3) Check for the amount of $170.00

The postcard lists the above items and bears a USPTO date of stamp as 25 August 2003.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 25 August 2003.

Accordingly, the date of receipt for the Declaration is 25 August 2003.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C.§ 371 date of **25 August 2003**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Boris Milef
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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DEC 15 2008

OFFICE OF PETITIONS

In re Application of :
Oglesby, et al :
Application No. 10/450,142 : DECISION
Filed:12 June, 2003 :
Attorney Docket No. Q76116 :

This is a decision on the petition filed on 18 November, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment.

The petition to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Following a non-final Office action mailed on 5 July, 2007, Petitioner filed *inter alia*, an amendment on 7 January, 2008, however, on 14 February, 2008, the Office mailed a Notice of Non-Compliant Amendment, with reply then due absent extension of time on or before Monday, 17 March, 2008.

The application went abandoned by operation of law after midnight 14 March, 2008.

The Office mailed the Notice of Abandonment on 26 September, 2008.

On 18 November, 2008, Petitioner filed, *inter alia*, a petition averring timely reply, a the Electronic Acknowledgement Receipt ("Receipt Date: 17-MAR-2008 *** Time Stamp: 18:44:29") reflecting the reply in the form of an amendment on that date. (It is noted that Petitioner did not include a copy of that reply.)

The record as of this writing indicates receipt of the amendment in question on 17 March, 2008, however, for the record also identifies the paper as an "Untimely (Late) Amendment."

On 8 December, 2008, Petitioner supplemented his petition with a copy of the reply in question, bearing a date of "March 17, 2008," (but no certificate of transmission of that date (37 C.F.R. §1.8(a)(1)(i)(C))) in the effort to comply with the guidance/requirements of the Commentary at MPEP §711.03(c)(I).

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]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast,

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory showing of the requirements under the Rule.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 26 September, 2008, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU (TC/AU) 3744 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

Morrison & Foerster LLP
Suite 400
1650 Tysons Boulevard
McLean, VA 22102

In re Application of	:	
Klaus Hoffmann	:	
Application No. 10/450,143	:	DECISION ON PETITION
Filed: June 12, 2003	:	TO WITHDRAW
Attorney Docket No. 449122056200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2007.

The request is **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 September 11, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

09 SEP 200[redacted]

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#4

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James C. Lydon
100 Daingerfield Road
Suite 100
Alexandria, VA 22314

In re Application of	:	
Daniel Vinsonneau	:	
Application Serial No.: 10/450,145	:	
PCT No.: PCT/FR00/01407	:	DECISION ON PETITION UNDER
Intl. Filing Date: 23 May 2000	:	
Priority Date: NONE	:	37 CFR 1.137(b)
Attorney's Docket No.: BONN-110	:	
For: AUTOMATIC AND SECURE DATA SEARCH	:	
METHOD USING A DATA TRANSMISSION	:	
NETWORK	:	

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED APPLICATION", filed 12 June 2003.

BACKGROUND

On 23 May 2000, applicants filed international Application PCT/FR00/01407 which claimed no priority to an earlier application. A copy of the international application was communicated to the United States Patent and Trademark Office on 29 November 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 6 December 2001, within nineteen months of the international filing date . Accordingly, pursuant to 37 CFR 1.495, the thirty month period for paying the basic national fee expired at midnight 23 November 2002.

On 12 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a translation of the international application, and a first preliminary amendment, and the instant petition and requisite petition fee.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after applicant becomes aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional and (4) a terminal disclaimer (for applications filed before 8 June 1995).

As to item (1), the petition is accompanied by the required reply in the form of a check for the basic national filing fee

As to item (2), the petition is accompanied by the required petition fee.

As to item (3), the petition is accompanied by applicants' statement that 'the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional."

As to item (4), a terminal disclaimer is not required in the present case.

CONCLUSION

The petition under 37 CFR 1.137 (b) to revive the international application abandoned under 35 USC 371(d) is **granted** as to the national satge in the United States of America.

Deposit account 50-1258 will be charged $130.00 for the filing of the English translation of the international application after twenty or thirty months from the priority date.

This application is being forwarded to the National Stage Processing Branch of the International Division to continue national stage processing of the present application, including preparation and mailing of the Notification of Missing Requirement Under 35 USC 371 requiring an oath or declaration as required by 35 USC 371(c)(4) and the surcharge for filing the oath or declaration later than thirty months from the priority date as required by 37 CFR 1.492(e).

Leonard Smith
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 305-0010
Facsimile: (703) 308-6459

Kenya A. McLaughlin
PCT Legal Office Detailee
PCT Legal Office

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JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Daniel Vinsonneau :
Application No. 10/450,145 : ON PETITION
Filed: October 14, 2003 :
Attorney Docket No. BONN-110 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed May 31, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 1, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BARRY E BRETSCHNEIDER
MORRISON & FOETSTER
2000 PENNSYLVANIA AVENUE N W
WASHINGTON, DC 20006-1888

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OFFICE OF PETITIONS

In re Application of :
Godo Sakamoto, et al. :
Application No. 10/450,159 : ON PETITION
Filed: October 15, 2003 :
Attorney Docket No. 204552028400 :

This is a decision on the petition, filed May 2, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the petition was not referred to the appropriate official for a decision until after May 31, 2005, the date upon which the above-identified application issued as U.S. Patent No. 6,899,950.

The inconvenience caused petitioner in this matter is sincerely regretted. However, petitioner's attention is directed to 37 CFR 1.313(d) which states that "A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**." In this case, the petition was not received in the Office of Petitions for consideration until January 26, 2006.

While petitions to withdraw from issue may be mailed to the Commissioner of Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions to allow sufficient time to process the petition. *(See Revised Procedures for Papers Requiring Immediate Attention (Hand-Carried and Facsimile Transmissions), 1279 Off. Gaz. Pat. Office 149 (Feb. 24, 2004); Revised Procedures for Papers Requiring Immediate Attention, 1280 Off. Gaz. Pat. Office 917 (March 23, 2004).*

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of the instant application into a patent on May 31, 2005. The RCE and the

information disclosure statement (IDS) will remain in the file of the above-identified application without further consideration. See 37 CFR 1.97(I). The $790 RCE filing fee paid on May 2, 2005 is being credited to counsel's deposit account.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JONATHAN BOCKMAN
MORRISON & FOERSTER, LLP
1650 TYSONS BLVD, SUITE 300
MCLEAN, VA 22102

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#12

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
COUSTET, et al. :
Application No.: 10/450,162 : DECISION ON PETITION
PCT No.: PCT/FR01/03955 :
Int. Filing Date: 12 December 2001 :
Priority Date: 15 December 2000 :
Attorney Docket No.: 247867US55PCT :
For: GLAZING PROVIDED WITH A STACK OF THIN LAYERS FOR SOLAR PROTECTION AND/OR HEAT INSULATION

This decision in response to applicant's "Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment" filed 16 December 2004. No petition fee is required.

BACKGROUND

On 12 December 2001, applicant filed international application PCT/FR01/03955 which claimed a priority date of 15 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 June 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 15 June 2003.

On 11 June 2003, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application, and a preliminary amendment.

On 30 September 2003, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 25 October 2004, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 30 September 2003 within the time period set therein.

On 16 December 2004, applicant filed the present petition which was accompanied, among other things: a copy of the declaration and power of attorney filed 21 November 2003; post card receipt dated 21 November 2003; and a transmittal letter dated 21 November 2003.

DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 21 November 2003. A review of the present application reveals that the declaration and power of attorney filed 21 November 2003 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, application number, and attorney docket number. The receipt itemizes a declaration executed by the inventors. The receipt is stamped "Rec'd. OIPE NOV. 21, 2003" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 21 November 2003.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 12 December 2001 and a date of **21 November 2003** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17/04

TO SPE OF : ART UNIT ~~1794 Henderickx, Keith~~ 1796 HAROLD PYON (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/450176 Patent No.: 7041399

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch

703-308-9390 ext. _____

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

1796
Art Unit

HAROLD PYON
SUPERVISORY PATENT EXAMINER

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Commissioner for Patents
United States Patent and Trademark Office
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BIRCH, STEWART, KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of

Per Ove Ohman et al.
Application No. 10/450,177
Filed: June 11, 2003
Attorney Docket No. 3787-0114P

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 30, 2007, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The petition is accompanied by a copies of driver's licenses for Branimir L. Horvat and Nevenka M. Horvat. In view of the file record the inventor names differ from that of the inventors listed on the Oath and Declaration, as such, is not sufficient evidence of the inventor's age to grant special status under 37 CFR 1.102(c)(1) to this application.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX:
(571) 273-8300

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

All other inquiries concerning either the examination or status of the application should be directed to the Issue Branch.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO CA 92130-2040

In re Application of :
DEKKER, et al. :
Application No. 10/450,185 : DECISION ON PETITION
Filed: November 10, 2003 : TO WITHDRAW
Attorney Docket No. 246152019500 : 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 30, 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 Thomas Ciotti on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The 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). The power of attorney filed on September 25, 2006 included an improper/incomplete Statement under 37 CFR 3.73(b).

There is an outstanding Office action mailed April 10, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Petrus Jacobus Theodorus Dekker**
Vonkstraat 2, 2497
AE DEN HAAG, The Netherlands

cc: **DSM IP ASSETS B.V.**
Het Overloon
6411 TE Heerlen, Netherlands

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
10/450,185	11/10/2003	Petrus Jacobus Theodorus Dekker	246152019500

CONFIRMATION NO. 5732

OC000000020930932

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 10/23/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/450,185	11/10/2003	Petrus Jacobus Theodorus Dekker	246152019500

CONFIRMATION NO. 5732

OC000000020931095

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 10/23/2006

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/25/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received/or is improper.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/450,185	11/10/2003	Petrus Jacobus Theodorus Dekker	246152019500

CONFIRMATION NO. 5732

OC000000020931095

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 10/23/2006

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/25/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received/or is improper.

DSM IP ASSETS B.V.
Het Overloon
6411 TE Heerlen, Netherlands

MONICA A GRAVES
OP (571) 272-7253

NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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OFFICE OF PETITIONS

In re Application of :
Timothy Jackson, et. al. :
Application No. 10/450,191 : ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. 42P24361 :

This is a decision on the petition under 37 CFR 1.137(b), filed on February 16, 2007, 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 January 13, 2005. A Notice of Abandonment was mailed on May 25, 2005.

Finance records show that petitioner submitted $700 for payment of the small entity issue fee. However, since petitioner asserts that this application is no longer entitled to small entity status, the difference of $700 will be charged to petitioner's deposit account, as authorized.

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) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

In view of the above, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

This application file is being referred to the Office of Data Management 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
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HEDMAN & COSTIGAN, P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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OFFICE OF PETITIONS

In re Application of :
Dennis Bigg et al. :
Application No. 10/450,215 : DECISION ON PETITION
Filed: June 11, 2003 :
Attorney Docket No. 427.076 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2008, to revive the above-identified application.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature 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.

The petition is **DISMISSED AS MOOT**.

A review of the record shows that an amendment, $120 for a one month extension of time and $1,050 for an additional three months extension of time were filed on January 7, 2008, which was within the extendable period for reply of the non-final Office action mailed on September 28, 2007. Since petitioner needed a one month extension of time to avoid abandonment, and such was filed on January 7, 2008, this application is not considered abandoned. Accordingly, the petition fee of $1,540 and $1,050 for the additional three months extension of time fee will be credited to petitioner's credit card, in due course.

This application is being referred to Technology Center Art Unit 1616 for further processing.

Telephone inquiries concerning this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Andrea Smith
Petitions Examiner
Office of Petitions

04 MAY 2006

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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7278
DARBY & DARBY
P.O. Box 5257
New York, NY 10150-5257

In re Application of :
MUNTENER, Kurt :
U.S. Application No.: 10/450,235 :
PCT No.: PCT/CH02/00028 :
Int. Filing Date: 17 January 2002 : **DECISION**
Priority Date: 17 January 2001 :
Attorney Docket No.: 03463/000M823-US0 :
For: METHOD FOR PROCESSING CONTAMINATED POLYCONDENSATE MATERIALS :

Applicant's request for a corrected filing receipt filed on 17 May 2005 and again on 27 April 2006 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 05 November 2005 indicated the wrong Foreign Applications priority claim.

The filing receipt recorded the foreign priority as German application "101 02 063.7." filed 17 January 2001. This number was wrong.

The correct Foreign Applications priority claim is German application 101 02 062.7 filed 17 January 2001.

Accordingly, the filing receipt mailed 05 November 2005 is hereby **VACATED**.

A corrected filing receipt listing the proper foreign priority claim will be mailed with this decision.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/450,257	11/05/2003	Bart Staels	BJS-3665-53	6467

23117 7590 11/19/2008
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
JOIKE, MICHELE K	

ART UNIT	PAPER NUMBER
1636	

MAIL DATE	DELIVERY MODE
11/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

NOV 19 2008

In re Application of:
Bart Staels
Serial No.: 10/450,257
Filed: June 12, 2003
Attorney Docket No: **BJS-3665-53**

: PETITION DECISION

This is in response to the petition of November 4, 2008 regarding a refund for a third month extension fee ($590) and a Notice of Appeal fee ($510) paid on September 15, 2008 to maintain pendency due to the Patent Office delay in acting on the Amendment After Final Rejection filed July 14, 2008.

It is pointed out to applicant that the only proper response to a Final rejection is a Notice of Appeal, an Appeal Brief or a Request for Continued examination (RCE). The filing of an Amendment After Final Rejection does not stop the clock for applicant and it is thus incumbent upon applicant to maintain pendency, thus necessitating the filing of, as in this case, a third month extension and the filing of the Notice of Appeal. Any delay on the part of the examiner is regretted but did not change applicants' requirement to maintain pendency of this application.

DECISION

The petition is **DENIED**.

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.

George C. Elliott

George Elliott
Director, Technology Center 1600

25 FEB 2004

#6

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Nixon & Vanderhye PC
1100 N Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of :
IBRAHIM, Houssam et al. :
Application No.: 10/450,260 : DECISION ON
PCT No.: PCT/CH01/00708 :
Int. Filing Date: 12 December 2001 : PETITION
Priority Date: 12 December 2000 :
Attorney Docket No.: 2590-64 : UNDER 37 CFR 1.181
For: PHARMACEUTICAL ... FOR :
OBTAINING SAME :

This decision is in response to applicant's "Response to Notification of Missing Requirements," filed on 17 September 2003. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 12 December 2001, applicant filed international application PCT/CH01/00708. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 June 2002. A demand for international preliminary examination was filed 20 June 2002, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, 12 June 2002.

On 12 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 05 September 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 17 September 2003, applicant submitted the instant petition, accompanied by an executed declaration and a date-stamped postcard receipt.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt identifying the instant application by title, inventor and docket number, stamped 18 June 2003 and listing a declaration. This is adequate evidence that the listed item was received by the Office on 18 June 2003. Applicant indicates that the enclosed declaration is a true copy of the 18 June 2003 submission and the statement is signed by someone registered to practice before the Office. The declaration is accepted as having been received on 18 June 2003.

The declaration submitted on 18 June 2003 satisfies the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 18 June 2003.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

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GLOBAL INTELLECTUAL PROPERTY
1800 CONCORD PIKE
WILMINGTON DE 19850-5437

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OFFICE OF PETITIONS

In re Application of :
Shenvi et al :
Application No. 10/450,284 : ON PETITION
Filed: June 11, 2003 :
Attorney Docket No. 100237-IP US :

This is a decision on the petition, filed June 30, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 1, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1625 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
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).

26 FEB 2004

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#9

Maxwell J. Peterson
PAULEY PETERSON KINNE & ERICKSON
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195

In re Application of: BECKER, et al.	:	
U.S. Application No.: 10/450,294	:	
PCT No.: PCT/IB01/01020	:	DECISION
International Filing Date: 12 June 2001	:	
Priority Date: 12 December 2000	:	
Attorney's Docket No.: SF-107	:	
For: RECOVERY OF TITANIUM DIOXIDE FROM TITANIUM OXIDE BEARING MATERIALS LIKE STEEL MAKING SLAGS	:	

This decision is issued in response to applicants' "Response To Notification Of Defective Response" filed on 13 January 2004. No petition fee is required.

BACKGROUND

On 12 June 2001, applicants filed international application PCT/IB01/01020 which claimed a priority date of 12 December 2000 and which designated the United States. On 20 June 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 12 June 2003.

On 12 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 30 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 20 November 2003, applicants filed a response to the Notification Of Missing Requirements which included payment of the surcharge and an executed declaration.

On 09 December 2003, the DO/EO/US mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) indicating that the filed declaration was defective in that it was not executed in accordance with 37 CFR 1.66 or 1.68, and because the inventor identified in the international application as Jan Hendrik BEKKER was identified in the declaration as Jan Hendrik BECKER.

On 13 January 2004, applicants filed the response considered herein. The response states that the name of inventor Jan Hendrik BECKER is properly set forth in the declaration, and that the spelling of this name in the international application (BEKKER) represented a typographical error.

DISCUSSION

The 13 January 2004 submission includes an acceptable explanation demonstrating that the discrepancy between the name of this inventor in the declaration (Jan Hendrik BECKER) and such inventor's name as set forth in the published international application (Jan Hendrik BEKKER) resulted from a spelling error in the international application. Section 605.04(b) of the Manual of Patent Examining Procedure states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed.

Pursuant to applicant's explanation, the name of the first inventor is accepted as Jan Hendrik BECKER without the need of a petition. The declaration filed by applicants on 20 November 2003 is therefore no longer defective.

CONCLUSION

Pursuant to applicant's explanation regarding the spelling error, the name for the first inventor is accepted Jan Hendrik BECKER.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 20 November 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

COPY

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26 FEB 2004

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Maxwell J. Peterson
PAULEY PETERSON KINNE & ERICKSON
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195

In re Application of: BECKER, et al.
U.S. Application No.: 10/450,294
PCT No.: PCT/IB01/01020
International Filing Date: 12 June 2001
Priority Date: 12 December 2000
Attorney's Docket No.: SF-107
For: RECOVERY OF TITANIUM DIOXIDE FROM TITANIUM OXIDE BEARING MATERIALS LIKE STEEL MAKING SLAGS

DECISION

This decision is issued in response to applicants' "Response To Notification Of Defective Response" filed on 13 January 2004. No petition fee is required.

BACKGROUND

On 12 June 2001, applicants filed international application PCT/IB01/01020 which claimed a priority date of 12 December 2000 and which designated the United States. On 20 June 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 12 June 2003.

On 12 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 30 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 20 November 2003, applicants filed a response to the Notification Of Missing Requirements which included payment of the surcharge and an executed declaration.

On 09 December 2003, the DO/EO/US mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) indicating that the filed declaration was defective in that it was not executed in accordance with 37 CFR 1.66 or 1.68, and because the inventor identified in the international application as Jan Hendrik BEKKER was identified in the declaration as Jan Hendrik BECKER.

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On 13 January 2004, applicants filed the response considered herein. The response states that the name of inventor Jan Hendrik BECKER is properly set forth in the declaration, and that the spelling of this name in the international application (BEKKER) represented a typographical error.

DISCUSSION

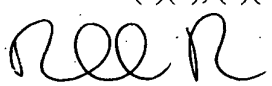
The 13 January 2004 submission includes an acceptable explanation demonstrating that the discrepancy between the name of this inventor in the declaration (Jan Hendrik BECKER) and such inventor's name as set forth in the published international application (Jan Hendrik BEKKER) resulted from a spelling error in the international application. Section 605.04(b) of the Manual of Patent Examining Procedure states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed.

Pursuant to applicant's explanation, the name of the first inventor is accepted as Jan Hendrik BECKER without the need of a petition. The declaration filed by applicants on 20 November 2003 is therefore no longer defective.

CONCLUSION

Pursuant to applicant's explanation regarding the spelling error, the name for the first inventor is accepted Jan Hendrik BECKER.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 20 November 2003.



Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
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Maxwell J. Peterson
PAULEY PETERSON KINNE & ERICKSON
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195

In re Application of: BECKER, et al.
U.S. Application No.: 10/450,294
PCT No.: PCT/IB01/01020
International Filing Date: 12 June 2001
Priority Date: 12 December 2000
Attorney's Docket No.: SF-107
For: RECOVERY OF TITANIUM DIOXIDE FROM TITANIUM OXIDE BEARING MATERIALS LIKE STEEL MAKING SLAGS

DECISION

This decision is issued in response to applicants' "Response To Notification Of Defective Response" filed on 13 January 2004. No petition fee is required.

BACKGROUND

On 12 June 2001, applicants filed international application PCT/IB01/01020 which claimed a priority date of 12 December 2000 and which designated the United States. On 20 June 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 12 June 2003.

On 12 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 30 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 20 November 2003, applicants filed a response to the Notification Of Missing Requirements which included payment of the surcharge and an executed declaration.

On 09 December 2003, the DO/EO/US mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) indicating that the filed declaration was defective in that it was not executed in accordance with 37 CFR 1.66 or 1.68, and because the inventor identified in the international application as Jan Hendrik BEKKER was identified in the declaration as Jan Hendrik BECKER.

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DISCUSSION

The 13 January 2004 submission includes an acceptable explanation demonstrating that the discrepancy between the name of this inventor in the declaration (Jan Hendrik BECKER) and such inventor's name as set forth in the published international application (Jan Hendrik BEKKER) resulted from a spelling error in the international application. Section 605.04(b) of the Manual of Patent Examining Procedure states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed.

Pursuant to applicant's explanation, the name of the first inventor is accepted as Jan Hendrik BECKER without the need of a petition. The declaration filed by applicants on 20 November 2003 is therefore no longer defective.

CONCLUSION

Pursuant to applicant's explanation regarding the spelling error, the name for the first inventor is accepted Jan Hendrik BECKER.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 20 November 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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VIENNA, VA 22182-6212

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In re Application of	:	
Jens Staack, et. al.	:	
Application No. 10/450,298	:	DECISION ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. 060282.00087	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed July 17, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Peter Flanagan appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party on whose behalf he/she acts.

This application was purportedly held abandoned for failure to file a reply to the non-final Office action mailed November 29, 2007. A Notice of Abandonment was mailed on June 23, 2008.

Petitioner states that a reply was "timely filed in the United States Patent & Trademark Office, via hand delivery, on May 29, 2008, together with a petition for extension of time, extending the time for response from February 29, 2008, to May 29, 2008".

A review of the record shows that a non-final Office action was mailed on November 29, 2007, to which petitioner timely responded to the Office action by submitting a Response/Amendment (22 pages), an Additional Claim Fee Transmittal, A Request for Extension of Time (3 months) and a check in the amount of $1,970 all date stamped as received in the USPTO on May 29, 2008. Therefore, the petition is **granted**.

In view of the above, the holding of abandonment is hereby withdrawn and the application is restored to pending status.

This application is being referred to Technology Center Art Unit 2617, for appropriate action in the normal course of business on the reply received on May 29, 2008.

