01 APR 2004

#4

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Robert L. Stearns
HOWARD & HOWARD
ATTORNEYS, P.C.
The Pinehurst Office Center, Suite 101
39400 Woodward Avenue
Bloomfield Hills, Michigan 48304-5151

In re Application of	:	DECISION ON
GOODREID, Charles, Stuart	:	
PCT No.: PCT/GB01/05598	:	
Application No: 10/451,031	:	
Int. Filing Date: 18 December 2001	:	PETITION UNDER
Priority Date: 18 December 2000	:	
Attorney's Docket No.: 71030-015	:	
For: SUPPORT AND GUIDING STUCTURE	:	
FOR FRICTION ELEMENT IN DISC BRAKES	:	37 CFR 1.47(b)

This is in response to the "PETITION FOR FILING APPLICATION WITHOUT ALL INVENTORS SIGNING" filed on 29 January 2004, which is being treated as a petition under 37 CFR 1.47(b). The requisite $130 petition fee has been charged to deposit account No. 08-2789 as indicated in the communication on 29 January 2004.

BACKGROUND

On 18 December 2001, applicants filed international application PCT/GB01/05598. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 18 June 2003.

On 18 June 2003, petitioner filed for entry into the national stage in the United States of America. Filed with the application was, inter alia, the requisite basic national fee. However, no executed declaration or oath was submitted at such time. A copy of the intentional application was transmitted on 27 June 2002 to the USPTO from the International Bureau.

On 27 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from its 27 October 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 an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), applicant filed on 29 January 2004, *inter alia*, the following:

1) Petition For Filing Application Without All Inventors Signing;

2) Attachments (A-E) showing attempts delivery

3) 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) but not items (2), (3), (4), (5) and (6) thus not completing the requirements under 37 CFR 1.47(b).

Applicant has satisfied item (1) since the petition fee has been provided by applicant.

Regarding requirement (2), section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

INVENTOR CANNOT BE REACHED:

> 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 fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under **37 CFR 1.47**.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under **37 CFR 1.47**. **37 CFR 1.43** may be available under these circumstances. See **MPEP § 409.02**. Such a petition under **37 CFR 1.47** will be dismissed as inappropriate.

Regarding item (1), the petition has been charged to Deposit Account.

Regarding item (2), although Mr. Stearns indicates that attachment C shows an attempted delivery of the mailing on 13 August 2003 that failed, but that on 8 September 2003 a follow-up report showed the letter to have been delivered. However, it is unclear from the record that it was actually received by Mr. Goodreid since no evidence on this has been submitted. Moreover, the follow-up letter (including all the application papers) of October 17, 2003 appears not to have been received by Mr. Goodreid. As a result, Mr. Stearns indicated that an attempt was also made to locate the whereabouts of Mr. Goodried via internet search, and that additional efforts were likewise unsuccessful in finding him.

Accordingly, the averments of Mr. Stearns are insufficient to support a finding that the nonsigning inventor, Mr. Goodreid could not be found after diligent effort because Mr. Stearns fails to show diligent effort to locate inventor Mr. Goodreid. He alleges that an internet search was done and other unsuccessful efforts but these efforts are not elaborated. In addition, Mr. Stearns has not provided copies that he has searched for the above non-signing inventor's new address by using a broad search in the internet and phone directory, which would show diligent effort to satisfy item (2).

Regarding item (3), applicant has not stated the last known address of the inventor:

Regarding item (4), a declaration has not been provided executed by an appropriate officer of the company on behalf of the non-signing sole inventor, Mr. Goodreid.

Regarding item (5) applicant has not submitted sufficient proof that applicant has sufficient proprietary interest in the application.

Regarding item (6) applicant has not presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) 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). Failure to timely file a proper response to this decision will result in Abandonment of the application.

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

01 MAR 2005

#6

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Bloomfield Hills, Michigan 48304-5151

In re Application of	DECISION ON RENEWED
GOODREID, Charles, Stuart	
PCT No.: PCT/GB01/05598	
Application No: 10/451,031	
Int. Filing Date: 18 December 2001	PETITION UNDER
Priority Date: 18 December 2000	
Attorney's Docket No.: 71030-015	
For: SUPPORT AND GUIDING STUCTURE	
FOR FRICTION ELEMENT IN DISC BRAKES	37 CFR 1.47(b)

This is in response to the "RENEWED PETITION" filed on 02 August 2004, which is being treated as a renewed petition under 37 CFR 1.47(b). The two month extension of time has charged to petitioner's Deposit Account as requested in the petition.

BACKGROUND

In a decision from this Office on 01 April 2004, the initial petition under 37 CFR 1.47(b) was dismissed. The decision stated that petitioner had not satisfied requirements (2), (3), (4), (5) and (6) under 37 CFR 1.47(b) thus not completing the requirements under 37 CFR 1.47(b).

On 02 August 2004, petitioner submitted a "Renewed Petition" requesting reconsideration of the Office's decision on 01 April 2004 with respect to accepting the above application without the signature of nonsigning inventor Mr. Goodreid. Filed with the renewed petition, inter alia, are a combined Declaration/Power of Attorney and a declaration of Richard Andrew Lamb.

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.

The renewed petition of 02 August 2004 has satisfied requirements (1), (2), (3), and (6) under 37 CFR 1.47(a) but requirements (4) and (5) have not been satisfied.

Regarding item (1), the petition has been charged to the Deposit Account as stated in the last decision.

Regarding item (2), the declaration of Mr. Lamb is sufficient to show diligent effort to locate non-signing inventor Mr. Goodreid because petitioner sent a registered letter to the last known address of the nonsigning inventor on 12 August 2003 but no response was received. Mr. Lamb also contacted Delphi requesting assistance in obtaining Mr. Goodreid's