Andrea Smith
Petitions Examiner
Office of Petitions

30 SEP 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

Norris McLaughlin & Marcus, P.A.
220 East 42nd Street, 30th Floor
New York, NY 10017

In re Application of	
Krawinkel et al.	
US Application No.: 10/450,305	
PCT Application No.: PCT/EP01/12688	
International Filing Date: 02 November 2001	DECISION ON
Priority Date: 10 November 2000	PETITION FOR REVIVAL
Attorney's Docket No.: tesa 1604-WCG	UNDER 37 CFR 1.137(b)
For: PRESSURE-SENSITIVE ADHESIVE MASS AND THE USE THEREOF	

The petition to revive under 37 CFR 1.137(b), filed on 12 June 2003 in the above-captioned application, is hereby **GRANTED** as follows.

BACKGROUND

On 02 November 2001, Applicants filed international application PCT/EP01/12688, which claimed priority of an earlier application filed on 10 November 2000. A copy of the international application, in German, was communicated from the International Bureau to the USPTO on 16 May 2002. The period for paying the basic national fee is 30 months and ended at midnight on 10 May 2003.

The basic national fee was not paid on or before 12 May 2003 (Monday). The international application became abandoned as to the United States on 11 May 2003.

DISCUSSION

The instant petition encloses, *inter alia*:

(1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 (Form PTO-1390), authorizing the USPTO to charge the $900 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5) to Deposit Account No. 14-1263;

(2) An English translation of the international application;

(3) An authorization to charge the $1,300 petition fee to the above deposit account;

(4) A statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

Moreover, a terminal disclaimer is not applicable in the instant case.

CONCLUSION

The request to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the national stage in the United States of America.

To date, an oath or declaration required by 35 U.S.C. 371(c)(4) has not been filed.

However, the Form PTO-1390 indicates that 1 of the inventors named in the published international application, Kerstin LIEBELT, now goes by the name "Kerstin FRANCK." A petition under 37 CFR 1.182, along with the requisite fee and (a) an affidavit signed by this inventor, and setting forth the procedure whereby the name change was effected; or (b) a certified copy of the court order effecting the name change, is required before the name change may be instituted. MPEP 605.04(c) (Rev. 1, Feb. 2003).

In addition, the last name for another inventor as listed in the Form PTO-1390 is "LUHMANN" while that shown in the published international application is "LÜHMANNN." (emphasis added) If the spelling in the Form PTO-1390 is correct, the circumstances of this name change must be included in the §1.182 petition noted above. If, on the other hand, the name shown in the published international application is correct, the oath or declaration, when submitted, must identify this inventor by the correct name.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a Notification of Missing Requirements under 35 U.S.C. 371, requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

Richard Cole
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

12 OCT 2004

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R. William Johnston
CHRISTIE, PARKER & HALE
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Pasadena, CA 91109-7068

In re Application of
FRID, Noureddine
U.S. Application No.: 10/450,315
PCT No.: PCT/BE01/00210
Int. Filing Date: 12 December 2001
Priority Date: 12 December 2000
Attorney's Docket No.: 50553/RWJ/O33
For: THREE-DIMENSIONAL BRAIDED STRUCTURE STENT

DECISION

This decision is in response to applicants' "Petition Under 37 C.F.R. § 1.78 for Acceptance of an Unintentionally Delayed Claim for Priority Under 35 U.S.C. 120, 121, and 365 and Preliminary Amendment Transmittal Letter" filed on 17 November 2003 which is **DISMISSED** as **MOOT**.

Applicant requests to amend the application to claim priority of PCT/BE01/00210 filed 12 December 2001, which claimed foreign benefit priority of Belgium Patent Application No. BE 2000/0783 filed 12 December 2000 and European Patent Application No. EP 01870042.7 filed 13 March 2001. However, the above-captioned application is a national stage of PCT/BE01/00210 already claiming priority to BE 2000/0783 filed 12 December 2000 and EP 01870042.7 filed 13 March 2001 pursuant to 35 U.S.C. 119(a).

Accordingly, the petition under 37 CFR 1.78 is not required. The petition fee of $1,330.00 will be credited back to Deposit Account No. 03-1728.

This application is being forwarded to the Technology Center for further processing in accordance with this decision.

Richard Cole
PCT Legal Examiner
PCT Legal Office

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

Mail Date: 04/21/2010

Applicant	: Noureddine Frid	: DECISION ON REQUEST FOR
Patent Number	: 7588597	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/450,315	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **571** 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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ITHACA NY 14850

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OFFICE OF PETITIONS

In re Application of :

NISHIO, Norihito :
Application No. 10/450,319 : DECISION ON PETITION
Filed: December 10, 2003 : TO WITHDRAW
Attorney Docket No. **ADC-Nishio1** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 07, 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 Meghan Leeuwen on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NORIHITO NISHIO**
1-4-9, HIKARI HAITSU 101, SHISHIGAYA
TSURUMIKU, YOKOHAMA-CITY
KANAGAWA-KEN, 230-0074
JAPAN

cc: **MASAYA HIRAKO**
NINO PLANO CO., LTD.
1-23-4, SR BLDG. 7F
HYAKUNIN-CHO, SHINJUKU-KU
JAPAN

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OFFICE OF PETITIONS

In re Application of :
NISHIO, Norihito :
Application No. 10/450,319 : DECISION ON PETITION
Filed: December 10, 2003 : TO WITHDRAW
Attorney Docket No. **ADC-Nishio1** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 16, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Meghan Van Leeuwen on behalf of all attorneys of record who are associated with customer No. 20808. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed August 21, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **NORIHITO NISHIO**
1-4-9, HIKARI HAITSU 101
SHISHIGAYA
TSURUMIKU, YOKOHAMA-CITY
KANAGAWA, JAPAN 230-0073

cc: **NINO PLANO CO., LTD.**
ATTN: MASAYA HIRAKO
1-23-4, SR BLDG. 7F
HYAKUNIN-CHO, SHINJUKU-KU
TOKYO, JAPAN 169-0073

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SANTA MONICA, CA 90404

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OFFICE OF PETITIONS

In re Patent No. 7,095,993	:	
Issue Date: August 22, 2006	:	
Application No. 10/450,324	:	DECISION ON PETITION
Filed: September 29, 2003	:	
Attorney Docket No. 58260-010700	:	

This is a decision on the petition under 37 CFR 1.182, filed August 11, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The fee of $400 for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account as authorized.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Alicia Kelley at (571) 272-6059. Inquiries regarding the issuance the duplicate Letters Patent may be directed to Niomi Farmer in the Office at Data Management at (703) 756-1556.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, RSQ, 9th Floor, Room D30-B. (Fax No. (571) 270-9753)

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PALO ALTO, CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
Santori et al.	:	
Application No. 10/450,336	:	ON PETITION
Filed: July 21, 2003	:	
Attorney Docket No. S00-219/PCT/US	:	

This is a decision on the petition under 37 C.F.R. § 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 submit formal drawings in a timely manner in reply to the Notice of Allowability mailed February 28, 2005, which set a non-extendable period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 29, 2005. A Notice of Abandonment was mailed on August 3, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The Issue Fee and Publication Fee were submitted on March 25, 2005.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OFFICE OF PETITIONS

In re Application of	:	
Ryu et al.	:	
Application No. 10/450,338	:	ON PETITION
Filed: June 11, 2003	:	
Attorney Docket No. YOM-0032	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 28, 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, along with the issue fee and 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

#4

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Daniel A. Monaco
Drinker, Biddle, & Reath, LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996

In re Application of
RYAN et al.
Application No.: 10/450,342
PCT No.: PCT/GB01/05487
Int. Filing Date: 12 December 2001
Priority Date: 12 December 2000
Atty. Docket No.: 08830-0212US1
For: ASSAY FOR ANTI-VIRAL AGENT

DECISION

This is a decision on applicants' "Petition under 37 CFR 1.182 Requesting Correction of Inventor Name" filed in the Patent and Trademark Office (PTO) on 06 November 2003. Applicants are requesting to change the name of the first-inventor from Michael Ryan to Martin Ryan. The petition fee has been submitted

DISCUSSION

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the first named inventor's name is accepted and noted for the record. The declaration submitted on 06 November 2003 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Michael Ryan to Martin Ryan is **GRANTED**.

The application has an international filing date of 12 December 2001 under 35 U.S.C. 363 and a date of **06 Novmeber 2003** under 35 U.S.C. 371(c). This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

31 MAR 2005

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Thomas Hoxie
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Corporate Intellectual Property
One Health Plaza, Building 430
East Hanover, NJ 07936-1080

In re Application of :
DALEY, William, L., et al. :
U.S. Application No.: 10/450,344 :
PCT No.: PCT/US01/48808 : DECISION ON PETITION
International Filing Date: 17 December 2001 : UNDER 37 CFR 1.181
Priority Date: 18 December 2000 :
Attorney's Docket No.:4-31675A :
For: THERAPEUTIC COMBINATION OF :
AMLODIPINE AND BENAZEPRIL/ :
BENAZELPRILAT :

This decision is issued in response to applicants' "Petition Under 37 CFR 1.181" filed 25 June 2004 and the request for a corrected filing receipt filed 15 December 2003. No petition fee is required.

BACKGROUND

On 17 December 2001, applicants filed international application PCT/US01/48808 which designated the United States and claimed priority to PCT/US00/34246, filed 18 December 2000. The deadline for payment of the basic national fee was thirty months from the priority date, 18 June 2003.

On 12 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, extra claims fees, an application data sheet (ADS), and a preliminary amendment.

On 11 August 2003, applicant filed an executed declaration and the surcharge for filing this declaration later than thirty months after the priority date.

On 24 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and $198 in additional claims fees (the Notification stated that the application contained "19 total claims over 20").

On 19 November 2003, filed a response to the Notification Of Missing Requirements that included payment of the $198 in additional claims fees. However, applicants argued that these

additional fees were not required in that the filed application contained only 26 total claims (5 independent) and the original filing included all the fees required for this number of claims.

On 20 November 2003, the DO/EO/US mailed a "Notification Of Defective Response" (Form PCT/DO/EO/916). This Notification confirmed applicants' 11 August 2003 submission of the declaration, but indicated that payment of the $198 in extra claims fees was still required.

On 20 November 2003, the USPTO also mailed a filing receipt.

On 15 December 2003, applicants filed a response to the Notification Of Defective Response and the request to correct filing receipt, considered herein. The response to the Notification Of Defective Response referred to applicants 19 November 2003 payment of the $198 in extra claims fees; this response again argues that such fees were not required. With respect to the filing receipt, applicants note that the listed priority information is incorrect and that the filing receipt refers to three filed drawings (although no drawings were filed by applicant).

On 01 April 2004, the USPTO published the present application.

On 25 June 2004, applicants filed the petition considered herein. The petition states that the published application does not match the applications filed (i.e., unrelated specification, claims, and drawings). The petition also notes that a "Notification Of Acceptance" (Form PCT/DO/EO/903) was never issued in the present application, and that the previously requested corrected filing receipt was never received.

DISCUSSION

A review of the application file confirms that applicants 12 June 2003 filing clearly indicated the intent to enter the national stage in for PCT/US01/48808; however, the specification, claims, drawings, and abstract present in the electronic application file are taken from a separate, unrelated international application. It appears that the incorrect priority information and the reference to three drawings in the filing receipt were also derived from a review of this incorrect application. In addition, it appears that this incorrect application was the basis on which the DO/EO/US required the additional $198 in claims fees paid by applicants.

CONCLUSION

Applicants' petition for correction of the present file is **GRANTED**.

USPTO records will be corrected to remove reference to the unrelated case published herein and to replace these materials with the specification, claims and abstract contained in PCT/US01/48808 (taking into account the preliminary amendment filed 12 June 2003).

The Notification of Missing Requirements mailed 24 September 2003, the Notification of Defective Response mailed 20 November 2003 and the filing receipt mailed 20 November 2003, all of which were based in part on the incorrect application, are hereby **VACATED**.

The $198 in extra claims fees paid by applicants will be refunded to Deposit Account No. 19-0134.

The National Stage Processing Branch of the Office Of PCT Operations will be instructed to continue processing this corrected application in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 11 August 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

04 NOV 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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William C. Gerstenzang
NORRIS MCLAUGHLIN & MARCUS, P.A.
220 East 42nd Street
30th Floor
New York, NY 10017

In re Application of :
HUSEMAN, Marc *et al* :
U.S. Application No.: 10/450,365 :
PCT No.: PCT/EP01/12431 :
Int. Filing Date: 26 October 2001 :
Priority Date: 27 October 2000 :
Attorney Docket No.: tesa 1603-WCG :
For: METHOD FOR PRODUCING :
ACRYLATE ADHESIVE MATERIALS :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition to Revive Under 37 CFR 1.137(b)" filed with the national stage papers in the above-captioned application on 12 June 2003 is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee have been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(e) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

28 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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William Gerstenzang
NORRIS McLAUGHLIN & MARCUS
875 Third Avenue, 18th Floor
New York, NY 10022

In re Application of :
HUSEMANN, Marc :
U.S. Application No.: 10/450,365 :
PCT No.: PCT/EP01/12431 :
Int. Filing Date: 26 October 2001 : **DECISION**
Priority Date: 27 October 2000 :
Docket No.: 101769-221 tesa 1603-WCG :
For: METHOD FOR PRODUCING :
ACRYLATE ADHESIVE MATERIALS :

This decision is in response to the papers filed via facsimile on 06 January 2005, 27 January 2005 and again on 28 January 2005 which are treated as a petition under 37 CFR 1.8. No fee is required.

BACKGROUND

On 17 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b), a $130.00 processing fee and a $130.00 surcharge fee must be provided. A two-month time period for response was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 12 January 2004, applicants purportedly filed via facsimile a "Response to Notice to File Missing Requirements under 35 USC 371" which was accompanied by, *inter alia*, an executed declaration and authorization to charge the required fees to Deposit Account No. 14-1263.

On 20 January 2004, a "Supplemental Response to Notice to File Missing Requirements under 35 USC 371" was filed authorizing fees to be charged to Deposit Account No. 14-1263.

On 06 January 2005, applicants submitted via facsimile a copy of papers purportedly filed 12 January 2004.

On 27 January 2005 and again on 28 January 2005, applicants resubmitted the papers filed 06 January 2005 along with a "Second Supplemental Response to Notice to File Missing Requirements" signed by counsel of record.

DISCUSSION

Applicants claim that a response to the Form PCT/DO/EO/905 mailed 17 December 2003 was provided on 12 January 2004. However, these papers were not located in the file. Moreover, a review of USPTO financial records for the above-captioned application do not show that the surcharge and processing fees were charged. The 20 January 2004 documents were located in the file and will not be addressed further.

In the response filed via facsimile on 27 January 2005, applicants have provided a certified copy of the documents purportedly filed 12 January 2004. Applicants also included a "Confirmation Report - Memory Send" from their facsimile machine as proof of responding to the Form PCT/DO/EO/905 mailed 17 December 2003. A listing of the documents submitted was listed on the "FAX COVER SHEET" provided with these documents. A review of this report shows that the facsimile transmission of 8 pages was submitted on 12 January 2004 to the correct facsimile number and that this transmission was successful.

This is sufficient for a grantable petition under 37 CFR 1.8[1].

CONCLUSION

Applicants' petition under 37 CFR 1.8 is hereby **GRANTED**.

The declaration originally filed 12 January 2004 is in compliance with 37 CFR 1.497(a) and (b).

The surcharge fee of $130.00 and processing fee of $130.00 have been charged to Deposit Account 14-1263 as authorized in the 12 January 2004 response.

---

[1] 37 CFR 1.8 *Certificate of mailing or transmission*, states in part:

(a)(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 26 October 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 January 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC
PATENT OPERATIONS CN 5312
PRINCETON, NJ 08543-0026

COPY MAILED

MAR 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Charline Guguen et al :
Application No. 10/450,370 : ON PETITION
Filed: November 5, 2003 :
Attorney Docket No. PF000128 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 25, 2005, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on August 26, 2005 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed September 12, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 26, 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 (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 May 25, 2005 is accepted as having been unintentionally delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2817.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

cc: BRIAN J. CROMARTY
THOMSON LICENSING INC.
P.O. BOX 5312
PRINCETON, NJ 08543

07 DEC 2004

#16

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H. Dale Langley, Jr.
The Law Firm of H. Dale Langley, Jr.
610 West Lynn
Austin, TX 78703

In re Application of :
BARNARD :
Application No.: 10/450,376 :
PUT No.: PCT/US03/07554 : DECISION ON PETITION
Int. Filing Date: 13 March 2003 :
Priority Date: 13 March 2002 : UNDER 37 CFR 1.42
Attorney Docket No.: MANC:001 :
For: DUAL-PIVOT STEERING SYSTEM :
AND METHOD :

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The filed declaration is executed by Belinda Mancheno as legal representative and sole heir to the estate of deceased inventor, Ralph Barnard. However the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration does not set forth the residence and post office address of the deceased inventor, Ralph Barnard as required under 37 CFR 1.497(b). The information must be provided for both the deceased inventor and his legal representative. In addition, the declaration appears to possibly be missing a page two as the last line of the first page ends with "by way of heirship and succession by"

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request

should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

01 MAR 2005

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H. Dale Langley, Jr.
The Law Firm of H. Dale Langley, Jr.
610 West Lynn
Austin, TX 78703

In re Application of	:	
BARNARD	:	DECISION ON RENEWED
Application No.: 10/450,376	:	
Filing Date: 12 June 2003	:	REQUEST FOR STATUS
Attorney Docket No.: MANC:001	:	
For: DUAL-PIVOT STEERING SYSTEM AND METHOD	:	UNDER 37 CFR 1.42

This decision is in response to the applicant's "Renewed Petition Under 37 CFR 1.42" filed 11 February 2005 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 07 December 2004, applicant was mailed a decision dismissing applicant's request for status pursuant to 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration.

On 11 February 2005, applicant filed the response considered herein.

DISCUSSION

37 CFR 1.42 When the Inventor is Dead, states, in part:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration submitted on 22 September 2003 was executed by Belinda Mancheno as legal representative and sole heir to the estate of the deceased inventor, Ralph Barnard. However, because page 2 was inadvertently not filed with the declaration, the residence and mailing address for the deceased inventor was missing. Applicant has presently filed an executed declaration signed by the legal representative which provides the above information for both the deceased inventor and his legal representative. Thus, it is appropriate to grant applicant's renewed petition at this time.

CONCLUSION

Applicant's renewed request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 13 March 2003 and a date of **11 February 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

19 NOV 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON, DC 20005

In re Application of
EMIL SORENSEN
Application No.: 10/450,383
PCT No.: PCT/DK01/00850
Int. Filing Date: 20 December 2001
Priority Date: 21 December 2000
Attorney's Docket No.: 66386-328-7
For: VACUUM RELIEF UNIT WITH MEANS PREVENTING THE EFFECTS OF AN ACCIDENT

DECISION ON PETITION

UNDER 37 CFR 1.181

This is a decision on applicants' "Response to Notification of Missing Requirements" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 27 October 2003. The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 13 June 2003, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 25 June 2003, applicants filed a declaration executed by the sole inventor Emil Sorensen, in compliance with 37 CFR 1.497(a) & (b) along with authorization to charge the $130 surcharge for filing the declaration after the 30 month period to applicant's deposit account.

On 16 October 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 27 October 2003, applicants, in response to the Notification of Missing Requirements, filed a copy of the USPTO mail room date-stamped postcard indicating that an executed declaration was filed on 25 June 2003.

DISCUSSION

The original declaration filed on 25 June 2003 is not located in the application file. However, a review of the finance records for 10/450,383 indicates that the $130 surcharge for filing the declaration after the thirty month period was paid on 25 June 2003.

As stated in section 503 of the Manual of Patent Examining Procedure (8th Ed.,

August 2001)(MPEP):

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the combined declaration and power of attorney was deposited with the USPTO on 25 June 2003.

The evidence submitted is sufficient to establish that a declaration this application was received in the USPTO on 25 June 2003. The communication filed 27 October 2003 includes a copy of the executed declaration. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 25 June 2003. The evidence submitted by applicant, the postcard receipt date stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself.

A review of the declaration reveals that the declaration identifies the inventor, and states the residency, citizenship and mailing address of the inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The copy of the declaration originally submitted on 25 June 2003 and resubmitted on 27 October 2003 is acceptable and meets the requirements of 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371 date is **25 June 2003.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

23 JUN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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#7

William Berridge
OLIFF & BERRIDGE
P.O. Box 19928
Alexandria, Virginia 22320

In re Application of	:	
GUEDON et al.	:	
PCT Application No.: PCT/FR01/03991	:	DECISION ON
International Filing Date: 13 December 2001	:	
Priority Date: 13 December 2000	:	REQUEST
Attorney's Docket No.: 116237	:	
For: METHOD FOR CHARACTERIZING A SURFACE, AND DEVICE THEREFOR	:	UNDER 37 CFR 1.181

This is in response to applicants' "PETITION UNDER RULE 181 FOR ISSUANCE OF NOTIFICATION OF ACCEPTANCE," filed 03 June 2004, which is being treated as a petition under 37 CFR 1.181 to accept the copies of the declaration, the petition for extension of time, and return receipt postcard, filed with the petition, as being true copies of the declaration, petition for extension of time and return receipt postcard which were filed on 21 January 2004. No petition fee is required.

BACKGROUND

On 13 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a translation of the International Application into English as required by 35 U.S.C. 371(c)(2). A copy of the International Application as required by 35 U.S.C. 371(c)(2) was communicated by the international bureau. An oath or declaration of inventors as required by 35 U.S.C. 371(c)(4) was not filed.

On 23 September 2003, the United States Designated/Elected Office (DO/EO) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date, and a surcharge for providing the oath or declaration later than 30 months from the priority date must be submitted within two months of the date of the Notification or by 32 months from the priority date, whichever is later. The period for response was set to expire 23 November 2003, two months from the mail date of the Notification.

On 03 June 2004, Applicants filed the instant petition, which was accompanied by, *inter alia*, a copy of a declaration of the inventors, a copy of a petition for two months extension of time, and a copy of a return receipt postcard.

DISCUSSION

MPEP 503 states, in part:

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In the instant petition applicants state that the attached copies of the declaration of the inventors, the petition for extension of time, and the return receipt postcard are true copies of the declaration, petition and postcard which were submitted on 21 January 2004. The copy of the return receipt postcard filed with the instant petition indicates that on 21 January 2004 that a petition for extension of time, checks for $130 and $420, a response to the notice of missing requirements ("NOMR"), and a declaration ("DEC") were filed therewith. Moreover, a review of PTO fee records for the application finds that a check for the amount of $130 was submitted on 21 January 2004, corresponding to a fee code for filing an oath or declaration after thirty months from the priority date. The fee records for the application further also show that a check for $420 was submitted on 21 January 2004, corresponding to a fee code for a two month extension of time.

A review of the evidence clearly indicates that applicants submitted a complete response the Notification, including the declaration of the inventors, the surcharge fee for late filing of the declaration, the petition for extension of time. and the accompanying extension of time fee on 21 January 2004.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED**.

The declaration of the inventors and the petition for a two-month extension of time submitted with the instant petition have been accepted as having been received on 21 January 2004.

The Surcharge fee for late filing of the declaration and the fee for filing the extension of time have already been paid by applicants.

Applicants have satisfied the filing requirements under 35 U.S.C. 371.

The application has an international filing date of 13 December 2001 under 35 U.S.C. 363 and a date of 21 January 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including determination regarding issuance of a Notification of Acceptance.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Jim Foster
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

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DEC 19 2005

OLIFF & BERRIDGE
PO BOX 19928
ALEXANDRIA VA 22320

In re Application of :
Philippe Guedon et al :
Serial No.: 10/450,401 : PETITION DECISION
Filed: January 21, 2004 :
Attorney Docket No.: 116237 :

This is in response to the petition under 37 CFR 1.59(b), filed October 25, 2005, to expunge an improperly submitted letter from the above identified application.

Petitioner requests that documents submitted September 22, 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.

A review of the information shows that it is a communication from applicants' foreign representatives to their domestic counterparts and is not a formal amendment to the application, only proposals to be put into proper form. There are also two letters submitted September 26, 2005 and September 27, 2005, which appear to be duplicates of the September 22, 2005 cover sheet. The file entries for each of these documents have been closed and as such are no longer publicly available which is the IFW equivalent to removal of a paper document from a paper file wrapper.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 571-273-8300.

George C. Elliott
Director, Technology Center 1600

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of :
Andre FRANK, et al :
Application No. 10/450,409 : DECISION ON PETITION
Filed: June 13, 2003 : TO WITHDRAW
Attorney Docket No. 449122055300 : 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 28, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Morrison & Foerster LLP has been revoked by the assignee of the entire interest of the patent application on August 3, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P.O. BOX 2480
HOLLYWOOD, FL 33022-2480

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070530

DATE : May 30, 2007

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction on Patent No.: 7,105,221

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Jennifer McNeil **Art Unit** 1775

16 OCT 2003

#4

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ALEXANDRIA, VA 22313-1450
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Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville, California 94662-8097

In re Application of :
BUSSIERE et al. :
Application No.: 10/450,422 : DECISION ON PETITION
PCT No.: PCT/US01/29549 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 19 September 2001 :
Priority Date: 19 September 2000 :
Attorney Docket No.: PP163037.012 :
For: CHARACTERIZATION OF THE GSK-3B PROTEIN AND METHODS OF USE THEREOF

The petition to revive under 37 CFR 1.137(b) filed 12 June 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee of $900 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 26,2007

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/450,427 Patent No.: 7196131 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: _____

_____

_____

_____

_____

1796

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/3/06

TO SPE OF : ART UNIT 1655

SUBJECT : Request for Certificate of Correction for Appl. No.: 10450453 Patent No.: 7090875

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**.

Valerie Jackson

Certificates of Correction Branch

703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

Tony a McKelvey

TERRY MCKELVEY, PH.D.
~~SUPERVISORY PATENT EXAMINER~~
SPE

1655
Art Unit

04 MAY 2005
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ALEXANDRIA, VA 22313-1450
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Welsh & Katz, Ltd
120 South Riverside Plaza
22nd Floor
Chicago, IL 60606

In re Application of	:	
CHADWICK, Peter Eric et al.	:	DECISION ON
Application No.: 10/450,480	:	
PCT No.: PCT/NZ01/00293	:	PETITION
Int. Filing Date: 20 December 2001	:	
Priority Date: 21 December 2000	:	UNDER 37 CFR 1.137(b)
Attorney's Docket No.: 90021	:	
For: DUAL POLARIZED ANTENNA	:	

Applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 16 March 2005 is **GRANTED**. Applicants included a postcard receipt indicating that a petition to revive was filed in this case on 27 December 2004 and indicate that this petition is a copy of the earlier filed petition. This petition is accepted as having a receipt date of 27 December 2004.

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies 37 CFR 1.137(b)(3). The petition fee and a declaration in compliance with 37 CFR 1.497(a)-(b) have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The declaration complies with 37 CFR 1.497(a)-(b).

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of 27 December 2004.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

02 MAR 2004

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#6

Welsh & Katz, Ltd
120 South Riverside Plaza
22nd Floor
Chicago, IL 60606

In re Application of :
CHADWICK, Peter Eric et al. :
Application No.: 10/450,480 :
PCT No.: PCT/NZ01/00293 :
Int. Filing Date: 20 December 2001 : NOTIFICATION
Priority Date: 21 December 2000 :
Attorney's Docket No.: 90021 :
For: DUAL POLARIZED ANTENNA :

This application is before the Office of PCT Legal Administration for matters arising under 35 U.S.C. §371.

BACKGROUND

On 20 December 2001, applicant filed international application PCT/NZ01/00293, which claimed a priority date of 21 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 27 June 2002. On 23 April 2002, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight on 23 June 2003 (21 June 2003 was a Saturday).

On 12 June 2003, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 24 September 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 14 October 2003, applicant submitted a declaration and a revocation and power of attorney by assignee.

DISCUSSION

However, the declarations submitted 14 October 2003 are defective. First, the declaration executed by Mathias Martin Ernest Ehlen contains a non-dated, non-initialed alteration to the number of the international application on the first page of the declaration. Second, all of the declarations have the entire declaration through the name and information of the first inventor done in one font, however, there is a larger gap after the first inventor and then the other

inventors and their information are listed in a different font. The gap and different font raise the question of whether these alterations to the declaration were made subsequent to the inventors' executions of the declarations. As the changes are non-dated and non-initialed, the declarations are found not to comply with 37 CFR 1.497(a)-(b). The declarations must be submitted as executed by the inventors.

CONCLUSION

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) must be submitted within **TWO (2) MONTHS** from the mail date of this notification. Extensions of time under §1.136(a) are permitted. **Failure to file a timely and proper reply will result in ABANDONMENT of the application as to the United States of America.**

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

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JUL 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Kuhn, Karsten	:	
Application No. 10/450,483	:	ON PETITION
Filed: November 13, 2003	:	
Attorney Docket No. WAB10180P00040US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed December 20, 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 March 21, 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 and a Request for Continued Examination (RCE) (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). The maximum extendable period for reply to a final Office action is six (6) months from the mailing date of the Office Action. Since the $525.00 extension of time fee submitted with the petition on July 7, 2008 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 the undersigned at (571) 272-3206.

The file is now being forwarded to the Technology Center 1612 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

06 FEB 2004

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Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Bopston, MA 02109

In re Application of	
BINGGELI, Rudolf	
Application No.: 10/450,500	DECISION ON
PCT No.: PCT/IB00/01876	
Int. Filing Date: 15 December 2000	PETITION
Priority Date: None	
Attorney Docket No.: PPS-002XX	UNDER 37 CFR 1.181
For: FOLDED-SEAM CONNECTION, METHOD OF PRODUCING IT, AND DEVICE	

This decision is in response to applicant's "Request For Acceptance of Application Papers As Filed On July 17, 2003," filed on 09 December 2003. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 15 December 2000, applicant filed international application PCT/IB00/01876. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 June 2002. A demand for international preliminary examination was filed 11 October 2001, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, 16 June 2003 (15 June 2003 was a Sunday).

On 13 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 11 August 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 03 October 2003, applicant submitted a status inquiry for a submission filed 17 July 2003.

On 09 December 2003, applicant submitted the instant petition.

On 05 February 2004, applicant submitted a new declaration.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt identifying the instant application by title, inventor and docket number, stamped 17 July 2003 and listing two checks and a declaration. This is adequate evidence that the listed items were received by the Office on 17 July 2003. Applicant indicates that the enclosed are true copies of the 17 July 2003 submissions and the statement is signed by someone registered to practice before the Office.

The declaration that accompanied the 17 July 2003 submission did not comply with 37 CFR 1.497(a)-(b) as required text was missing from the declaration.

The declaration submitted on 05 February 2004 satisfies the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 05 February 2004.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

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#7

04 FEB 2004

Charles L. Gagnebin III
WSGL WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI L.L.P.
Ten Post Office Square
Boston, Massachusetts 02109

Dear Mr. Gagnebin:

This is in response to your letter received 03 October 2003 inquiring about the status of papers filed 17 July 2003 in U.S. patent application 10/450,500. A review of the application file reveals that a "REQUEST FOR ACCEPTANCE OF APPLICATION PAPERS AS FILED ON JULY 17,2003" submitted by facsimile on 09 December 2003 is currently with PCT Legal Attorney Erin Pender of the PCT Legal Office waiting to be acted on. Applicant will receive a proper response in due course.

Sincerely,

Nguyên Ngoc Hô

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (703) 308-6508

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

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OFFICE OF PETITIONS

In re Patent No. 6,957,584 :
Issue Date: October 25, 2005 :
Application No. 10/450,516 : DECISION ON PETITION
Filed: October 21, 2003 :
Attorney Docket No. 3008-1026 :

This is a decision on the petition under 37 CFR 1.182, filed January 12, 2007 requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

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#5

David A. Fox
Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

In re Application of	
KOH, Kyung-Yong	
Application No.: 10/450,520	DECISION ON
PCT No.: PCT/KR01/02146	
Int. Filing Date: 12 December 2001	PETITION
Priority Date: 12 December 2000	
Attorney Docket No.: SUN-0026	UNDER 37 CFR 1.181
For: AN ELECTRO-MOTION TOOTHBRUSH	

This decision is in response to applicant's "Response to the Notification of Missing Requirements," filed on 31 October 2003. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 12 December 2001, applicant filed international application PCT/KR01/02146. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 June 2002. A demand for international preliminary examination was filed 25 June 2002, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, 12 June 2003.

On 12 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 09 October 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 31 October 2003, applicant submitted the instant petition, accompanied by an executed declaration and a postcard receipt without a date stamp.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has provided copies of the declaration and the transmittal that applicant claims to have submitted on 07 July 2003 with a certificate of mailing of 02 July 2003. The response does not indicate that the return postcard was not received. However, in the absence of the return postcard, applicant must still prove the contents of the package. Applicant has supplied a cancelled check. The processing of the check with a mailroom date of 07 July 2003 is an indication of receipt of the transmittal letter and the check. A review of the file does not reveal a transmittal letter. Since another document must have been received by the Office for the Office to apply the check it received to the correct fee codes and the Office cannot locate any of the documents applicant claims to have sent, convincing evidence has been provided that the Office received and misplaced documents mailed on 07 July 2003.

As such, the declaration and transmittal letter are accorded a receipt date of 07 July 2003.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 07 July 2003.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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Facsimile: (703) 308-6459

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HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

Mail Date: 04/21/2010

Applicant	: Hiroshi Ueda	: DECISION ON REQUEST FOR
Patent Number	: 7608636	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/450,524	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **873** 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.

#3

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16 JUL 2003

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CAESAR, RIVISE, BERSTEIN,
COHEN & POKOTILOW, LTD.
12th Floor, Seven Penn Center
1635 Market Street
Philadelphia, PA 19103-2212

In re Application of	:	DECISION ON
Williamson et al	:	
Application No.: 10/450,551	:	
PCT No.: PCT/GB01/01931	:	PETITION UNDER
Int. Filing Date: 02 May 2001	:	
Priority Date: 02 May 2000	:	37 CFR 1.137(b)
Attorney's Docket No.: S1011/20151	:	
For: FUEL COMBUSTION	:	

This decision is in response to applicants' "Petition To Revive Unintentionally Abandoned Application under 37 CFR 1.137 and the Supplemental Petition To Revive...," filed on 12 June 2003, and 13 June 2003, respectively.

BACKGROUND

On 02 May 2001, this international application was filed, claiming an earliest priority date of 02 May 2000.

A Demand electing the United States was filed in this international application was filed but was considered withdrawn by IPEA/EP on March 28, 2002. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.494 was 01 January 2002. This international application became abandoned with respect to the United States at midnight on 01 January 2002 for failure to pay the required basic national fee. A copy of the intentional application was transmitted on 08 November 2001 to the USPTO from the International Bureau.

On 12 June 2003, applicant filed in the United States Patent and Trademark Office (USPTO) the instant petition under 37 CFR 1.137(b) and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee, the copy of the international application, and an executed declaration.

On 13 June 2003, applicants filed a Supplemental Petition To Revive Unintentionally Abandoned Application Under 37 CFR 1.137, which indicated although applicant filed papers to enter Chapter II in the aforementioned '01931 international application in a timely manner, it unintentionally failed to pay the required Chapter II fees.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date of this application is **12 June 2003**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

13 JAN 2004

#6

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c/o Y Vladagin
6038 Tyndall Avenue
Bronx, New York 10471

In re Application of :
SMIRONOV et al. :
Application No.: 10/450,552 :
PCT No.: PCT/RU01/00540 : DECISION
Int. Filing Date: 11 December 2001 :
Priority Date: 15 December 2000 :
Attorney Docket No.: None :
For: SOUND-REPRODUCING DEVICE

This is a response to applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unavoidably under 37 CFR 1.137(a)" filed 26 November 2003. The petition fee has been submitted.

BACKGROUND

On 11 December 2001, applicants filed international application PCT/RU01/00540 which claimed priority date of 15 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 June 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 15 June 2003.

On 14 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: a credit card payment in the amount of $520; a translation of the international application; and an executed declaration.

On 31 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT UNDER 35 U.S.C. 371 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the U.S. Basic National Fee for a small entity by 30 months (37 CFR 1.495(b)(2). The notification of abandonment states that the basic national fee was $530 and that an attempt to charge the additional $10.00 was declined by the credit card company.

On 26 November 2003, applicants filed a "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unavoidably under 37 CFR 1.137(a)."

DISCUSSION

A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the requisite petition fee; (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(c). Applicant has satisfied items (1) and (2). Item (4) is not required.

Regarding Item (1), the proper response was payment of the basic national fee. The payment of $520 filed 14 June 2003 and the payment of $10.00 filed 26 November 2003 is sufficient for entry into the national stage.

As to Item (2), the petition fee has been submitted.

With regards to item (3), applicants have not provided an acceptable showing that the delay was unavoidable. Applicants argue in their petition that the failure to timely submit the basic national fee was unavoidable. As stated in the petition, "[t]he applicant filed the above-identified application and at the same time deposited USD 555.00 on the credit card account . . . enough to cover the basic filing fee and possible additionally charges that could have occurred." However, a review of the finance records reveals that the an attempt to charge the additional $10 was decline by the credit card company. Additionally, petitioner states that "Applicant is used to the Russian patent system that fixed fees and does not adjust them every year, the Applicant automatically used the 2002 form with the old fee amount." As stated in Manual of Patent Examining Procedure, section 711.03(c)(2), the delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, 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).) Therefore, the showing of the record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a).

As for Item (4), the terminal disclaimer is not required in this application since it was filed after 08 June 1995.

RECOMMENDATION

Applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(b) requesting that the application be revived. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "delay was unintentional." In this instance, the fee required by law for revival of an unintentionally abandoned application is $665.

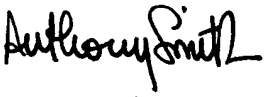
CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

The application remains **ABANDONED** with regards to national stage processing in the United States.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." A proper response would include payment of the petition fee.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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#9

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04 AUG 2006

Yuri Vladagin
6038 Tyndall Avenue
Bronx, New York 10471

In re Application of	:	
SMIRNOV et al.	:	
Application No.: 10/450,552	:	DECISION ON PETITION
PCT No.: PCT/RU01/00540	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 11 December 2001	:	
Priority Date: 15 December 2000	:	
Attorney Docket No.: None	:	
For: SOUND-REPRODUCING DEVICE	:	

The petition to revive under 37 CFR 1.137(b) filed 08 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

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SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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JAN 25 2007

OFFICE OF PETITIONS

In re Application of :
Jeong Do Kim et al :
Application No. 10/450,556 : ON PETITION
Filed: November 10, 2003 :
Attorney Docket No. 3364P106 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 10, 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 9, 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 above-identified application became abandoned on April 10, 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 1636 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
FRANK BARTELS :
Application No. 10/450,563 : DECISION ON PETITION
Filed: June 16, 2003 :
Attorney Docket No. P0302T :

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 2, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on March 3, 2006. A Notice of Abandonment was mailed on July 3, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of December 2, 2005 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 3752 for appropriate action in the normal course of business on the reply received September 28, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

30 OCT 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Song K. Jung
MCKENNA, LONG & ALDRIDGE
1900 K Street, N.W.
Washington, D.C. 2006

In re Application of	:
JANG, Ho Geun, et al.	:
U.S. Application No.: 10/450,564	:
PCT No.: PCT/KR01/02173	: DECISION ON PETITION
International Filing Date: 14 December 2001	: UNDER 37 CFR 1.47(a)
Priority Date: 16 December 2000	:
Attorney's Docket No.: 7950.008	:
For: AIR CONDITIONER	:

This decision is issued in response to applicants' "Petition And Submission Of Declaration" filed 16 June 2003 and treated herein under 37 CFR 1.47(a). Deposit Account No. 50-0911 will be charged the required petition fee.

BACKGROUND

On 14 December 2001, applicants filed international application PCT/KR01/02173 which claimed a priority date of 16 December 2000 and which designated the United States. On 20 June 2002, a copy of the international application was communicated to the USPTO by the International Bureau. The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 16 June 2003.

On 16 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a declaration executed by two of the three inventors, and the petition considered herein under 37 CFR 1.47(a). The petition requests acceptance of the application without the signature of nonsigning inventor Dong Jin KWAK, whom applicants assert cannot be located after diligent effort.

DISCUSSION

In order for the application to be accepted without the signature of the nonsigning inventor, applicants must submit a grantable petition under 37 CFR 1.47(a). A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the proper petition fee, (2) a statement of the last known address of the inventor; (3) an oath or declaration executed by the other inventors on their own behalf and on behalf of the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

The petition included an authorization to charge Deposit Account No. 50-0911 the $130 petition fee, and it sets forth the last known address of the nonsigning inventor. Items (1) and (2) are therefore satisfied.

With respect to item (3), applicants section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have submitted a declaration containing an unexecuted signature block for the nonsigning inventor and executed by the other inventor. Item (3) is therefore satisfied.

Regarding item (4), the proof required to show that a nonsigning inventor cannot be reached after diligent effort is set forth in section 409.03(d) of the MPEP, which states:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> ...
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail, return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

Here, evidence with respect to the efforts made to locate the nonsigning inventor is contained in the accompanying "Declaration Of Jung Won Yoon." This declaration makes reference to a single unsuccessful attempt to hand deliver the application materials to the nonsigning inventor's last known address (the declaration states that, during this effort, declarant "failed to meet" the nonsigining inventor; it is not clear from this statement if the address was no longer valid or if the inventor simply was not home at the time). The declaration also refers to an unsuccessful attempt to telephone the nonsigning inventor. The declaration does not, however,

describe any attempts made by applicants to learn the inventor's current address or telephone number (i.e., internet searches, etc.). Before it can be concluded that the nonsigning inventor cannot be reached after diligent effort, applicants must provide the required, specific, firsthand statement regarding some efforts made to locate the nonsigning inventor' current address and telephone number. On the present record, item (4) is not satisfied.

Based on the foregoing, applicants have not satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and should include an adequate, firsthand statement setting forth the efforts made by applicants to locate the nonsigning inventor, as discussed above.

No additional petition fee is required. Failure to file a timely response will result in abandonment of the application.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

12 MAY 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MCKENNA, LONG & ALDRIDGE
1900 K Street, N.W.
Washington, D.C. 2006

In re Application of	:	
JANG, Ho Geun, et al.	:	
U.S. Application No.: 10/450,564	:	
PCT No.: PCT/KR01/02173	:	DECISION ON RENEWED
International Filing Date: 14 December 2001	:	PETITION UNDER
Priority Date: 16 December 2000	:	37 CFR 1.47(a)
Attorney's Docket No.: 7950.008	:	
For: AIR CONDITIONER	:	

This decision is issued in response to the "Request To Withdraw Petition Under 37 CFR 1.47(a)" filed by applicant on 29 April 2004. No additional petition fee is required.

BACKGROUND

The procedural background for this petition is set forth in detail in the decision mailed by this Office on 30 October 2003. In that decision, applicant's petition under 37 CFR 1.47(a) for acceptance of a declaration without the signature of inventor Dong Jin KWAK was dismissed without prejudice.

On 03 May 2004, the DO/EO/US mailed a "Notification Of Abandonment" (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a timely response to the 30 October 2003 decision.

On 29 April 2004, applicant filed the "Request To Withdraw Petition Under 37 CFR 1.47(a)" considered herein.[1] This submission included a declaration executed by the previously non-signing inventor, and it was accompanied by payment of the fee for a four-month extension of time to respond to the 30 October 2003 decision.

DISCUSSION

As noted above, the renewed petition was accompanied by a copy of the declaration executed by all the inventors, including Dong Jin KWAK, the previously non-signing inventor

[1] The original materials filed 29 April 2004 are not in the application file. However, applicants resubmitted the materials via facsimile on 11 May 2004. Based on the copy of the date-stamped return postcard included with the facsimile, and USPTO records indicating receipt of the $1,480 extension fee on 29 April 2004, it is concluded that the petition materials resubmitted by facsimile on 11 May 2004 were originally filed on 29 April 2004.

who was the subject of the earlier petition under 37 CFR 1.47(a). Accordingly, applicants' petition under 37 CFR 1.47(a) is now moot. Applicants have now submitted a fully executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 50-0911 will be charged the required $130 surcharge for filing the fully executed declaration later than thirty months after the priority date.

With respect to the Notification Of Abandonment mailed 03 May 2004, the 29 April 2004 submission included payment of the fee required for a four month extension of time to respond. Based on this extension, the 29 April 2004 submission was a timely response to the decision mailed 30 October 2003. The Notification Of Abandonment, based as it was on applicants' purported failure to file a timely response to the 30 October 2003 decision, is therefore appropriately vacated.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **MOOT.**

The Notification Of Abandonment (Form PCT/DO/EO/US) mailed 03 May 2004 is **VACATED**.

The fully executed declaration included with the 11 May 2004 facsimile transmission is treated as having been originally filed on 29 April 2004.

Deposit Account No 50-0911 will be charged the $130 surcharge for filing the declaration later than thirty months after the priority date.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date is 29 April 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

OIPE JC29
APR 29 2004
PATENT & TRADEMARK OFFICE

DAC 7/8

Docket No.: 7950.008.00-US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
MAY 04 2004
OFFICE OF PETITIONS

In re Patent Application of:
Ho G. Jang et al.

Application No.: 10/450,564 Customer No.: 30827

Filed: June 16, 2003 Art Unit: N/A

For: AIR CONDITIONER Examiner: Not Yet Assigned

REQUEST TO WITHDRAW PETITION UNDER 37 C.F.R. 1.47(A)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Decision on Petition Under 37 C.F.R. 1.47(a) dated October 30, 2003, the Applicants hereby withdraw the petition under 37 C.F.R. 1.47(a). Subsequent to the filing of this petition, the inventor, Dong Jin Kwak, was located and he has executed the Declaration which is submitted herewith. Accordingly, the Applicants no longer wish to pursue this petition.

In light of the foregoing, this application is deemed to be in proper condition for issuance and such favorable action is earnestly solicited.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-0911, under Order No. 7950.008.00-US. A duplicate copy of this paper is enclosed.

Dated: April 29, 2004

Respectfully submitted,

By for Rebecca Goldman Rudich #42,766
Registration No.: 41,786
MCKENNA LONG & ALDRIDGE LLP
1900 K Street, N.W.
Washington, DC 20006
(202) 496-7500
Attorney for Applicant

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 NW
SUITE 800
WASHINGTON, DC 20037

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MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Jean-Marie Billiotte et al :
Application No. 10/450,565 : DECISION GRANTING PETITION
Filed: October 9, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q76068 :

This is a decision on the petition, filed March 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 12, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Steve D. Beyer appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, however, Mr. Beyer desires to receive correspondence regarding this file, the appropriate power of

---

[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).*

attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Beyer, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will continue to be directed solely to the above-noted correspondence address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1724 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

cc:

Beyer Weaver & Thomas LLP
Intellectual Property Law
590 W. El Camino Real
Mountain View, CA 94040

C:\Documents and Settings\FHicks\My Documents\470\Mar9\450565.wpd

03 AUG 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

James Ledbetter
Stevens, Davis, Miller & Mosher, LLP
Suite 850
1615 L Street, N.W.
Washington, D.C. 20036

In re Application of
SUMASU et al.
Application No.: 10/450,566
PCT No.: PCT/JP02/06873
Int. Filing Date: 05 July 2002
Priority Date: 05 July 2001
Atty. Docket No.: L9289.03131
For: WIRELESS COMMUNICATION APPARATUS AND WIRELESS COMMUNICATION METHOD

NOTIFICATION

This is a response to applicants' "Transmittal of Correct Translation" filed 29 March 2004.

BACKGROUND

On 05 July 2002, applicants filed international application PCT/JP02/06873 which claimed a priority date of 05 July 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 January 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 05 January 2004.

On 16 July 2003, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee of $890; translation of the international application; and an executed declaration.

On 02 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 16 July 2003.

On 29 March 2004, applicants filed "Transmittal of Correct Translation" which included an English translation of the international application.

DISCUSSION

A review of the application file and other Patent and Trademark Office records reveal that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have not been completed as indicated in the Notification of Acceptance mailed by the DO/EO/US on 02 October 2003. Applicant states, "[a] complete translation of PCT/JP02/06873 is submitted herewith to correct a defect in the translation filed June 16, 2003. . .The previous translation omitted a translation of the description of Embodiment 3 relating to Fig. 14." Since the translation of the international application filed 16 June 2003 was not an identical translation in accordance with 35 U.S.C. 371(c)(1), the Notification of Acceptance of Application mailed 02 October 2003 is vacated.

With the filing of the new translation of International PCT application PCT/JP02/06873 on 29 March 2004, the above-identified application will be given an international filing date of 05 July 2002 under 35 U.S.C. 363, and a date of **29 March 2004** under 35 U.S.C. 371(c)(1), (c)(2), and(c)(4).

CONCLUSION

Applicant's request to accept the translation of the international application under 35 U.S.C. 371, filed 29 March 2004, is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 02 October 2003 is hereby **VACATED**.

The application will be given an international filing date of 05 July 2002 under 35 U.S.C. 363, and a date of **29 March 2004** under 35 U.S.C. 371 371(c)(1), (c)(2), and(c)(4).

This application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **29 March 2004** under U.S.C. 371 371(c)(1), (c)(2), and(c)(4).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY, MI 48007

COPY MAILED

MAR 28 2006

OFFICE OF PETITIONS

In re Application of :
Christopher Stanford Baylis :
Application No. 10/450,572 : ON PETITION
Filed: October 6, 2003 :
Attorney Docket No. 71030-013 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 11, 2005, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on June 12, 2005. See MPEP 1215.04.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the

appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3683.

Wan Laymon
Petitions Examiner
Office of Petitions

cc: SAMUEL J. HAIDLE
HOWARD & HOWARD ATTORNEYS
39400 WOODWARD AVENUE
SUITE 101
BLOOMFIELD HILLS, MI 48304-5151

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 060206

DATE : 5-15-06

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/450577 Patent No.: 7022348

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 cols.

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

1636
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/10/09

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 10450579 Patent No.: 7145760 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.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Rexford Barnie/ SPE Art Unit 2819

SPE Art Unit

#4

UNITED STATES PAT[redacted]nd TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

30 SEP 2003

Joseph Sofer, Esq.
Sofer & Haroun, LLP
317 Madison Avenue
Suite 910
New York, NY 10017

In re Application of	:	DECISION ON
Scanlon et al	:	
Application No.: 10/450,581	:	
PCT No.: PCT/US01/10943	:	PETITION UNDER
Int. Filing Date: 04 April 2001	:	
Priority Date: 04 April 2000	:	37 CFR 1.137(b)
Attorney's Docket No.: 764-005us	:	
For: A SYSTEM AND METHOD ...	:	
DISPARATE INFORMATION SOURCES	:	

This decision is in response to applicants' "Petition To Revive Unintentionally Abandoned Application (37 CFR 1.137(b)," filed on 13 June 2003.

BACKGROUND

On 04 April 2001, this international application was filed, claiming an earliest priority date of 04 April 2000. A copy of the intentional application was transmitted on 11 October 2001 to the USPTO from the International Bureau.

A Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 04 October 2002. This international application became abandoned with respect to the United States at midnight on 04 October 2002 for failure to pay the required basic national fee.

On 13 June 2003, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the petition fee, and basic national fee. No executed declaration or oath was submitted at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a

continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/450,581	02/09/2004	Robert Scanlon	764-005us	9838

7590 05/12/2009

Daniel E Ovanezian
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

EXAMINER	
DARNO, PATRICK A	

ART UNIT	PAPER NUMBER
2158	

MAIL DATE	DELIVERY MODE
05/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Ashley R. Essick
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale CA 94085-4040

In re Application of:
Scanlon et al.
Application No.: 10/450,581
Filed: February 9, 2004
For: SYSTEM AND METHOD FOR ACCESSING DATA IN DISPARATE INFORMATION SOURCES

DECISION ON PETITION UNDER 37 C.F.R. § 41.3 TO ENTER APPELLANTS' REPLY BRIEF AS TIMELY FILED

This is a decision on the petition, filed on February 4, 2009, under 37 C.F.R. § 41.3 to Enter Reply Brief as timely filed.

The petition is **DENIED**.

RELEVANT PROSECUTION HISTORY

September 15, 2008	Appeal Brief was filed.
October 1, 2008	Examiner's Answer to Appeal Brief was mailed.
December 1, 2008	Document titled Appeal Brief in support of Appellant's Appeal to the Board of Patent Appeals and Interferences was filed.
January 23, 2009	Notice of Non-compliant Reply Brief was mailed, indicating why a Substitute Appeal Brief was not proper.
February 4, 2009	The instant petition was filed along with an updated Appeal Brief including a new cover sheet titled "Reply Brief".

RELIEF REQUESTED

The Petitioner requests the following relief: (1) entry of Reply Brief filed on December 1, 2008, in the alternative (2) entry of Reply Brief included with the instant petition.

REGULATIONS AND PRACTICE

37 C.F.R. 41.41 states:

(a) (1) Appellant may file a reply brief to an examiner's answer within two months from the date of the examiner's answer.

(2) A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal.

(b) A reply brief that is not in compliance with paragraph (a) of this section will not be considered. Appellant will be notified if a reply brief is not in compliance with paragraph (a) of this section.

(c) Extensions of time under § 1.136 (a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136 (b) of this title for extensions of time to reply for patent applications and § 1.550 (c) of this title for extensions of time to reply for ex parte reexamination proceedings.

37 C.F.R. § 1.8(b) states:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

MPEP § 1208 (I) states in part:

Under 37 CFR 41.41(a)(1) and 41.43(b), appellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer or supplemental examiner's answer. Extensions of time to file the reply brief may be granted pursuant to 37 CFR 1.136(b) (for patent applications) or 1.550(c) (for *ex parte* reexamination proceedings). Extensions of time

under 37 CFR 1.136(a) are not permitted. The examiner may provide a supplemental examiner's answer to respond to any reply brief that raises new issues. See MPEP § 1207.05. Normally, appellant is not required to file a reply brief to respond to an examiner's answer or a supplemental examiner's answer, and if appellant does not file a reply brief within the two month period of time, the application will be forwarded to the Board for decision on the appeal. In response to the following, however, appellant is required to file either a reply brief to maintain the appeal or a reply under 37 CFR 1.111 to reopen prosecution:
(A) An examiner's answer that contains a new ground of rejection pursuant to 37 CFR 41.39 (see MPEP § 1207.03).
. . .

The reply brief can also be a substitute brief replacing the original brief by responding to both the new ground of rejection and all other grounds of rejection covered in the original brief. In such an instance, the reply brief must meet all the requirements of a brief as set forth in 37 CFR 41.37(c).

ANALYSIS

A document titled Appeal Brief in support of Appellant's Appeal to the Board of Patent Appeals and Interferences was filed on December 1, 2008. Upon review of the submission, which includes the full content (including sections, headings, etc.) of an Appeal Brief, the submission was held to be a Substitute Appeal Brief rather than a Reply Brief as argued. Accordingly, the Examiner properly held the submission to be non-compliant in accordance with MPEP 1208 (I) since the Examiner's Answer did not contain new grounds of rejection, as is required.

Petitioner's requested relief to (1) enter the "Reply Brief" of December 1, 2008 is accordingly denied.

With respect to the requested relief to enter the Reply Brief included with the instant petition, the Petitioner alleges that the updated supplemental Appeal Brief filed on February 4, 2009 is a compliant Reply Brief in accordance with 37 CFR 41.41. Upon review of the "Reply Brief" filed with the instant petition reveals it to be a re-titled copy of the submission filed December 1, 2008. As such, this document continues to be non-compliant with MPEP 1208 (I) for the reasons stated previously.

Furthermore, in accordance with 37 CFR 41.41 the period of filing has lapsed and extension of time under 37 CFR 1.136(a) is not permitted since normally the Appellant is not required to file a Reply Brief as a response to an Examiner's Answer.

Petitioner's requested relief to (2) enter the Reply Brief filed with the instant petition on February 4, 2009 is accordingly denied.

DECISION

For the above stated reasons, the petition is **DENIED**.

The Application is being forwarded to the Board of Patent Appeals and Interferences for appropriate action.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613

Jeffery Gaffin, TC 2100 Acting Director
Computer Architecture and Software

JG: NAJ

05 JAN 2007
UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

William R Reid
Baseball USA Inc
Intellectual Property
912 Appleton Road
Elkton, MD 21921

In Re Application of
FERRARO et al.
Application No.: 10/450,603
PCT No.: PCT/EP01/15394
Int. Filing Date: 21 December 2001
Priority Date: 22 December 2000
Attorney Docket No.: TC 5453 (US)
For: PROCESS FOR THE PREPARATION OF POROUS POLYMERS AND POLYMERS OBTAINABLE THEREOF:

DECISION

This is a decision on applicant's "REQUEST FOR CORRECTED FILING RECEIPT AND NOTICE OF ACCEPTANCE" filed in the United States Patent and Trademark Office (USPTO) on 02 October 2006.

On 21 December 2001, applicant filed international application No. PCT/EP01/15394 which claimed a priority date of 22 December 2000 and which designated the United States. On 4 July 2002, a Demand was filed . Thereafter, on 13 June 2003, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee. Applicant also filed a copy of the declaration executed under PCT Rule 4.17..

A Notification of Missing Requirements (Form PCT/DO/EO/905) was incorrectly issued on 17 November 2003. Applicant filed a response on 20 January 2004. On 22 December 2003, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed incorrectly indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 13 July 2003.

On 02 October 2006, applicant filed the instant petition along with a copy of the USPTO itemized postcard receipt. Applicant contends the U.S. national stage papers were filed in the USPTO on 13 June 2003. Applicant urges that the Form PCT/DO/EO/903 be vacated and that a new Notification of Acceptance and corrected filing receipt be issued indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 13 June 2003.

DISCUSSION

A review of the USPTO date-stamped, itemized postcard receipt indicates that the national stage filing of international application PCT/EP01/15394 comprising of PTO-1390, Preliminary Amendment, copy of Request, copy of Form PCT/IB/306, and assignment, among other documents, were deposited with the USPTO on 13 June 2003. A review of the finance records indicates that the national stage fee was also paid on 13 June 2003.

Applicant provided copies of the papers itemized on the post card receipt. The request for national stage entry was received on 13 June 2003, prior to the expiration of the 30 month deadline of 22 June 2003. The papers are assigned U.S. serial number 10/450,603.

The evidence submitted is sufficient to establish that this application was received in the USPTO on 13 June 2003. Accordingly, it is appropriate to accept the application papers with a deposit date of 13 June 2003.

The declaration, filed under PCT Rule 4.17 and submitted on 13 June 2003, identifies each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b) are met.

The Notification of Acceptance mailed on 22 December 2003 was issued bearing an incorrect 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 13 June 2003.

CONCLUSION

For the reasons set forth above, applicant's request to vacate the Notification of Acceptance is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 22 December 2003 and filing receipt are **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. A new Notification of Acceptance (Form PCT/DO/EO/903) will be issued indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **13 June 2003.**

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286

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Commissioner for Patents
United States Patent and Trademark Office
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DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
NEW YORK NY 10036-2714

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OFFICE OF PETITIONS

In re Patent No. 7,157,280 :
Issue Date: January 2, 2007 :
Application No. 10/450,606 : ON PETITION
Filed: December 11, 2003 :
Attorney Docket No. G5005.0017 :

This is a decision on the petition filed December 28, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee to the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The required $130 petition processing fee under § 1.17(i) has been charged to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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BASF Performance Products LLC
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

Mail Date: 04/20/2010

Applicant	: Chirstopher Robert Gillett	: DECISION ON REQUEST FOR
Patent Number	: 7601786	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/450,622	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1132** 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
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P.O. Box 1450
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ARTHUR Z. BOOKSTEIN
K & L GATES LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

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OFFICE OF PETITIONS

In re Application of	:	
Titus Kuehne	:	DECISION ON PETITION
Application No. 10/450,624	:	TO WITHDRAW
Filed: December 1, 2003	:	FROM RECORD
Attorney Docket No. 14673-064US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 26, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 21, 2006 the power of attorney to K & L Gates LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Proskauer Rose LLP
1001 Pennsylvania Ave, N.W.
Suite 400 South
Washington DC 20004

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)
6847437	2005-01-25	10450626	2003-06-17	4590-186

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

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	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	/Kenneth M. Benrer/	Date (YYYY-MM-DD)	2009-10-20
Name	Kenneth M. Berner	Registration Number	37093

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. 6847437
Issue Date: January 25,2005
Application No. 10450626
Filed: June 17,2003
Attorney Docket No. 4590-186

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 20,2009 ,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 20,2009 . 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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LADAS & PARRY LLP
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NEW YORK NY 10023

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OFFICE OF PETITIONS

In re Application of :
Mirzabekov et al :
Application No. 10/450,641 : DECISION ON PETITION
Filed: June 16, 2003 :
Attorney Docket No. U014640-8 :

This is a decision on the petition, filed June 15, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of November 17, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before February 17, 2009.

Petitioner states that a reply was timely filed. Office records indicate that a reply was received in the USPTO on May 26, 2009, which included the following papers: Transmittal Letter and Amendment to the Office action mailed November 17, 2008. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated May 18, 2009, (May 17, 2009 was on a Sunday), which would have rendered the reply timely if received.

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 November 17, 2008, is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 1637 for appropriate action in the normal course of business on the reply received May 26, 2009 and with the petition on June 15, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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JJGJR.: 06-06

Paper No: __

FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of :
Ohta, al. :
Application No. 10/450,647 : ON PETITION
Filed: 16 June, 2003 :
Attorney Docket No. 09234.0001 :

This is a decision on a petition filed on 2 December, 2005, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 12 July, 2005, with reply due under a non-extendable deadline on or before 12 October, 2005;
- the application went abandoned by operation of law after midnight 12 October, 2005;
- on 15 September, 2005, Petitioner submitted a payment, however, it appears that it was only in the amount of $1,400.00, and not the $1,700.00 due at the time and there was not

authorization for a charge to a deposit account to satisfy the $300.00 deficiency;[1]

- the Office mailed the Notice of Abandonment on 29 November, 2005;
- on 2 December, 2005, Petitioner filed the instant petition, fee, reply in the form of the balance of fees due ($300.00), and made a statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

---

[1] It is noted that Petitioner submitted a copy of a date-stamped postcard indicating receipt of payment in the amount of $1,700.00, but, notably, Petitioner does not plead or argue for withdrawal of the holding of abandonment under 37 C.F.R. §1.181 and no copy of a cancelled check is submitted in evidence. It is therefore concluded that Petitioner is not contending that full payment was received by the Office on 15 September, 2005, but only partial payment in the amount of $1,400.00.

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

30 JUN 2004

#6

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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Eitan Pearl Latzer & Cohen Zedek, LLP
10 Rockefeller Plaza
Suite 1001
New York, NY 10020

In re Application of :
PILOSSOF, Nissim et al. :
Application No.: 10/450,660 : DECISION ON
PCT No.: PCT/IL01/01061 :
Int. Filing Date: 18 November 2001 : PETITION
Priority Date: 12 December 2000 :
Attorney Docket No.: P-3822-US : UNDER 37 CFR 1.181
For: IMAGING HEAD WITH LASER DIODE :
ARRAY AND A BEAM-SHAPING :
MICRO LIGHT-PIPE ARRAY :

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment," filed on 01 December 2003.

BACKGROUND

On 18 November 2001, applicant filed international application PCT/IL01/01061, claiming a priority date of 12 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 June 2002. The deadline for entry into the national stage in the United States was thirty months from the priority date, 12 June 2003.

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by an authorization to charge the basic national fee. It was accorded a receipt date of 13 June 2003.

On 14 November 2003, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned as applicant failed to pay the basic national fee by 30 months.

On 01 December 2003, applicant submitted the instant petition.

DISCUSSION

Applicant has submitted a copy of a postcard receipt identifying the instant application by title, inventor and docket number, stamped 11 June 2003 and listing the transmittal letter. This is adequate evidence that the listed items were received by the Office on 11 June 2003.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 14 November 2003 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing including mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for late filing of the oath or declaration are required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

14 APR 2004

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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23599
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 Clarendon Blvd., Suite 1400
Arlington, VA 22201

In re Application of :
ENGKVIST, Ola *et al* :
U.S. Application No.: 10/450,665 :
PCT No.: PCT/EP01/14807 :
Int. Filing Date: 14 December 2001 :
Priority Date: 15 December 2000 : **DECISION**
Attorney Docket No.: WEICKM-6 :
For: FOCUSSING OF COMPOUND :
LIBRARIES USING ATOMIC :
ELECTROPOLOGICAL VALUES :

This is a decision on applicants' "Petition under 37 C.F.R. §1.47(a)" filed on 29 March 2004.

BACKGROUND

On 29 September 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee must be provided. Applicants were given two months to respond with extensions of time available.

On 29 March 2004, applicants submitted the instant petition which was accompanied by, *inter alia*, the $130.00 petition fee; the $65.00 surcharge fee; a four-month extension request with a $740.00 extension fee; a declaration signed by one of the two co-inventors; a copy of a letter mailed to the nonsigning co-inventor; and a copy of an e-mail from the nonsigning co-inventor.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor. Applicants failed to satisfy item (2).

Concerning item (1), the $130.00 petition fee has been paid.

With regard to item (3), applicants satisfy this requirement by listing the last

known address of the nonsigning co-inventor, Ola Engkvist, on the declaration as:

Neuendorfstrasse 24 B
Hennigsdorf, Germany 16761

Regarding item (4), applicants included a declaration signed by one of the two co-inventors. All the inventors' names, residences, post office addresses and citizenship are typed on the declaration. This declaration satisfies the requirements of section 409.03(a) of the Manual of Patent Examining Procedure (MPEP) and is in compliance with 37 CFR 1.497(a) and (b). Thus, item (4) has been satisfied.

Concerning item (2), applicants state that the non-signing joint inventor was sent a letter on 03 June 2003 requesting that he sign the declaration for the above-captioned application. Petitioner claims that Mr. Engkvist submitted an email response which constitutes a refusal to sign. A copy of the 03 June 2003 letter and email dated 11 June 2003 were included in the instant petition.

Section 409.03(d) of the MPEP explains what is required to prove a refusal by an inventor and states, in part:

> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient . . .
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

In this case, the 37 CFR 1.47(a) applicant has not shown that a complete copy of the application papers, including the specification, claims and drawings, were presented to the nonsigning inventor. Moreover, the email dated 11 June 2003 from the nonsigning co-inventor does not constitute a refusal to sign. It appears that there was a question regarding a letter of recommendation promised to him. For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

Accordingly, all the requirements of 37 CFR 1.47(a) have not been satisfied.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

10 AUG 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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23599
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 Clarendon Blvd., Suite 1400
Arlington, VA 22201

In re Application of :
ENGVIST, Ola *et al* :
U.S. Application No.: 10/450,665 :
PCT No.: PCT/EP01/14807 :
Int. Filing Date: 14 December 2001 :
Priority Date: 15 December 2000 :
Docket No.: WEICKM-6 :
For: FOCUSSING OF COMPOUND :
LIBRARIES USING ATOMIC :
ELECTROPOLOGICAL VALUES :

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Response to Decision . . . " filed on 14 June 2004 which is treated as a renewed petition under 37 CFR1.47(a).

BACKGROUND

On 14 April 2004, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed for failing to satisfy all of the requirements of 37 CFR 1.47(a). Applicants were given two-months to respond.

On 19 February 2004, applicants submitted the instant renewed petition which was accompanied by, *inter alia*, a four-month extension and fee, and a declaration signed by three of the eight co-inventors.

DISCUSSION

In the renewed petition under 37 CFR 1.47(a), applicants have submitted a declaration executed by the nonsigning joint inventor, Ola Engkvist. The petition under 37 CFR 1.47(a) is no longer required.

Paul Wrede, the other joint inventor, had executed a declaration filed on 29 March 2004. Mr. Wrede is listed in box 202, but signed in box 2301. Applicants state that "in the previously filed Declaration, the inventor who is identified as inventor 202, signed in the box allocated for inventor 201. However, it is clear that the signature belongs to the inventor identified as inventor 202." A review of the declaration filed on 29 March 2004 shows that the signature clearly is that of Mr. Wrebe.

Both the declarations are in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

Since the nonsigning joint inventor has executed a declaration, applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 14 December 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 14 June 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant	: Patrick Franke	: DECISION ON REQUEST FOR
Patent Number	: 7604812	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/450,666	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1388** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 05/17/2010

Applicant : Patrick Franke
Patent Number : 7604812
Issue Date : 10/20/2009
Application No: 10/450,666
Filed : 11/28/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1442** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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ALEXANDRIA, VA 22313-1450
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ALEXANDER WILSON
ELI LILLY & COMPANY
PATENT DIVISION
PO BOX 6288
INDIANAPOLIS, IN 46206-6288

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Macklin B. Arnold, et al. :
Application No. 10/450,667 : ON PETITION
Filed: December 12, 2003 :
Attorney Docket No.: X-12214 :
:

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 1, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated November 29, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1625 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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In re Patent No. BLEISCH ET AL.
Issue Date: April 17, 2007
Appl No.: 10/450,667
Filed: December 01, 2003
For:

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition under 37 CFR 1.48, filed July 15, 2005. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Janet Andres
Supervisory Patent Examiner
Art Unit 1625
Patent Examining Group 1625

Alexander Wilson
Eli Lilly & Company
Patent Division
PO Box 6288
Indianapolis, IN 46206-6288

OIPE JC56
JUL 15 2005
PATENT & TRADEMARK OFFICE

"Express Mail" mailing label number EV 393129972 US

Date of Deposit 15 July 2005

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

QUEEN THOMAS — Queen Thomas
Printed Name — Signature

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Arnold, et al.	)
For	:	EXCITATORY AMINO ACID RECEPTOR ANTAGONISTS	) Examiner: Z. Northington Davis
Docket No.	:	X-12214	) Art Unit: 1625
Serial No.	:	10/450,667	)
Filing Date	:	December 1, 2003	)

Please enter 1/3/2008

PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. 1.48

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Petition

This petition is to delete the names of the following people as inventors for the present invention, who, in error, were originally named on the list of inventors:

Ana Isabel Mateo-Herranz
Ana Maria Escribano

A statement from each person being deleted as an inventor that the error arose without deceptive intent is attached herewith. Also included please find a written consent of the assignee for the requested change in inventorship.

07/19/2005 WABDELR1 00000025 050840 10450667
02 FC:1464 130.00 DA

SPE H. Yuen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/450,678

Paper No.: _____

DATE : 6/15/05

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction on Patent No.: 6885933

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 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:

OK Approved

Henry C. Yuen
Supervisory Patent Examiner
Group 3700

SPE

3747
Art Unit

OIPE JC98 MAY 17 2005 PATENT & TRADEMARK OFFICE

10/450,678

C of C

In the United States Patent and Trademark Office

Patent No: 6,885,933 B2

Group Art Unit: 3747

Applicants: D. Lederer et al

Examiner: Johnny H. Hoang

Issued: April 26, 2005

Attorney Docket: R 41999

For: Arrangement for Correcting a Signal

Certificate
MAY 2 0 2005
of Correction

OK to enter 06/28/05 JHH

Request for Certificate of Correction

Pursuant to 37 CFR 1.322 and 37 CFR 1.323

Commissioner for Patents and Trademarks
P.O. Box 1450
Alexandria, Virginia 22313-1450

Attention: Decision and Certificate of Correction
Branch of the Patent Issue Division

Dear Sir:

Transmitted herewith is a proposed certificate of correction for United States Patent 6,885,933 issued on April 26, 2005.

Printing errors occurred in the patent which should be corrected as follows:

In Title Page:
Under (57) **ABSTRACT**, Line 6: delete "(form)" and substitute -- (frm) -- therefor.

In column 8:
Line 14: delete "claim **1**," and substitute -- claim **3**, -- therefor.

One of the errors occurring in the patent is that of the inventors; whereas the other one is that of the Office. Accordingly, a Credit Card Payment Form (PTO-2038) for $100.00 is enclosed herewith as required by 37 CFR 1.20(a) to cover the correction under 37 CFR 1.323. The Commissioner is hereby authorized to charge any deficiency of

05/18/2005 SSITHIB1 00000102 6885933
01 FC:1811 100.00 OP

MAY 2 4 2005

payment to Deposit Account No. 15-0773.

On behalf of the inventors and the assignee of record, Robert Bosch GmbH, it is respectfully requested that the certificate of correction be approved pursuant to 37 CFR 1.322 and 323, and that an approved copy thereof be sent to the attorney of record at the address shown below.

Respectfully submitted,

Walter Ottesen
Reg. No. 25,544

Walter Ottesen
Patent Attorney
12704 Split Creek Court
Gaithersburg, Maryland 20878

Phone: (301) 869-8950

Date: May 4, 2005

MAY 24 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,885,933 B2
DATED : April 26, 2005
INVENTOR(S): Dieter Lederer and Michael Pfeil

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In Title Page:
Under (57) **ABSTRACT**, Line 6: delete "(form)" and substitute -- (frm) -- therefor.

In column 8:
Line 14: delete "claim **1**," and substitute -- claim **3**, -- therefor.

MAILING ADDRESS OF SENDER:

Walter Ottesen
Patent Attorney
P.O. Box 4026
Gaithersburg, Maryland 20885-4026

PATENT NO. 6,885,933
No. of add'l. copies
@ 30c per page

FORM PTO 1050 (REV. 3-82)

MAY 2 4 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,885,933 B2
DATED : April 26, 2005
INVENTOR(S) : Dieter Lederer and Michael Pfeil

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In Title Page:
Under (57) **ABSTRACT**, Line 6: delete "(form)" and substitute -- (frm) -- therefor.

In column 8:
Line 14: delete "claim **1**," and substitute -- claim **3**, -- therefor.

MAILING ADDRESS OF SENDER:

Walter Ottesen
Patent Attorney
P.O. Box 4026
Gaithersburg, Maryland 20885-4026

PATENT NO. 6,885,933
No. of add'l. copies
@ 30c per page

FORM PTO 1050 (REV. 3-82)

MAY 24 2005

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DYKEMA GOSSETT PLLC
SUITE 300 WEST
1300 I STREET, NW
WASHINGTON, DC 20005-3306

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OFFICE OF PETITIONS

In re Application of :
Michael F. Jorgensen :
Application No. 10/450,684 : ON PETITION
Filed: October 27, 2003 :
Attorney Docket No. 66722-027-7 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The instant application was erroneously held abandoned for failure to timely respond to the non-final Office action mailed August 10, 2005.

In a communication filed by facsimile transmission on August 17, 2005, petitioner asserts that the Change of Correspondence address filed August 6, 2004 was intended for Application No. 10/450,**864** and not for the instant Application No. 10/450,**684**. Since a review of the record reveals that the Change of Correspondence Address was, in fact, intended for Application No. 10/450,**864** and was filed by an attorney not of record in 10/450,**684**, the abandonment is hereby vacated. In view thereof, the $1,500 petition fee has been refunded to counsel's deposit account.

Petitioner should note that the correspondence address for the instant application has been changed back to the address listed on the executed Oath/Declaration filed October 27, 2003. If this is incorrect, petitioner must notify the Office immediately.

The application file is being referred to Technology Center Art Unit 2646, for review of the amendment, drawings and specification filed on February 21, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MERCHANT AND GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of :
Rita CORTVRINDT, et al :
Application No. 10/450,695 : DECISION ON PETITION
Filed: October 15, 2003 : TO WITHDRAW
Attorney Docket No. 9997.64USWO : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

Sarah M. Monfeldt has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed February 22, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

29 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Eric J. Snustad
Fredrikson & Byron, P.A.
4000 Pillsbury Center
200 South Sixth Street
Minneapolis, MN 55402-1425

In re Application of STEPHENSON	:	
U.S. Application No.: 10/450,698	:	
PCT Application No.: PCT/GB01/05247	:	DECISION
Int. Filing Date: 27 November 2001	:	
Priority Date Claimed: 12 December 2000	:	
Attorney Docket No.: 32414.41.1	:	
For: LIGHTING APPARATUS	:	

This is in response to applicant's "Petition Under 37 C.F.R. §1.47(b) by Person Having Proprietary Interest to File Application on Behalf of Inventor Who Refuses to Sign" filed 16 March 2004.

BACKGROUND

On 27 November 2001, applicant filed international application PCT/GB01/05247, which claimed priority of an earlier United Kingdom application filed 12 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 20 June 2002. The thirty-month period for paying the basic national fee in the United States expired on 12 June 2003.

On 11 June 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 16 September 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 16 March 2004, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite fee has been provided.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that the sole inventor John Stephenson refuses to sign the application papers. Petitioner has adequately demonstrated that a bona fide attempt was made to present a copy of the application papers to Stephenson for signature (see affidavit of Steven Howe, Exhibit B). Furthermore, petitioner has sufficiently illustrated that Stephenson refuses to sign. Specifically, Stephenson failed to respond to repeated attempts to secure his signature on the required application documents (see Howe's affidavit). Thus, it can be concluded with reasonable certainty that Stephenson refuses to join in the application.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor has been provided.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

In the present case, item (B) above applies. With respect to item (B), MPEP 409.03(f) states,

> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

Petitioner has provided a copy of an employment contract, wherein inventor Stephenson agreed that any invention made in the scope of his employment would become the absolute property of InDigitale Limited ("InDigitale"). The affidavit of Stuart Mollekin states that Mollekin has firsthand knowledge of the present invention being made by Stephenson during his employment by InDigitale. Thus, it can be concluded with reasonable certainty that Direct Message Limited ("Direct Message"), by virtue of the assignment from InDigitale (see copy of the assignment agreement dated 20 September 2002), has sufficient proprietary interest in the application.

With regard to item (6) above, petitioner has made a sufficient showing that filing of the application under 37 CFR 1.47(b) is necessary to preserve the rights of the parties.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(b) is GRANTED.

This application has an international filing date of 27 November 2001 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 16 March 2004.

As set forth in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette.*

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

29 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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John Stephenson
Kites, Dry Arch Road
Sunningdale, Berkshire, SL5 ODB
United Kingdom

In re Application of STEPHENSON
U.S. Application No.: 10/450,698
PCT Application No.: PCT/GB01/05247
Int. Filing Date: 27 November 2001
Priority Date Claimed: 12 December 2000
For: LIGHTING APPARATUS

Dear John Stephenson:

You are named as the inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as the inventor.

As the named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose 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.

Bryan Tung
PCT Legal Examiner
PCT Legal Office
Telephone: 703-308-6614
Facsimile: 703-308-6459

Eric J. Snustad
Fredrikson & Byron, P.A.
4000 Pillsbury Center
200 South Sixth Street
Minneapolis, MN 55402-1425
Attorney Docket No.: 32414.41.1

13 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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C. Irvin McClelland
Oblon, Spivak, McClelland,
Maier & Neustadt
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	
NAKAI Yoshihiro et al	:	
Application No.: 10/450,720	:	
PCT No.: PCT/JP01/11252	:	REQUEST FOR REFUND
International Filing Date: 21 December 2001	:	
Priority Date: 25 December 2000	:	
For: GRAFT COPOLYMER AND THERMOPLASTIC RESIN COMPOSITION	:	

This communication is in reference to your letters filed 09 February and 25 March 2004, requesting a refund for an overpayment of national stage filing fees for said application.

On 25 June 2003, applicants filed a national stage application accompanied by a transmittal letter, and among other materials, a check in the amount of $1,030. The total amount of national fees was $1634 ($900 for the basic national fee (Fee Code 1613)), $130 surcharge for filing a late declaration (Fee Code 1617)), $280 for multiple dependent claims (Fee Code 1616)) and $324 for extra claims (Fee Code 1615)). The additional $604 was charged to deposit account no. 15-0030 as authorizied by applicants.

On 28 October 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed.

On 18 December 2003, applicants filed a "RESPONSE TO NOTICE OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" accompanied by a declaration, a preliminary amendment eliminating multiple dependencies, and a credit card payment form in the amount of $324. The $324 was charged to applicants' American Express credit card as authorized.

On 08 January 2004, $324 (Fee Code 1615) was reversed back to applicants' American Express credit card upon discovery that the $324 (Fee Code 1615) had been previously charged to applicants' deposit account no. 15-0030.

On 08 January 2004, $280 (Fee Code 1616) was inadvertently credited to applicant's deposit account no. 15-0030.

On 09 December 2004, applicants' deposit account no. 15-0030 was charged $280 (Fee Code 1616) to correct the erroneous credit to applicants' deposit account on 08 January 2004.

Further review of USPTO records indicate that all national stage fees have been paid and no refund is due to applicants at this time. Therefore applicants' request for a refund is **DISMISSED** without prejudice.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Conferee: Wanda G. Banks
Paralegal Specialist
PCT Legal Office
Telephone: (571) 272-3277
Facsimile : (571) 273-0459

WGB/LS/wgb

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

JUN 28 2007

OFFICE OF PETITIONS

In re Application of :
LUNDEBERG, Thomas et al. :
Application No. 10/450,724 : DECISION ON PETITION
Filed: December 12, 2003 : TO WITHDRAW
Attorney Docket No. **5822.309USWO** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sarah M. Monfeldt. Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

The application became abandoned for failure to reply to the outstanding office action mailed November 30, 2006.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

05 APR 2005

UNITED STATES PATENT and TRADEMARK OFFICE

#6

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FERBER, Donna et al
5370 Manhattan Circle
Suite 201
Boulder, Colorado 80303

In re Application of	:	DECISION ON
MEAGHER et al	:	
Application No.: 10/450,731	:	
PCT No.: PCT/US01/48105	:	
Int. Filing Date: 13 December 2001	:	REQUEST UNDER
Priority Date: 13 December 2000	:	
Attorney Docket No.: 65-00	:	
For: METAL RESISTANT PLANTS AND	:	
PHYTOREMEDIATION OF	:	
ENVIRONMENTAL CONTAMINATION	:	37 CFR 1.497(d)

This is a decision on applicants' "RESPONSE REGARDING NOTIFICATION (RELATED TO CHANGE OF INVENTORSHIP 37 C.F.R. 1.497(d))" filed on 15 June 004.

BACKGROUND

In a notice from this Office mailed on 17 May 2004, the notice indicated that applicants would need to file a statement of additional inventors under 37 CFR 1.497(d).

On 15 June 2004, applicants filed the current request under 37 CFR 1.497(d), which included, *inter alia*, a statement from Parkash Dhankher and a written consent by Georgia Research Foundation, Inc.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

(1) 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;
(2) the fee set forth in § 1.17(I); and
(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants have satisfied items (1) - (3) under 37 CFR 1.497(d).

With respect to item (1), the statement by Om Parkash Dhankher is sufficient because the statement states that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of $130.00 has been paid by check.

With respect to item (3), University of Georgia Research Foundation the assignee, consents to the correction of inventorship to the above application and has specified the reel/ frame number 014052/0508 of the assignment establishing its right to take action under 37 CFR §3.73(b).

Accordingly, the requests are deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d). For the reasons above, the application may enter into national stage processing at this time.

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **GRANTED.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371 (c)(1), (c)(2), and (c)(4) date of this application is **04 December 2003**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Thomas Schoeberl	: DECISION ON REQUEST FOR
Patent Number	: 7602736	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/450,733	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1278** 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.

20 JAN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450
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Raymond J. Harmuth
Bayer CropScience LP
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741

In re Application of	:	
Gesing et al.	:	
US Application No.: 10/450,743	:	
PCT Application No.: PCT/EP01/14230	:	NOTIFICATION OF
International Filing Date: 05 December 2001	:	CHANGED INVENTOR NAME
Priority Date: 18 December 2000	:	IN DECLARATION
Attorney's Docket No.: Mo7840/LeA 35.087	:	
For: DICHLOROPYRIDYL METHYL CYANAMIDINES	:	

This notification is in response to applicants' submission of National Stage in the United States of America under 35 USC 371 filed on 16 June 2003 including a declaration having changed name for one of the inventors.

BACKGROUND

On 05 December 2001, applicants filed international application PCT/EP01/14230, which claimed priority of an earlier application filed on 18 December 2000. The period for paying the basic national fee is 30 months and ended at midnight on 18 June 2003.

On 16 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States (Form PTO-1390), along with, *inter alia*, the $900.00 basic national fee, including an authorization to charge Deposit Account No. 50-2510 for additional fees, and a declaration executed by all inventors, however, the third inventor, Katharina Voigt as published, has been changed to Katharina Jansen.

DISCUSSION

Under MPEP 605.04(c) (Rev. 1, Feb. 2003), when an inventor changes his/her name after the application has been filed and desires to use the new name in the application, a petition must be filed under 37 CFR 1.182, along with the requisite fee and (1) an affidavit signed by this inventor, and setting forth the procedure whereby the name change was effected; or (2) a certified copy of the court order effecting the name change.

CONCLUSION

The applicants must file (1) a petition under 37 CFR 1.182 to request the third inventor name change if the inventor's name has changed, or (2) a new oath or declaration identifying Katharina Voigt as the inventor if her name has not been changed.

A response must be filed within ONE MONTH (1) from the mail date of this communication. The ONE MONTH (1) response time is not extendable.

Any further correspondence with respect to this communication should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Shih-yung Hsieh
PCT Legal Detailee
PCT Legal Office
Telephone: (703) 308-6162
Facsimile: (703)-308-6459

Boris Milef
PCT Legal Examiner
PCT Legal Office

29 SEP 20

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BAYER CROPSCIENCE LP
Patent Department
100 BAYER ROAD
PITTSBURGH PA 15205-9741

In re Application of	DECISION ON RENEWED
GESING et al.	
Application No.: 10/450,743	PETITION UNDER
PCT No.: PCT/EP01/14230	
Int. Filing Date: 05 December 2001	37 CFR 1.182
Priority Date: 18 December 2000	
Attorney Docket No.:CS-7840	
For: DICHLOROPYRIDYL METHYL CYANAMIDINES	

This is a decision on applicant's "Petition under 37 CFR 1.182", filed with the United States Patent and Trademark Office (USPTO) on 19 February 2004. Applicant requests that the application reflect joint inventor Katharina Voigt's family name change from Katharina Voigt to Katharina Jansen. The $130 petition fee has been paid.

BACKGROUND

On 16 June 2003, within 30 months from priority date of the international application, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee. The published international application indicated that the inventor/applicant for the United States of America included Katharina Voigt as a named joint inventor.

On 08 October 2003, applicant filed an executed declaration. On 20 January 2004, a Notification of Changed Inventor Name in Declaration was mailed to applicant indicating that the declaration was executed by Katharina Jansen, who had changed her family name subsequent to the filing of the international application. The notice indicated that an affidavit signed by Katharina Voigt indicating the reason for the name change was required.

On 19 February 2004, applicants filed the instant petition under 37 CFR 1.182 including a affidavit of Katharina Voigt, accompanied by 08 July 2003 Notification of the Recording of a Change (Form PCT/IB/306) indicating the change in name of applicant/inventor Katharina Voigt to Katharina Jansen.

DISCUSSION

As explained in MPEP 605.04(c), applicants must provide a signed affidavit setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. Here, applicant submitted the statement of Katharina Voigt regarding her respective change of name. Applicant submitted her signed affidavit setting forth the procedure whereby the change of name was effected and identifying both names of applicant, Katharina Voigt and Katharina Jansen. The 08 July 2003 Notification of the Recording of a Change (Form

PCT/IB/306) indicating the change in name of applicant/inventor Katharina Voigt to Katharina Jansen is sufficient to accept the name change. Thus, the evidence is sufficient to conclude that Katharina Voigt changed her name by marriage to Katharina Jansen.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name is Katharina Voigt to Katharina Jansen is **MOOT**. The Notification of the Recording of a Change (Form PCT/IB/306) indicating the change in name of applicant/inventor Katharina Voigt to Katharina Jansen is sufficient to accept the name change.

The declaration submitted on 04 April 2003 is acceptable as filed. The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **09 October 2003**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 703-306-5467

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 24, 2006

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10450745 Patent No.: 6,992,100

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. Column 12, ln. 45 No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Joseph K. McKane

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1626

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,992,100

DATED : January 31, 2006

FIRST APPLICANT: Douglas Wade Beight

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 12, line 45, remove the rectangular box.

In column 17, line 60, in formula II, delete "R^{8a}" and replace with $-R^{6a}-$.

In column 28, line 15, delete ", and" and replace with –;–.

In column 80, line 33, delete "according to compound".

In column 80, line 36, start the next line (line 37) at (10-Benzyl...), immediately after the comma.

MAILING ADDRESS OF SENDER:
Eli Lilly and Company
Patent Division
P.O. Box 6288
Indianapolis, Indiana 46206-6288

PATENT NO. 6,992,100

FORM PTO 1050

30 JUN 2004

UNITED STATES PATENT and TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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KATTEN MUCHIN ZAVIS ROSENMAN
575 Madison Avenue
New York, New York 10022-2585

In re Application of	:	DECISION ON
VOCALTEC COMMUNICATIONS LTD.	:	
PCT No.: PCT/US01/48551	:	
Application No.: 10/450,751	:	PETITION UNDER
Int. Filing Date: 13 DECEMBER 2001	:	
Priority Date: 14 DECEMBER 2000	:	
Attorney's Docket No.: VOCL 17035	:	37 CFR 1.47(b)
For: TRAVERSING FIREWALLS AND NATS	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.47(b) for Acceptance of Application Where No Inventors are Available" submitted on 26 February 2004 that seeks the acceptance of the application without the signature of the inventor Gur Kimchi. Applicant has been charged the requisite $130 petition fee to Deposit Account No. 50-1290 as authorized in the petition.

BACKGROUND

On 13 December 2001, applicant filed international application PCT/US01/48551, which claimed priority of an earlier application filed 14 December 2000.

On 13 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration or oath was submitted at such time.

On 26 September 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating, *inter alia*, that "the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The notification also indicated that the surcharge for filing the oath or declaration later than 30 months from the priority date as required by 37 CFR 1.492(e) must be filed. The notification set two months from the date of this notice or 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), applicant filed on 26 February 2004, the following:

1) a petition under 37 CFR 1.47(b);

2) a Declaration for U.S. Patent Application executed by Ms. Terry Gerstner;

3) Declaration by Ms. Terry Gerstner;

4) the required petition fee.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicant has satisfied items (1), (3), and (6) but not items (2), (4) and (5) thus not completing the requirements under 37 CFR 1.47(b).

Applicant has satisfied item (1) since the petition fee has been provided by applicant.

Regarding requirement (2), although petitioner has concluded that that she diligently attempted to locate the inventor of the above-reference application and that she was unsuccessful in reaching the inventor by telephone this does not satisfy requirement (2) under 37 CFR 1.47(b). Applicant was able to talk to the non-signing inventor's wife at the home telephone number and applicants states that a colleague, Ofer Shem Tov (no declaration has been provided by this person since Ms. Gertsner does not have firsthand knowledge of this communication), was able to speak with the inventor on August 7, 2003. Accordingly, Gur Kimchi could be reached and at this point applicant's requirement is whether the inventor refused to execute the application under 37 CFR 1.47(b). The standards for proof are set forth in MPEP § 409.03(d), which provides:

> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted....
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the non - signing inventor, or, if the non - signing inventor is represented by counsel, to the address of the non - signing inventor's attorney.

> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

In the present instance, a complete set of application papers were not presented to Mr. Kimchi for his signature. Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for his signature. From the declaration provided by Terry Gertsner, there was no bona fide attempt to send the application papers to Mr. Kimchi for his signature at his last known address.

Consequently, the petition does not include sufficient factual proof that Mr. Kimchi refuses to sign the required papers.

Regarding item (3), applicant has stated the last known address of the inventor:

Mr. Gur KIMCHI
44 East 12th Street, Apartment 5C
New York, NY 10003

Regarding item (4) a declaration has been provided which is executed by Terry Gerstner, Vice President Legal Affairs signing on behalf of the corporation for the non-signing sole inventor, Mr. Kimchi. The declaration, however, is defective because it does not state the relationship of the person signing to the inventor, as required by 37 CFR 1.497(b)(2).

Regarding item (5) applicant has not submitted proof that applicant has sufficient proprietary interest in the application because the assignment provided refers to the provisional application 60/225,422 and not the PCT application. The PCT application has an additional embodiment, figure 6, which is not found in the provisional application, and it is unclear if the assignment covers this new embodiment. If an application claiming the earlier filing date of a provisional application includes subject matter that is not common with subject matter of the provisional application, new assignment papers must be submitted in the later application, similar to the practice with respect to continuation-in-part filed under 35 U.S.C. 120. See MPEP §306.

Regarding item (6) applicant has presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage if the response to the missing parts of the application is not timely.

Accordingly, since items (2), (4) and (5) under 37 CFR 1.47(b) has not been met it is not appropriate to accord the national stage application status at this time.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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Boris Milef
PCT Legal Examiner
PCT Legal Office

07 JAN 2005

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KATTEN MUCHIN ZAVIS ROSENMAN
575 Madison Avenue
New York, New York 10022-2585

In re Application of	:	DECISION ON RENEWED
Gur Kimchi	:	
PCT No.: PCT/US01/48551	:	
Application No.: 10/450,751	:	PETITION UNDER
Int. Filing Date: 13 DECEMBER 2001	:	
Priority Date: 14 DECEMBER 2000	:	
Attorney's Docket No.: VOCL 17035	:	37 CFR 1.47(b)
For: TRAVERSING FIREWALLS AND NATS	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 C.F.R.1.47(b)" submitted on 30 September 2004 that indicates that Mr. Kimchi has now executed a declaration.

BACKGROUND

In a decision by this Office dated 30 June 2004, the decision stated that applicant had not satisfied requirements (2), (4), and (5) under 37 CFR 1.47(b). The decision concluded that it was not appropriate to accord national stage application status under 37 CFR 1.47(b) at that time.

On 30 September 2004, petitioner filed this instant renewed petition accompanied, inter alia, by an executed declaration by Gur Kimchi.

DISCUSSION

The petition states that petitioner was able to locate applicant and arrange, Gur Kimchi, to execute the declaration. Thus, the declaration is now signed by the sole non-signing inventor.

Accordingly, the declaration submitted on 30 September 2004 complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.47(b) is **MOOT.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The application will be granted a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of **30 September 2004.**

For the reasons above, the application may enter into national stage processing at this time. The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

Richard Cole
PCT Legal Examiner
PCT Legal Office

30 SEP 03

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Li-Hsien Rin-Laures
HYSEQ, INC.
670 Almanor Avenue
Sunnyvale, CA 94085

In re Application of :
Drmanac et al. :
US Application No.: 10/450,763 :
PCT Application No.: PCT/US01/08631 : **DECISION ON PETITION**
International Filing Date: 30 March 2001 : **UNDER 37 CFR 1.181**
Priority Date: 31 March 2000 :
Attorney's Docket No.: 790CIP3/US :
For: NOVEL NUCLEIC ACIDS AND :
POLYPEPTIDES :

This decision concerns the "Request for Serial Number" filed on 11 June 2003, forwarding copies of national stage papers purportedly filed on 27 September 2002. The communication is being properly treated as a petition under 37 CFR 1.181 to accept the national stage submission as filed on 27 September 2002, and is **GRANTED** as follows.

BACKGROUND

On 30 March 2001, Applicants filed international application PCT/US01/08631, which claimed priority of an earlier application filed on 31 March 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 24 October 2001, prior to 31 October 2001, the end of the 19th month from the 31 March 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 30 September 2002.

The USPTO has no record of receipt of the 27 September 2002 national stage submission.

DISCUSSION

The petition is accompanied by a postcard receipt date-stamped by the USPTO. The postcard indicates that on 27 September 2002, for this application, the USPTO received, *inter alia*, a transmittal letter for entry into the national stage in the United States. A copy of each of the papers previously filed on 27 September 2002 is enclosed with the petition.

The petition is sufficient to establish that the national stage documents submitted therewith were filed in the USPTO on 27 September 2002. In addition, the transmittal letter for entry into

the national stage authorizes the USPTO to charge the basic national fee (small entity; $355 and $5 deficiency, totaling $360) required by 35 U.S.C. 371 (c)(1) and 37 CFR 1.492(a)(1) to Deposit Account No. 50-1169.

CONCLUSION

For reasons above, the petition is **GRANTED**.

In addition, the Office notes that the correspondence address used in the instant petition differs from that shown in the 27 September 2002 Form PTO-1390, the published international application, or the 30 March 2001 Request (Form PCT/RO/101). If appropriate, a request to change the correspondence address should be filed.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including 1) treating the copy of the national stage papers accompanying the instant petition as filed on 27 September 2002; and 2) mailing of a Notification of Missing Requirements under 35 U.S.C. 371, requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b), and the surcharge under 37 CFR 1.492(e).

Richard Cole
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

01 JUL 2004

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DARBY & DARBY
PO Box 5257
New York, NY 10150-5257

In re Application of:	:	
HART, Peter	:	DECISION ON PETITION
Application No.: 10/450,764	:	
PCT No.: PCT/GB01/05790	:	
Int. Filing Date: 28 December 2001	:	
Priority Date: 06 April 2001	:	
Attorney Docket No.: 9492/0M923US0	:	
For: A REINFORCED PERMEABLE PAVING STRUCTURE	:	

This decision is issued in response to applicants' "Request For Corrected Filing Receipt And Notice Of Acceptance" filed 25 June 2004, treated herein as a petition under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

On 28 December 2001, applicants filed international application PCT/GB01/05790 which claimed a priority date of 06 April 2001 and which designated the United States. On 17 October 2002, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 06 October 2003.

On 11 June 2003, applicants filed a transmittal letter for entry into the national stage accompanied by, among other materials, payment of the small entity basic national fee.

On 10 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 14 October 2003, applicants filed a second submission which included, among other materials, an executed declaration and payment of the small entity surcharge for filing the declaration later than thirty months after the priority date.

On 24 October 2003, applicants filed a "Response To Notification Of Missing Requirements" that states that it is accompanied by copies of the materials filed 14 October 2003, the "Certificate Of Express Mailing" from the 14 October 2003 submission, and an "acknowledged postcard" dated 14 October 2003. However, the copy of this submission in the application file does not include the referred to attachments.

On 07 November 2003, the DO/EO/US mailed a Notification Of Acceptance indicating 15 October 2003 as the 35 U.S.C. 371 date. Also on 07 November 2003, a filing receipt was issued which identified 15 October 2003 as the filing date.

On 25 June 2004, applicants filed the petition considered herein. In the petition, applicants assert that the declaration and surcharge payment that completed the requirements of 35 U.S.C. 371 were filed on 14 October 2003 and that this date, rather than 15 October 2003, is the proper 35 U.S.C. 371 date for the present application.

DISCUSSION

A review of the application file reveals that the submission which included the executed declaration and surcharge also included a "Certificate Of Mailing Under 37 CFR 1.10" that identified the "Express Mail" label number as EL982103180US, itemized the enclosed materials (including the declaration and surcharge payment), and listed 14 October 2003 as the deposit date. Applicants have included with the present petition a copy of the "Express Mail" label for this label number; the "date in" on the "Express Mail" label is "10/14/03." Based on the "Certificate Of Mailing Under 37 CFR 1.10" and the "date in" on the copy of the "Express Mail" label submitted by applicants, it is concluded that the "Express Mail" envelope containing the declaration and surcharge payment was deposited with the USPS on 14 October 2003. This submission included the final requirements for entering the national stage. Pursuant to 37 CFR 1.10(c), the proper date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for this application is therefore 14 October 2003.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The Notification Of Acceptance and filing receipt mailed 07 November 2003 are hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing, including the mailing of a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying 14 October 2003 as the 35 U.S.C. 371 date, and issuing a corrected filing receipt that identified the filing date as 14 October 2003.

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01 JUL 2004
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DARBY & DARBY
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New York, NY 10150-5257

In re Application of:
HART, Peter
Application No.: 10/450,764
PCT No.: PCT/GB01/05790
Int. Filing Date: 28 December 2001
Priority Date: 06 April 2001
Attorney Docket No.: 9492/0M923US0
For: A REINFORCED PERMEABLE PAVING STRUCTURE

DECISION ON PETITION

This decision is issued in response to applicants' "Request For Corrected Filing Receipt And Notice Of Acceptance" filed 25 June 2004, treated herein as a petition under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

On 28 December 2001, applicants filed international application PCT/GB01/05790 which claimed a priority date of 06 April 2001 and which designated the United States. On 17 October 2002, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 06 October 2003.

On 11 June 2003, applicants filed a transmittal letter for entry into the national stage accompanied by, among other materials, payment of the small entity basic national fee.

On 10 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 14 October 2003, applicants filed a second submission which included, among other materials, an executed declaration and payment of the small entity surcharge for filing the declaration later than thirty months after the priority date.

On 24 October 2003, applicants filed a "Response To Notification Of Missing Requirements" that states that it is accompanied by copies of the materials filed 14 October 2003, the "Certificate Of Express Mailing" from the 14 October 2003 submission, and an "acknowledged postcard" dated 14 October 2003. However, the copy of this submission in the application file does not include the referred to attachments.

On 07 November 2003, the DO/EO/US mailed a Notification Of Acceptance indicating 15 October 2003 as the 35 U.S.C. 371 date. Also on 07 November 2003, a filing receipt was issued which identified 15 October 2003 as the filing date.

On 25 June 2004, applicants filed the petition considered herein. In the petition, applicants assert that the declaration and surcharge payment that completed the requirements of 35 U.S.C. 371 were filed on 14 October 2003 and that this date, rather than 15 October 2003, is the proper 35 U.S.C. 371 date for the present application.

DISCUSSION

A review of the application file reveals that the submission which included the executed declaration and surcharge also included a "Certificate Of Mailing Under 37 CFR 1.10" that identified the "Express Mail" label number as EL982103180US, itemized the enclosed materials (including the declaration and surcharge payment), and listed 14 October 2003 as the deposit date. Applicants have included with the present petition a copy of the "Express Mail" label for this label number; the "date in" on the "Express Mail" label is "10/14/03." Based on the "Certificate Of Mailing Under 37 CFR 1.10" and the "date in" on the copy of the "Express Mail" label submitted by applicants, it is concluded that the "Express Mail" envelope containing the declaration and surcharge payment was deposited with the USPS on 14 October 2003. This submission included the final requirements for entering the national stage. Pursuant to 37 CFR 1.10(c), the proper date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for this application is therefore 14 October 2003.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The Notification Of Acceptance and filing receipt mailed 07 November 2003 are hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing, including the mailing of a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying 14 October 2003 as the 35 U.S.C. 371 date, and issuing a corrected filing receipt that identified the filing date as 14 October 2003.

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Mailed: 11/23/05

NE
Paper Number _____

In re application of	:	
Mahling et al.	:	DECISION ON
Serial No. 10/450,774	:	PETITION
Filed: September 24, 2003	:	
For: NONODOROUS ETHYLENE HOMOPOLYMERS AND COPOLYMERS HAVING GOOD MECHANICAL PROPERTIES	:	

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed April 5, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed December 9, 2004, be withdrawn since the applicant did not receive the Office letter mailed March 5, 2004.

DECISION

The instant request is accepted as a timely 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 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the Office letter mailed March 5, 2004. The evidence provided includes a statement by the petitioner that the Office letter mailed March 5, 2004 not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter mailed March 5, 2004 was not received. Also provided is a copy of the attorney's application docket records where the Office letter mailed March 5, 2004 would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt re-mailing of the Office letter originally mailed March 5, 2004 and restarting of the period of response from the re-mail date thereof. The Change of Address dated April 11, 2005 shall be entered by the technical staff.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

NOVAK DRUCE DeLUCA & QUIGG LLP
1300 Eye Street N.W., Suite 400 East
Washington, D.C. 20005

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NEWTOWN SQUARE PA 19703

MAILED

JAN 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Maehling et al.	:	DECISION ON PETITION TO
Application Number: 10/450774	:	WITHDRAW HOLDING OF
Filing Date: 09/24/2003	:	ABANDONMENT
Attorney Docket Number:	:	
DE000067 (US)	:	

This is a decision on the "PETITION UNDER 37 CFR § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT" filed on October 19, 2009.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on October 7, 2008, stating that the application was abandoned for failure to timely file a proper reply to the non-final Office action mailed on March 20, 2008.

Petitioners assert that a reply was timely filed.

A review of the record reveals that petitioners are correct, in that an amendment, including a three (3)-month extension of time, were timely filed on August 25, 2008.[1]

[1] It is noted that the application number is incorrectly captioned as "10/452,774" on the transmittal letter and extension of time filed on August 25, 2008. 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. The invention title, filing date, first inventor's name, Group Art Unit, and examiner's name are properly captioned on the transmittal letter and extension of time. Accordingly,

As such, there is no abandonment in fact. The Office regrets the error.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 1796 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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there was sufficient identifying information to associate the papers with the correct file. Additionally, the application number was correctly captioned on the reply filed on August 25, 2008 in response to the non-final Office action.

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1300 EYE STREET, NW
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WASHINGTON, DC 20005

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FEB 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Stephan Schnell	:	
Application No. 10/450,791	:	ON PETITION
Filed: June 18, 2003	:	
Attorney Docket No. 52045	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 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 October 31, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of an amendment under 37 CFR 1.312, filed December 12, 2005, which was submitted prior to payment of the issue and publication fee.

This application is being referred to Technology Center Art Unit 3726, for consideration of the Amendment under 37 CFR 1.312.

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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MAY 09 2007

NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

In re Application of:
SCHNELL, STEPHAN
Serial No.: 10/450,791
Filed: Jun. 18, 2003
Docket: 52045
Title: PROCESS FOR PRODUCING A COMPOSITE COMPONENT

DECISION ON PETITION

This is a decision on the petition filed on Apr. 18, 2005 by which petitioner requests withdrawal of the restriction requirement made final in the Office action mailed Dec. 16, 2004 and that claims 22-28 be examined in this application. The petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181.

The petition is **DISMISSED as moot**.

The record shows that:

1) On Sep. 24, 2004, the examiner issued a revised restriction requirement under 35 U.S.C. 121 and 372, and in accordance with 37 CFR 1.499. The examiner grouped claims 1-21 to method claims and claims 22-28 to product claims.
2) On Oct. 15, 2004, the petitioner elected claims 1-21 for prosecution in the application, with traverse.
3) On Dec. 16, 2004, the examiner made the restriction requirement final and addressed petitioner's traverse with respect to product claims 22-28.
4) On Apr. 18, 2005, the petitioner filed an amendment to claims. Concurrently, petitioner filed the instant petition.
5) On Jun. 29, 2005, the examiner issued a second non-final Office action with new grounds of rejection.
6) On Sep. 23, 2005, the petitioner filed an amendment to the claims.
7) On Oct. 31, 2005, the examiner conducted a telephone interview with petitioner's representative who agreed to cancel the non-elected claims 22-28 in order to place the application in condition for allowance. The examiner incorporated the cancelation of non-elected claims 22-28 in the examiner's amendment dated Oct. 31, 2005.

8) On Oct. 10, 2006, this application was published and given patent number US 7,117,578.

In view of the prosecution history, petitioner's agreement to the cancelation of non-elected claims 22-28 in the examiner's amendment dated Oct. 31, 2005, essentially canceled the non-elected claims without traverse. Accordingly, the petitioner is dismissed as moot.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

The petition is dismissed as moot.

Frederick R. Schmidt, Director
Technology Center 3700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/450,794	06/16/2003	Jan-Erik Lofroth	1103326-0718	5375

7470 7590 09/02/2004

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER	
SPEAR, JAMES M	

ART UNIT	PAPER NUMBER
1615	

DATE MAILED: 09/02/2004 (REMAILED)
ORIGINALLY Mailed 4/7/04

Please find below and/or attached an Office communication concerning this application or proceeding.

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SEP - 2 2004

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:	
Jan-Erik Löfroth et al	:	
Serial No.: 10/450,794	:	PETITION TO MAKE SPECIAL
Filed: June 16, 2003	:	
Attorney Docket No.: 1103326-0718	:	

This is in response to applicants' petition filed June 16, 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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DR. MARK M. FRIEDMAN
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9003 FLORIN WAY
UPPER MARLBORO MD 20772

MAILED

APR 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Nehemya Re'em	:	
Application No. 10/450,810	:	DECISION ON PETITION
Filed: June 18, 2003	:	
Attorney Docket No. 4623/1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed February 4, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received December 28, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

OCT 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,468,389
Application No. 10/450,816
Filed: June 18, 2003
Issued: December 23, 2008
Attorney Docket No. 239088US0PCT

ON PETITION

This is a decision on the petition filed January 5, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

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JUN 0 9 2008

In re Application of	:	
BENSUSSAN et al.	:	LETTER REGARDING PATENT
Application No. 10/450,818	:	TERM ADJUSTMENT
Filed: January 9, 2004	:	
Attorney Docket No. INN-114T	:	

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed December 7, 2007. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy. Applicants state that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) should be corrected from one hundred ninety-two (192) days to one hundred (100) days.

The request for review of the determination of patent term adjustment is **granted**.

Applicants assert that the period of adjustment of patent term should be reduced by ninety-two (92) days for filing a request for suspension of action under 37 CFR § 1.103 on May 30, 2007, for a period of three (3) months. See 37 CFR § 1.704(c)(1).

Pursuant to 37 CFR § 1.704:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (1) Suspension of action under § 1.103 at the applicant's request, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date a request for suspension of action under § 1.103 was filed and ending on the date of the termination of the suspension[.]

A review of the application history confirms that applicants should have been assessed a delay of ninety-two (92) days under 37 CFR § 1.704(c)(1). It is undisputed that applicants filed a limited suspension of action after a request for continued application pursuant to 37 CFR § 1.103(c).

As stated in 37 CFR § 1.704(c)(1), the period of adjustment should be reduced, to the extent the periods do not overlap, by the number of days beginning on the date the request for suspension of action under § 1.103 was filed, May 30, 2007, and ending on the date of the termination of the suspension, August 30, 2007. However, the periods under 37 CFR §§ 1.704(c)(1) and 1.705(b) overlap on May 30, 2007. Therefore, in consideration of the period of overlap, the period of adjustment should be reduced pursuant to 37 CFR § 1.704(c)(4) by 92 days (May 31, 2007 to August 30, 2007). See 37 CFR § 1.704(c).

Additionally, applicants should have been assessed a delay under 37 CFR § 1.704(c)(8) for submission of a supplemental reply or paper after a reply had been filed, without the express request of the examiner.

Pursuant to 37 CFR § 1.704(c)(8):

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed[.]

On September 7, 2007, applicants submitted an Information Disclosure Statement ("IDS") after filing an initial response on May 30, 2007. The record does not support a conclusion that the

examiner expressly requested the IDS. Further, a review of the IDS, filed September 7, 2007, reveals that applicants did not include a statement under 37 CFR § 1.704(d).[4] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application.

In accordance with 37 CFR § 1.704(c)(8), the period of adjustment should be reduced, to the extent the periods do not overlap, by the number of days beginning on the day after the date the initial reply was filed, May 31, 2007, and ending on the date that the IDS was filed, September 7, 2007. In this instance, the periods under 37 CFR §§ 1.704(c)(1), 1.704(c)(8) overlap. Specifically, the overlap of the periods of reduction under 37 CFR §§ 1.704(c)(1) and 1.704(c)(8) is May 31, 2007 to August 30, 2007. Therefore, in consideration of the periods of overlap, the period of adjustment should be reduced pursuant to 37 CFR § 1.704(c)(8) by eight (8) days (August 31, 2007 to September 7, 2007). See 37 CFR § 1.704(c).

In view thereof, the correct patent term adjustment at the time of the mailing of the Notice of Allowance is **ninety-two (92) days** (349 days of Office delay - 257 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR § 1.704(c)(10) will be calculated at the time of

---

[4] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

Enclosure: Copy of updated PAIR screen

PALM INTRANET

Day : Monday
Date: 6/9/2008
Time: 08:12:52

PTA Calculations for Application: 10/450818			
Application Filing Date:	01/09/2004	PTO Delay (PTO):	349
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	157
Post-Issue Petitions:	0	Total PTA (days):	100
PTO Delay Adjustment:	-92		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	06/09/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		92	
55	11/16/2007	MAIL NOTICE OF ALLOWANCE	47		43
54	11/14/2007	ISSUE REVISION COMPLETED			
53	11/14/2007	DOCUMENT VERIFICATION			
52	11/14/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	11/13/2007	NOTICE OF ALLOWABILITY			
50	10/08/2007	DATE FORWARDED TO EXAMINER			
49	10/08/2007	TO CLOSE THE A/R RECORD AND RESET THE STATUS FOR EXPIRED SUSPENSIONS.			
48	06/14/2007	MAIL LETTER SUSPENDING PROSECUTION AT APPLICANT'S REQUEST			
47	06/14/2007	LETTER OF SUSPENSION - APPLICANT INITIATED			
46	06/14/2007	DATE FORWARDED TO EXAMINER			
45	05/30/2007	RCE- AF PROCESSED			
44	06/14/2007	DATE FORWARDED TO EXAMINER			
43	05/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		91	35
42	06/14/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
41	05/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
40	05/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	03/21/2007	MAIL ADVISORY ACTION (PTOL - 303)			
38	03/17/2007	ADVISORY ACTION (PTOL-303)			
37	03/12/2007	DATE FORWARDED TO EXAMINER			
36	02/28/2007	AMENDMENT AFTER FINAL REJECTION			

35	11/30/2006	MAIL FINAL REJECTION (PTOL - 326)			
34	11/27/2006	FINAL REJECTION			
33	09/29/2006	DATE FORWARDED TO EXAMINER			
32	09/25/2006	RESPONSE AFTER NON-FINAL ACTION		66	30
31	09/25/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	04/21/2006	MAIL NON-FINAL REJECTION			
29	04/17/2006	NON-FINAL REJECTION			
27	02/13/2006	DATE FORWARDED TO EXAMINER			
26	02/06/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
25	01/05/2006	MAIL RESTRICTION REQUIREMENT	302		-1
24	01/04/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
23	12/10/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	12/10/2005	CASE DOCKETED TO EXAMINER IN GAU			
20	06/14/2004	CORRECTED FILING RECEIPT			
19	12/11/2004	CORRESPONDENCE ADDRESS CHANGE			
18	12/13/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
17	04/19/2004	MISCELLANEOUS INCOMING LETTER			
16	01/09/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
15	01/09/2004	PRELIMINARY AMENDMENT			
12	04/19/2004	MISCELLANEOUS INCOMING LETTER			
11	04/30/2004	CLEARED BY OIPE CSR			
10	01/09/2004	371 COMPLETION DATE			
9	04/23/2004	APPLICATION DISPATCHED FROM OIPE			
8	04/23/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
7	01/09/2004	ADDITIONAL APPLICATION FILING FEES			
6	01/09/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
5	01/09/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
4	01/09/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	02/27/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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22 DEC 2006

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Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
SOULILLOU et al. :
Application No.: 10/450,832 : DECISION ON REQUEST
PCT No.: PCT/FR01/04203 :
Int. Filing Date: 26 December 2001 :
Priority Date: 26 December 2000 :
Attorney Docket No.: 239187US0PCT :
For: ANTI-CD28 ANTIBODY

This decision is issued in response to the "Petition to Correct Inventorship under 37 CFR 1.48(a)" filed 06 November 2006, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. The petition fee has been submitted.

BACKGROUND

On 26 December 2001, applicants filed international application PCT/FR01/04203 which claimed a priority date of 26 December 2000. The published international application identified three applicant/inventors for the United States: Jean-Paul Soulillou; Genevieve LaFlamme; and Bernard Vanhove. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 26 June 2003.

On 25 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a preliminary amendment; and a copy of the international application.

On 06 November 2006, applicants filed the present request under 37 CFR 1.497(d) to add Daniel Olive as an inventor.

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventor Daniel Olive to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application,

applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in § 1.17; and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
>
> (4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to the adding Daniel Olive to the application, applicants' 06 November 2006 submission satisfies requirements (1), (2), and (4).

However, item (3) has not been satisfied. Specifically, applicants have not submitted a statement of consent from the purported assignee, Institut National De La Sante et. Further, it appears that the "Statement under 37 CFR 3.73(b)" has not been executed by Christine Berling.

For the reasons discussed above, it is inappropriate, at this time, to grant applicants request for correction of inventorship.

CONCLUSION

Applicants' request to add inventor Daniel Olive under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with 37 CFR 3.73(b).

Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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20 APR 2007

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
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Alexandria, VA 22314

In re Application of :
SOULILLOU et al. :
Application No.: 10/450,832 : DECISION ON REQUEST
PCT No.: PCT/FR01/04203 :
Int. Filing Date: 26 December 2001 :
Priority Date: 26 December 2000 :
Attorney Docket No.: 239187US0PCT :
For: ANTI-CD28 ANTIBODY

This decision is issued in response to the "Request for Reconsideration" filed 22 February 2007, which is being treated as a renewed request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. The petition fee has been submitted.

BACKGROUND

On 26 December 2001, applicants filed international application PCT/FR01/04203 which claimed a priority date of 26 December 2000. The published international application identified three applicant/inventors for the United States: Jean-Paul Soulillou; Genevieve LaFlamme; and Bernard Vanhove. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 26 June 2003.

On 25 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a preliminary amendment; and a copy of the international application.

On 06 November 2006, applicants filed a request under 37 CFR 1.497(d) to add Daniel Olive as an inventor. In a decision dated 22 December 2006, applicants request under 37 CFR 1.497(d) was dismissed without prejudice.

On 22 February 2007, applicants filed the present renewed request under 37 CFR 1.497(d).

DISCUSSION

As stated in the previous "Decision on Request," the present submission seeks to correct the inventorship so as to add inventor Daniel Olive to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

Items (1), (2), and (4) have been satisfied. Regarding item (3), applicants have submitted a "Submission Under 37 CFR 3.73(B)" executed on behalf of the assignee, Institut National De La Sante et. Applicant states in the present petition that, "the Statement, executed by Christine Berling, was authorized by the Assignee for submission with the Petition constitutes consent of the Assignee to the Petition, as required by under 37 CFR 1.497(d)." However, the "Submission Under 37 CFR 3.73(B)" does not include a statement that the assignee consents to the requested change of inventorship. Before item (3) can be considered satisfied, applicant must provide the written consent of the assignee to the change of inventorship.

For the reasons discussed above, it is inappropriate, at this time, to grant applicants request for correction of inventorship.

CONCLUSION

Applicants' renewed request to add inventor Daniel Olive under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in

compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with 37 CFR 3.73(b).

Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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21 SEP 2007

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In re Application of :
SOULILLOU et al. :
Application No.: 10/450,832 : DECISION ON REQUEST
PCT No.: PCT/FR01/04203 :
Int. Filing Date: 26 December 2001 :
Priority Date: 26 December 2000 :
Attorney Docket No.: 239187US0PCT :
For: ANTI-CD28 ANTIBODY

This decision is issued in response to applicants' "Renewed Request under 37 CFR 1.497(d)" filed 20 July 2007 to correct the inventorship of the present national stage application. The petition fee has been submitted.

BACKGROUND

On 26 December 2001, applicants filed international application PCT/FR01/04203 which claimed a priority date of 26 December 2000. The published international application identified three applicant/inventors for the United States: Jean-Paul Soulillou; Genevieve LaFlamme; and Bernard Vanhove. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 26 June 2003.

On 25 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a preliminary amendment; and a copy of the international application.

On 06 November 2006, applicants filed a request under 37 CFR 1.497(d) to add Daniel Olive as an inventor. In a decision dated 22 December 2006, applicants request under 37 CFR 1.497(d) was dismissed without prejudice.

On 22 February 2007, applicants filed a renewed request under 37 CFR 1.497(d). In a decision dated 20 April 2007, applicants request under 37 CFR 1.497(d) was dismissed without prejudice.

On 20 July 2007, applicants filed a renewed request under 37 CFR 1.497(d).

DISCUSSION

As stated in the previous "Decision on Request," the present submission seeks to correct the inventorship so as to add inventor Daniel Olive to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

Applicants have satisfied items (1), (2), (3) and (4).

CONCLUSION

Applicants' request for correction of inventorship under 37 CFR 1.497(d) is **GRANTED**.

Daniel Olive is added as an inventor herein.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

10 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#8

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ALEXANDRIA, VA 22314

In re Application of	:	
TSUDA, Takao, et al.	:	
Application No.: 10/450,840	:	DECISION ON
PCT No.: PCT/JP01/11435	:	
Int. Filing Date: 26 December 2001	:	PETITION
Priority Date: 27 December 2000	:	
Attorney's Docket No.: 239456US3PCT	:	UNDER 37 CFR 1.181
For: SKIN PERMEABLE GAS COLLECTOR AND SKIN PERMEABLE GAS MEASURING APPARATUS	:	

This decision is in response to "Response to Notice of Defective Response," filed 09 February 2004 in the United States Patent and Trademark Office.

BACKGROUND

On 26 December 2001, applicants filed international application PCT/JP01/11435, which claimed a priority date of 27 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 July 2002. A timely demand for international preliminary examination was filed 10 June 2002. The deadline for entry into the national stage in the United States was midnight 27 June 2003.

On 26 June 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 09 October 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 09 December 2003, applicants submitted a declaration executed by "Ken Naitoh," though the international application listed "Ken Naito" as the inventor.

On 09 January 2004, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the spelling of an inventor's name had changed from "Naito" to "Naitoh".

On 09 February 2004, applicants submitted a response indicating that the international application was in error and that the inventor's legal surname is "Naitoh".

DISCUSSION

The explanation that the international application contained a typographical error is sufficient.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) is 09 December 2003.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
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BERESKIN AND PARR
SCOTIA PLAZA
40 KING STREET WEST-SUITE 4000 BOX 401
TORONTO ON M5H 3Y2
CANADA

In re Application of	:	
MEHARCHAND et al.	:	
Application No.: 10/450,849	:	DECISION
PCT No.: PCT/CA01/01828	:	
Int. Filing Date: 27 December 2001	:	
Priority Date: 29 December 2000	:	
Attorney Docket No.: 12254-4	:	
For: APPARATUS AND METHOD FOR	:	
PROTECTING DATA RECORDED ON A	:	
STORAGE MEDIUM	:	

This decision is in response to applicant's submission filed in the United States Patent and Trademark Office (USPTO) on 16 April 2004, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 27 December 2001, applicant filed international application PCT/CA01/01828, which claimed a priority date of 29 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 July 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2003 (29 June 2003 being a Sunday).

On 27 June 2003, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 18 November 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 16 April 2004, applicant filed the instant submission which was accompanied by, *inter alia*, a copy of a declaration of inventors and a postcard receipt date-stamped 20 January 2004 by the USPTO.

DISCUSSION

The papers originally filed 20 January 2004 have now been matched with the file. Accordingly, the petition under 37 CFR 1.181 filed 16 April 2004 is moot.

The declaration of inventors filed 20 January 2004 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(e) has been paid.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** as **MOOT** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **20 January 2004**.

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TECHNOLOGY CENTER 2100

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TORONTO ON M5H 3Y2 CA CANADA

In re Application of: Meharchand, et al.
Application No. 10/450849
Filed: January 20, 2004
For: APPARATUS AND METHOD FOR PROTECTING DATA RECORDED ON A STORAGE MEDIUM

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 15, 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 and specification are generally directed to a data protection controller for preventing data recorded on a data storage medium from being corrupted, modified or deleted.

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.

Accordingly, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision. Any inquiries related to this decision may be directed to the undersigned at (571) 272-3595.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

4/7/05

MBS

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

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SEP 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Nasu et al. :
Application No. 10/450,852 : DECISION ON PETITION
Filed: June 18, 2003 :
Attorney Docket No. N9450.0074/P074 :

This is a decision on the petition, filed July 23, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of October 12, 2007, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before January 12, 2008.

Petitioner states that a timely reply was mailed via certificate of transmission on April 14, 2008, which included the following papers: credit card payment form, petition for extension of time, and amendment. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of transmission dated April 14, 2008, 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 October 12, 2007 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 April 14, 2008.

This application is being referred to Technology Center AU 2881 for appropriate action in the normal course of business on the reply received with petition.

Charlema Grant
Petitions Attorney
Office of Petitions

20 APR 2004

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208.002900

DOCKETING DEPT

APR 23 2004

WILLIAMS, MORGAN & AMERSON

Mark W. Sincell
Williams, Morgan & Amerson
10333 Richmond Drive, Suite 1100
Houston, Texas 77042

DOCKETED ☐ UPDATED ☐
Previously ☐ Not Required ☐
Action Required Renewed Petition
Pub. Info.
Appl./Grant Info.
Due / Done 6-6-04
By Checked

In re Application of
KESKES et al.
U.S. Application No. 10/450,862
PCT No.: PCT/IB01/02499
Int. Filing Date: 12 December 2001
Priority Date: 16 December 2000
Attorney Docket No.: 208.002900/1
For: DEFLECTOR DEVICES

COMMUNICATION

This communication is in response to applicants' unsigned facsimile communication filed 12 April 2004 to accept the application without the signature of joint-inventor, Philipe Saint-Pere.

BACKGROUND

On 12 December 2001, applicants filed international application PCT/IB01/02499 which claimed a priority date of 16 December 2000. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 16 June 2003.

On 16 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c))(1) and a copy of the international application.

On 07 October 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 02 December 2003, applicants filed a petition under 37 CFR 1.47(a). The petition was dismissed without prejudice in a "Decision on Petition" dated 10 February 2004.

On 01 April 2004, applicants filed the present renewed petition under 37 CFR 1.47(a). In a "Decision on Petition" dated 06 April 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice because the declaration was defective under 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1).

On 12 April 2004, applicants filed the present communication which included an unexecuted supplemental declaration.

DISCUSSION

The "Decision on Petition" (under 37 CFR 1.47(a)) mailed to applicant on 06 April 2004 stated the following:

> . . .item (4) has not been satisfied. The previous petition papers included an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. However, the declaration submitted is not in compliance with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify the inventor and country of citizenship of the inventor. In this case, the declaration does not include the citizenship of the second inventor (Philipe Saint-Pere). Since the declaration does not clearly identify the citizenship of the inventor, it is considered defective under 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1).

The supplemental declaration submitted on 12 April 2004 is defective and not a proper response to the "Decision on Petition" mailed 06 April 2004. The supplemental declaration includes the citizenship of the joint-inventors, however, it has not been executed by Emmanuel Keskes on his own behalf and behalf of the nonsigning joint inventor. It is noted that the declarations cannot be combined since the previously filed declarations were not in compliance with CFR 1.497 and 37 CFR 1.63. Therefore, a newly executed declaration which fulfills the requirements of 37 CFR 1.497(a)-(b) is required.

Because the failure to file the proper response does not appear to have been the result of an inadvertent omission (37 CFR 1.135(a)), applicant will not be accorded a new time period to correct the deficiencies in the response.

CONCLUSION

A proper response must be filed within the period for response set forth in the "Decision on Petition" mailed 06 April 2004 which is extendable up to a maximum of five months. As such, using the maximum period of extension available, applicant has until 06 December 2004 to file a proper response or the application will be held abandoned as to the United States.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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06 APR 2004

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Reconsideration
"Renewed Petition"
6-6-04

DOCKETING DEPT.
APR 12 2004
WILLIAMS, MORGAN & AMERSON
2088.002900

In re Application of
KESKES et al.
U.S. Application No. 10/450,862
PCT No.: PCT/IB01/02499
Int. Filing Date: 12 December 2001
Priority Date: 16 December 2000
Attorney Docket No.: 208.002900/1
For: DEFLECTOR DEVICES

DECISION ON PETITION

This is a decision on applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 01 April 2004 to accept the application without the signature of joint-inventor, Philipe Saint-Pere.

BACKGROUND

On 12 December 2001, applicants filed international application PCT/IB01/02499 which claimed a priority date of 16 December 2000. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 16 June 2003.

On 16 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c))(1) and a copy of the international application.

On 07 October 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 02 December 2003, applicants filed a petition under 37 CFR 1.47(a). The petition was dismissed without prejudice in a "Decision on Petition" dated 10 February 2004.

On 01 April 2004, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) and (3) were satisfied in the previous petition filed 02 December 2003.

As to Item (2), a review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Philipe Saint-Pere. The steps taken are sufficient to show that the missing inventor, Philipe Saint-Pere, could not be reached after diligent effort.

As stated in the previous "Decision on Petition," item (4) has not been satisfied. The previous petition papers included an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. However, the declaration submitted is not in compliance with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify the inventor and country of citizenship of the inventor. In this case, the declaration does not include the citizenship of the second inventor (Philipe Saint-Pere). Since the declaration does not clearly identify the citizenship of the inventor, it is considered defective under 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1).

For the reasons stated above, it would not be appropriate to accept the application without the signature of Philipe Saint-Pere under 37 CFR 1.47(a) at this time.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Application of
KESKES et al.
U.S. Application No. 10/450,862
PCT No.: PCT/IB01/02499
Int. Filing Date: 12 December 2001
Priority Date: 16 December 2000
Attorney Docket No.: 208.002900/1
For: DEFLECTOR DEVICES

DECISION ON PETITION

This is a decision on applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 01 April 2004 to accept the application without the signature of joint-inventor, Philipe Saint-Pere.

BACKGROUND

On 12 December 2001, applicants filed international application PCT/IB01/02499 which claimed a priority date of 16 December 2000. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 16 June 2003.

On 16 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c))(1) and a copy of the international application.

On 07 October 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 02 December 2003, applicants filed a petition under 37 CFR 1.47(a). The petition was dismissed without prejudice in a "Decision on Petition" dated 10 February 2004.

On 01 April 2004, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) and (3) were satisfied in the previous petition filed 02 December 2003.

As to Item (2), a review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Philipe Saint-Pere. The steps taken are sufficient to show that the missing inventor, Philipe Saint-Pere, could not be reached after diligent effort.

As stated in the previous "Decision on Petition," item (4) has not been satisfied. The previous petition papers included an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. However, the declaration submitted is not in compliance with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify the inventor and country of citizenship of the inventor. In this case, the declaration does not include the citizenship of the second inventor (Philipe Saint-Pere). Since the declaration does not clearly identify the citizenship of the inventor, it is considered defective under 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1).

For the reasons stated above, it would not be appropriate to accept the application without the signature of Philipe Saint-Pere under 37 CFR 1.47(a) at this time.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Application of	:	
KESKES et al.	:	
U.S. Application No. 10/450,862	:	DECISION ON PETITION
PCT No.: PCT/IB01/02499	:	
Int. Filing Date: 12 December 2001	:	
Priority Date: 16 December 2000	:	
Attorney Docket No.: 208.002900/1	:	
For: DEFLECTOR DEVICES	:	

This is a decision on applicants' "Petition under 37 CFR 1.47(a)" filed 02 December 2003 to accept the application without the signature of joint-inventor, Philipe Saint-Pere.

BACKGROUND

On 12 December 2001, applicants filed international application PCT/IB01/02499 which claimed a priority date of 16 December 2000. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 16 June 2003.

On 16 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c))(1) and a copy of the international application.

On 07 October 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 02 December 2003, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the

missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) and (3) have been satisfied.

As to item (2), petitioner states that Philipe Saint-Pere has refused to execute the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition and the accompanying papers reveal that applicant has not satisfied item (2) above, in that the applicant has not shown that a bona fide attempt was made to present the application papers to Philipe Saint-Pere. Rebecca Tanis states that a complete application was sent to Philipe Saint-Pere via Air Mail Delivery on 20 June 2003. However, it is unclear whether the papers were received by the nonsigning inventor or someone residing at the address. Thus, it is unclear whether Philipe Saint-Pere in fact resides at the address to which the complete application was sent and if he was presented with the application papers required when a refusal is alleged. Additionally, the statements regarding the receipt of the application papers via E-mail constitute secondhand knowledge in that the receipt of the application was made by Wenche Saintpere, not Philipe Saint-Pere.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, and drawings) were sent to Philipe Saint-Pere, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

As to item (4), an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor has been included with the present petition. However, the declaration submitted is not in compliance with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify the inventor and country of citizenship of the inventor. In this case, the declaration does not include the citizenship of the second inventor (Philipe Saint-Pere). Since the declaration does not clearly identify the citizenship of the inventor, it is considered defective under 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1).

For the reasons stated above, it would not be appropriate to accept the application without the signature of Philipe Saint-Pere under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
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Office of PCT Legal Administration
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06 APR 2004

#8

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Mark W. Sincell
Williams, Morgan & Amerson
10333 Richmond Drive
Suite 1100
Houston, Texas 77042

In re Application of	:	
KESKES et al.	:	
U.S. Application No. 10/450,862	:	DECISION ON PETITION
PCT No.: PCT/IB01/02499	:	
Int. Filing Date: 12 December 2001	:	
Priority Date: 16 December 2000	:	
Attorney Docket No.: 208.002900/1	:	
For: DEFLECTOR DEVICES	:	

This is a decision on applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 01 April 2004 to accept the application without the signature of joint-inventor, Philipe Saint-Pere.

BACKGROUND

On 12 December 2001, applicants filed international application PCT/IB01/02499 which claimed a priority date of 16 December 2000. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 16 June 2003.

On 16 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c))(1) and a copy of the international application.

On 07 October 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 02 December 2003, applicants filed a petition under 37 CFR 1.47(a). The petition was dismissed without prejudice in a "Decision on Petition" dated 10 February 2004.

On 01 April 2004, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) and (3) were satisfied in the previous petition filed 02 December 2003.

As to Item (2), a review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Philipe Saint-Pere. The steps taken are sufficient to show that the missing inventor, Philipe Saint-Pere, could not be reached after diligent effort.

As stated in the previous "Decision on Petition," item (4) has not been satisfied. The previous petition papers included an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. However, the declaration submitted is not in compliance with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify the inventor and country of citizenship of the inventor. In this case, the declaration does not include the citizenship of the second inventor (Philipe Saint-Pere). Since the declaration does not clearly identify the citizenship of the inventor, it is considered defective under 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1).

For the reasons stated above, it would not be appropriate to accept the application without the signature of Philipe Saint-Pere under 37 CFR 1.47(a) at this time.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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12 SEP 2007

Mark W. Sincell
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Houston, Texas 77042

In re Application of :
KESKES et al. :
U.S. Application No. 10/450,862 : DECISION ON PETITION
PCT No.: PCT/IB01/02499 :
Int. Filing Date: 12 December 2001 :
Priority Date: 16 December 2000 :
Attorney Docket No.: 208.002900/1 :
For: DEFLECTOR DEVICES :

This decision is issued in response to applicant's "Renewed Petition under 37 CFR 1.137(b)" filed 18 September 2006 to revive the application and to accept the application without the signature of joint-inventor, Philipe Saint-Pere, under 37 CFR 1.47(a). In a decision dated 12 April 2004, the "Renewed Petition under 37 CFR 1.47(a)" filed 06 April 2004 was dismissed without prejudice because applicant did not satisfy all the requirements under 37 CFR 1.47(a). Specifically, the declaration submitted with the petition under 1.47(a) was defective pursuant to 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1). The procedural background for this application was set forth in detail in the decision mailed by this Office on 12 April 2004.

On 28 June 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 07 October 2003 within the time period set therein. The Notification should have indicated that the application was abandoned for failure to file a complete response to the Decision on Petition mailed 12 April 2004.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional delay must be accompanied by: (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicant has satisfied items (2) - (4).

In order to comply with the proper response requirement of item (1) above for revival under 37 CFR 1.137(b), applicant submitted the present Petition Under 37 CFR

1.47(a). Under the present circumstances, in order for the response requirement, item (1) above, to be satisfied, the petition to accept the application without the signature of joint-inventor must be grantable.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Applicant has provided items (1) - (4) under 37 CFR 1.47(a).

A review of the papers filed 18 September 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Philipe Saint-Pere) refused to sign, stated the last known address of the non-signing inventor (Philipe Saint-Pere), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

Accordingly, the petition to revive under 37 CFR 1.137(b) is granted and it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 02 October 2003 under 35 U.S.C. 363, and a date of **18 September 2006** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(c) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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WesternGeco L.L.C.
Kevin McEnaney, IP Dept
10001 Richmond Avenue
HOUSTON, TX 77042-4299

Mail Date: 06/24/2010

Applicant	: Emmanuel Keskes	: DECISION ON REQUEST FOR
Patent Number	: 7660190	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/450,862	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1246** 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.

19 NOV 2003

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D. Peter Hochberg Co., L.P.A.
1940 East 6th Street - 6th Floor
Cleveland, ON 44114

In re Application of	:	
Beck	:	
Application No. 10/450,866	:	DECISION ON
PCT No.: PCT/EP01/08848	:	
Int. Filing Date: 31 July 2001	:	PETITION UNDER
Priority Date: 04 August 2000	:	
Atty. Docket No.: OH0673US (#90550)	:	37 CFR 1.137(b)
For: Shoe Inner Sole	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 17 June 2003.

BACKGROUND

This international application was filed on 31 July 2001, claimed an earliest priority date of 04 August 2000, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 14 February 2002. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 04 February 2003. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the basic national fee.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

It is noted that the Declaration filed on 17 June 2003 is defective in that it does not identify the citizenship of the inventor.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration of the inventor and a surcharge under 37 CFR 1.492(e).

Boris Milef
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OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of	:	
Vasco Vollmer et al.	:	
Application No. 10/450,870	:	DECISION ON PETITION
Filed: November 20, 2003	:	PURSUANT TO
Attorney Docket No. 10191/3116	:	37 C.F.R. § 1.181(A)
Title: METHOD FOR CONTROLLING LINK CONNECTIONS IN A COMMUNICATION SYSTEM AND CORRESPONDING COMMUNICATION SYSTEM	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on February 23, 2009.

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 May 12, 2008, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on August 13, 2008. A notice of abandonment was mailed on January 23, 2009.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. § 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

With this petition, Petitioner has alleged that a response was timely filed on November 11, 2008, concurrently with a request for a three-month extension of time. Petitioner has further included a copy of both the response and the request for a three-month extension of time, and it is noted that the document contains a certificate of mailing dated November 11, 2008.

Petitioner has further included a postcard receipt, which evinces the receipt of both a "Notice of Appeal" and an "Extension Request" in the Office on November 13, 2008.

The electronic file has been reviewed, and a copy of each of this submission has been located in the same. It is clear that this submission was received on November 13, 2008.

Moreover, Office records reflect the receipt of both the fee that is associated with the filing of a notice of appeal and the fee that is associated with the filing of a request for a three-month extension of time on November 13, 2008.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

CONCLUSION

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

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 Notice of Appeal received on November 13, 2008 can be processed in due course.

The two-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the mailing date of this decision.

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

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Vasco Vollmer	: DECISION ON REQUEST FOR
Patent Number	: 7643415	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/450,870	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1631** 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.

THE JANSSON FIRM
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NOV 17 2008

OFFICE OF PETITIONS

In re Application of :
Jose Mennecart et al. :
Application No. 10/450,872 : DECISION ON PETITION
Filed: November 14, 2003 : PURSUANT TO
Attorney Docket No.: 76.0594 : 37 C.F.R. § 1.137(a)
Title: METHOD FOR THE SECURE :
UPDATING DATA AREAS IN NON :
VOLATILE MEMORY, DEVICE TO :
PERFORM SUCH A METHOD :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(a), filed on October 10, 2008, to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the "Order Requiring the Appellants to Brief an Additional Matter" (Order), mailed August 15, 2008, which set a non-extendable period for reply of 30 days. 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 September 16, 2008.

The Relevant Portion of the MPEP

Section 711.03(c)(I)(A) sets forth, *in toto*:

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office

action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Analysis

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
(4) 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, *inter alia*, a second amended brief, the petition fee, and two statements of facts. As such, Petitioner has met requirements (1) and (2) of Rule 1.137(a). The fourth requirement is not applicable, as a terminal disclaimer is not required.

Regarding the third requirement of Rule 1.137(a), the record does not support a finding that the entire period of delay was unavoidable, as will now be pointed out.

Applicant has alleged that the Order was not received,[1] has included a statement describing the docketing system that his firm has in place, has established that it is sufficiently reliable, and has provided a copy of the records where the non-received Order would have been entered had it been received (in the form of his firm's calendar for the month of September 2008).

However, Petitioner has not indicated that a **search of his records, including any file jacket or the equivalent, and the application contents**, indicates that the Office action was not received.

---

1 See statements of Mr. Jansson and Ms. Macdonald.

Moreover, Petitioner has not either provided a copy of his **master docket**, as described above, or indicated that no such master docket exists and provided a copy of the application file jacket; incoming mail log; reminder system; or the individual docket record for the application in question.

If reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Petitioner may file a petition pursuant to 37 C.F.R. § 1.137(b).

Petitioner will note that a third option is to concurrently file both a renewed petition pursuant to Rule 1.137(a) and a petition pursuant to Rule 1.137(b). If the renewed petition is granted, the fee that is associated with the petition pursuant to Rule 1.137(b) will be refunded to Petitioner.

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[6] All other

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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Paper No.

THE JANSSON FIRM
9501 N. CAPITAL OF TX HWY #202
AUSTIN TX 78759

COPY MAILED

DEC 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Jose Mennecart et al.	:	
Application No. 10/450,872	:	DECISION ON RENEWED PETITION
Filed: November 14, 2003	:	PURSUANT TO
Attorney Docket No.: 76.0594	:	37 C.F.R. § 1.137(A) AND
Title: METHOD FOR THE SECURE	:	PETITION PURSUANT TO 37
UPDATING DATA AREAS IN NON	:	C.F.R. § 1.137(B)
VOLATILE MEMORY, DEVICE TO	:	
PERFORM SUCH A METHOD	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(a), filed on December 4, 2008, to revive the above-identified application.

This renewed petition pursuant to 37 C.F.R. § 1.137(a) is **GRANTED**.

The petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED AS MOOT**.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to reply in a timely manner to the "Order Requiring the Appellants to Brief an Additional Matter" (Order), mailed August 15, 2008, which set a non-extendable period for reply of 30 days. 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 September 16, 2008.

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on October 10, 2008, and was dismissed via the mailing of a decision on November 17, 2008.

The Relevant Portion of the MPEP

Section 711.03(c)(I)(A) sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the

application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Analysis

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
(4) 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 the original petition, Petitioner submitted, *inter alia*, a second amended brief, the petition fee, an allegation that the Order was not received, a statement that describes the docketing system that his firm has in place and establishes that it is sufficiently reliable, and a copy of the records where the non-received Order would have been entered had it been received (in the form of his firm's calendar for the month of September 2008).

The decision on the original petition indicated that requirements (1) and (2) of Rule 1.137(a) had been satisfied,

and that the fourth requirement is not applicable, as a terminal disclaimer is not required.

The decision further indicated that Petitioner failed to provide a copy of his firm's master docket. The undersigned has reconsidered his position on this matter, and has determined that Exhibit B, submitted with the original petition, constitutes the firm's master docket. As such, the portion of the decision on the original petition directed towards the failure to provide a copy of the master docket, along with the need to provide the same on renewed petition, is withdrawn.

With this renewed petition, Petitioner has indicated that a search was conducted of "the physical case file,"[1] and this search indicates that the relevant Office communication was not received. The Office will construe this statement to mean that both the file jacket and the application contents were reviewed, and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

It follows that the third requirement of Rule 1.137(a) has been satisfied.

Due to the granting of this renewed petition, the petition pursuant to 37 C.F.R. § 1.137(b) is unnecessary. The petition fee will be refunded to Petitioner's Deposit Account in due course, as authorized in the petition.

Conclusion

The Board of Patent Appeals and Interferences will be notified of this decision so that the Appeal Brief that was received on October 10, 2008 may receive further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival of this application has been acknowledged by the Board of Patent Appeals and Interferences 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 Board of Patent Appeals and Interferences where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

1 Revised statement, provided with renewed petition, paragraph 9.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[2] All other inquiries concerning the status of this application should be directed to the Board of Patent Appeals and Interferences. The general phone number for the Board of Patent Appeals and Interferences is 571-272-9797.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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OCT 19 2007

OFFICE OF PETITIONS

In re Application of
Norbert LoBig
Application No. 10/450,881
Filed: November 6, 2003
Attorney Docket No. 4491522056400

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 18, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 3, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN R. SPIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

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SANTANGELO LAW OFFICES, P.C.
125 SOUTH HOWES, THIRD FLOOR
FORT COLLINS CO 80521

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FEB 07 2005

OFFICE OF PETITIONS

Applicant: Lopez et al.
Appl. No.: 10/450,931
International Filing Date: December 14, 2001
Title: ELECTRICAL CONDUCTIVE CONTAINMENT SYSTEM
Attorney Docket No.: ConductNSNP
Pub. No.: US 2004/0171163 A1
Pub. Date: September 2, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on November 1, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a typographical error on the front page of the publication as the first inventor's name "Peter A. Lopez" is repeated and "George C. Malachowski" is omitted from the list of inventors.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The omission of an inventor's name on the front page of the publication and the repeating of an inventors name on the front page of the patent application publication are Office mistakes, but they are not a material errors under 37 CFR 1.221(b). The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

To avoid this type of problem in the future, applicants' representative should make a request for a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must 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

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

13 SEP 2004

#9

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Horst M. Kasper
13 Forest Drive
Warren, New Jersey 07059

In re Application of
KNITTEL, Thomas :
Serial No.: 10/450,932 :
PCT No.: PCT/EP00/12758 : DECISION ON PETITION
Int. Filing Date: 14 December 2000 : UNDER 37 CFR 1.181
Priority Date: None :
Atty. Docket No.: MSA255 :
For: ADAPTIVE COMPARATOR CIRCUIT AND ACOUSTIC DISTANCE SENSOR COMPRISING SAID CIRCUIT :

This is a decision on applicant's "Petition under 37 CFR 1.181" filed 21 June 2004 which is being treated as a "Petition to Withdraw Notice of Abandonment."

BACKGROUND

On 14 December 2000, applicant filed international application PCT/EP00/12758 which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 June 2002. A Demand was filed for International Preliminary Examination prior to the 19th month from the international filing date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the international filing date, or at midnight on 14 June 2003.

On 16 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application; a declaration; and a preliminary amendment.

On 24 September 2003, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) was required. The notification set a two-month time limit in which to respond.

On 25 May 2004, the Office of PCT Legal Administration mailed a communication in response to applicant's "Status Inquiry" indicating that a Notification of Missing Requirements was mailed on 24 September 2003.

On 21 June 2004, applicant filed the present petition under 37 CFR 1.181.

On 26 July 2004, applicant filed an executed declaration.

DISCUSSION

A. Petition under 37 CFR 1.181

A proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Applicant's petition filed 21 June 2004 satisfies all of the items above. Applicant's counsel attests that the Office action was not received and that a search of the file jacket indicated the Office action was not received. Applicant also provided a copy of the docket record where the non-received office action would have been entered had it been received.

B. Defective Declaration

The declaration submitted on 26 July 2004 is not in compliance with 37 CFR 1.497(a)-(b). Specifically, the declaration is illegible in that the right side of pages 1 -5 have been deleted due to the copying process. Therefore, in that the declaration is not compliance with 37 CFR 1.63 and 1.497(a)-(b), applicant has not met the requirements for entry into the national stage under 35 U.S.C. 371.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision, that is, for issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905), to inform applicant that an oath or declaration of the inventors in compliance with 37 CFR 1.497 is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

16 SEP 2003

#4

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of :
ICHIMURA, Kazuhiro *et al* :
Application No.: 10/450,945 :
PCT No.: PCT/JP00/09018 :
Int. Filing Date: 20 December 2000 : **DECISION**
Priority Date: None :
Attorney Docket No.: 116285 :
For: FAILURE DETECTION DEVICE FOR :
HYDRAULIC MOTOR AND :
HYDRAULIC DRIVE VEHICLE :

This is a decision on the declaration filed with the national stage papers on 18 June 2003 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 18 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, an executed declaration signed by two of the three co-inventors and by the legal representative of deceased co-inventor, Saburou Yoshio.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Applicants have furnished a declaration signed by two of the three co-inventors recorded on the international publication ("WO 02/50454") as inventors and by Akiko Yoshio as the legal representative of deceased co-inventor, Saburou Yoshio.

37 CFR 1.497(a)(3) requires that the citizenship of each inventor must be listed on the declaration. 37 CFR 1.497(b)(2) also requires that the citizenship, residence, and mailing address of the legal representative be recorded on the declaration.

A review of the declaration submitted shows that citizenship, residence and mailing address information are listed in the deceased co-inventors box next to the signature of the legal representative. However, it is not clear if this information is for the

legal representative or the deceased co-inventor. Regardless, this information is required for both and must be clearly identified on the declaration. *See also* 37 CFR 1.63(c)(1).

Accordingly, the declaration does not comply with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

16 SEP 2[illegible]

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of
ICHIMURA, Kazuhiro *et al*
Application No.: 10/450,945
PCT No.: PCT/JP00/09018
Int. Filing Date: 20 December 2000
Priority Date: None
Attorney Docket No.: 116285
For: FAILURE DETECTION DEVICE FOR HYDRAULIC MOTOR AND HYDRAULIC DRIVE VEHICLE

DECISION

DUE DATE

NOV 1 6 2003

This is a decision on the declaration filed with the national stage papers on 18 June 2003 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 18 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, an executed declaration signed by two of the three co-inventors and by the legal representative of deceased co-inventor, Saburou Yoshio.

DOCKETED
By mpt on 9/19 20 02
and
By JMM on 9/22 20 03
Oliff & Berridge

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Applicants have furnished a declaration signed by two of the three co-inventors recorded on the international publication ("WO 02/50454") as inventors and by Akiko Yoshio as the legal representative of deceased co-inventor, Saburou Yoshio.

37 CFR 1.497(a)(3) requires that the citizenship of each inventor must be listed on the declaration. 37 CFR 1.497(b)(2) also requires that the citizenship, residence, and mailing address of the legal representative be recorded on the declaration.

A review of the declaration submitted shows that citizenship, residence and mailing address information are listed in the deceased co-inventors box next to the signature of the legal representative. However, it is not clear if this information is for the

legal representative or the deceased co-inventor. Regardless, this information is required for both and must be clearly identified on the declaration. *See also* 37 CFR 1.63(c)(1).

Accordingly, the declaration does not comply with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

31 MAR 2004

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P.O. Box 19928
Alexandria, VA 22320

In re Application of :
ICHIMURA, Kazuhiro *et al* :
Application No.: 10/450,945 :
PCT No.: PCT/JP00/09018 :
Int. Filing Date: 20 December 2000 : **DECISION**
Priority Date: None :
Attorney Docket No.: 116285 :
For: FAILURE DETECTION DEVICE FOR :
HYDRAULIC MOTOR AND :
HYDRAULIC DRIVE VEHICLE :

This is a decision on the "Response to Decision" filed on 17 November 2003 which is treated as a renewed petition under 37 CFR 1.42.

BACKGROUND

On 16 September 2003, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed. The declaration was regarded as not to contain all of the information required by 37 CFR 1.497(a) and (b). Applicants were given two months to respond.

On 17 November 2003, applicants filed the instant response which was accompanied by a supplemental declaration.

DISCUSSION

In response to the decision dated 28 October 2003, applicants have furnished a supplemental declaration signed by Akiko Yoshio as legal representatives of deceased joint inventor, Saburou Yoshio.

The supplemental declaration records the citizenship, residence, and mailing address of the legal representative as required by 37 CFR 1.497(b)(2). The citizenship of the deceased joint inventor is listed as well as the citizenship, residences, and mailing addresses of the two other joint inventors pursuant to 37 CFR 1.497(a)(3).

This declaration meets the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 20 December 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 17 November 2003.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of :

LOBIG, Norbet :
Application No. 10/450,946 : DECISION ON PETITION
Filed: June 18, 2005 : TO WITHDRAW
Attorney Docket No. **449122049200** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ANDREAS BERG**
SEEGEFELDER WEG 262A
BERLIN, GERMANY 13591

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

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United States Patent and Trademark Office
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Masao Sugamata	: DECISION ON REQUEST FOR
Patent Number	: 7585854	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/450,954	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **735** 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.

07 JAN 2005

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Kenyon & Kenyon
One Broadway
New York, New York 10004

In re Application of	:	
HANS et al	:	DECISION ON
Application No.: 10/450,961	:	
PCT No.: PCT/DE02/02551	:	
Int. Filing Date: 12 July 2002	:	PETITION UNDER
Priority Date: NA	:	
Attorney Docket No.: 10191/3199	:	
For: FUEL INJECTOR AND METHOD FOR	:	37 CFR 1.182
INSTALLING A FUEL INJECTOR IN A VALVE	:	
SEAT	:	

This is in response to applicants' submission "PETITION UNDER 37 CFR 1.182" filed on 21 September 2004. This submission states that the correct applicant's name is Waldemar HANS not Hans WALDEMAR for the first joint inventor. The petition fee of $130.00 has been charged to the Deposit Account.

BACKGROUND

On 17 June 2003, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed oath or declaration was filed at that time.

On 21 April 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date." The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The notice also indicated that all of the items set forth above must be submitted within two (2) months from the date of this notice or by 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment.

On 16 June 2004 applicants submitted a "RESPONSE TO MISSING REQUIREMENTS UNDER 35 U.S.C. 371," which included an executed Declaration.

On 30 July 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916). The notification indicated that the current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: The first inventor's last name WALDEMAR, Hans is not the same as the last name on the declaration which is HANS, Waldemar.

On 21 September 2004, applicants filed the instant petition, which includes a declaration by Waldemar HANS that his true is Waldemar HANS as executed in the declaration and not Hans WALDEMAR as incorrectly stated in the PCT Request and published application.

DISCUSSION

The correct name of the first joint-inventor is "Waldemar HANS" as indicated in the declaration submitted by Mr. HANS and as executed in the Declaration and Power of Attorney form. The correct name, Waldemar HANS, will be reflected in the US national stage processing.

Applicants' response is accepted as a sufficient response to the Notification of Missing Requirements (FORM PCT/DO/EO/905) mailed on 30 July 2004.

DECISION

For the reasons above, the petition under 37 CFR 1.182 is **GRANTED.** The application will be granted a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of **16 June 2004.**

For the reasons above, the application may enter into national stage processing at this time. The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Richard Cole
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Volker Holzgrefe	: DECISION ON REQUEST FOR
Patent Number	: 7581686	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/450,963	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JUL 25 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
SANDREW, BARRY :
Serial No.: **10/450,970** : DECISION ON PETITION
Filed: **June 18, 2003** : *ACCEPTANCE OF COLOR DRAWINGS*
For: **IMAGE SEQUENCE ENHANCEMENT SYSTEM AND METHOD** :

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, May 6, 2006, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 2-4, 5A, 5B, 6,A, 6B, 7A, 7B, 8, 9A, 9B, 10A, 10B, 10C, 10D, 11A, 11B, 11C, and 12-36, 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

21 NOV 2003
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ALEXANDRIA, VA 22313-1450
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#4

Chad D Tillman
Morris Manning & Martin
Suite 1125
6000 Fairview Rd.
Charlotte, NC 28210

In re Application of
Tripat Singh MANGAT
Serial No.: 10/450,973
PCT No.: PCT/GB01/05590
Int. Filing Date: 18 December 2001
Priority Date: 18 December 2000
Attorney's Docket No.: 138319-41624
For: VALVE

: DECISION ON PETITION
: UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 05 November 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3) at the time of filing this petition.

A review of the application file reveals that the basic national fee of $920 has been paid. The required petition fee of $1330 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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BOSTON MA 02110

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SEP 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,445,775	:	
Collen et al.	:	DECISION ON
Application No. 10/450,976	:	REQUEST FOR
Issue Date: November 4, 2008	:	RECONSIDERATION OF
Filed: December 8, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
50304/005001	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705, filed on January 5, 2009. Patentee requests that the determination of patent term adjustment be corrected from three hundred eighty-six (386) days to eight hundred seventy-seven (877) 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 five hundred fifty-six (556) 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 June 27, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 182 days. On November 4, 2008, the application matured into U.S. Patent No. 7,445,775, with a revised patent term adjustment of 386 days. The Office determined that 491

days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 491 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the issuance of the patent. As such, the Office allowed only entry of 206 (697 - 491) days. 206 additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 311 days, the patent issued with a revised patent term adjustment of 386 (491 + 206 - 311) days.

On January 5, 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 877 days under the courts 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 asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1188 (491 + 697) days as these periods do not occur on the same day. Further, given the applicant delay of 311 days, patentee asserts entitlement to 877 (1188 - 311) days of patent term adjustment.

OPINION

At the outset, the Office notes that the period of delay of 697 days, pursuant to 37 CFR 1.702(b), for the Office taking in excess of three years to issue the patent, is incorrect. A review of the record indicates that the Office did not use the correct 35 U.S.C. 371(b) national stage commencement date of June 21, 2003, in calculating the period of adjustment under 37 CFR 1.703(b). As stated in 37 CFR 1.703(b), the period of adjustment under § 1.702(b) is the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued. While the date of completion of all 35 U.S.C. 371 requirements, December 8, 2003, is the date used in calculation of the examination delay under 37 CFR 1.702(a)(1), the date the national stage commenced under 35 U.S.C. 371(b), June 21, 2003, is used to determine the Three Year Delay under 37 CFR 1.703(b).

Pursuant to 37 CFR 1.703(b), the period of adjustment under 37 CFR 1.702(b) should be 867 days, counting the number of days beginning on June 22, 2006, the day after the date that is three years after the date on which the national stage commenced under 35 U.S.C. 371(b), and ending on the date the patent issued, November 4, 2008.

Nonetheless, 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 date of commencement, June 21, 2003, and ending on the date of the issuance of the application as a patent, November 4, 2008 (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)(1), 491 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 867 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the commencement date.

The 867 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 491 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 867 days and the 491 days is neither permitted nor warranted. 376 (867 - 491) days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, 376 additional days (not 206 days) should have been entered.

CONCLUSION

Considering the applicant delay of 311 days, the patent term adjustment at issuance is 556 (491 + 376 - 311) days.

The application file is being forwarded to the Certificates of Correction Branch of 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 five hundred fifty-six (556) 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

Encl: DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

DRAFT

PATENT : 7,445,775 B2

DATED : November 4, 2008

INVENTOR(S) : Collen 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 (386) days

Delete the phrase "by 386 days" and insert – by 556 days--

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Paper No.

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APR 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,445,775	: DECISION ON REQUEST
Collen et al.	: FOR
Issue Date: November 4, 2008	: RECONSIDERATION OF
Application No. 10/450,976	: PATENT TERM ADJUSTMENT
Filed: December 8, 2003	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
50304/005001	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 23, 2009, which is being treated as a request for reconsideration 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 forty-seven (1047) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand forty-five (1045) days is **GRANTED to the extent indicated herein.**

The "B" delay period is 865 days, not 867 days. Patentee apparently calculated this 867-day period based on a commencement date under 35 U.S.C. 371(f) of June 21, 2003. However, as the requirements of 35 U.S.C. 371(f) were not met, commencement of the national stage is governed by 35 U.S.C. 371(b). Moreover, as June 21, 2003 fell on a Saturday, the commencement date pursuant to 35 U.S.C. 371(b) is Monday, June 23, 2003. Thus, "B" delay is 865 days, counting the number of days beginning on June 24, 2006, the day after the date three years after the national stage commenced, and ending on November 4, 2008, the date of issuance. See 1.703(b).

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 Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand forty-five (1045)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,445,775 B2

DATED : **November 4, 2008** **DRAFT**

INVENTOR(S) : Collen 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 386 days.

Delete the phrase "by 386 days" and insert – by 1045 days--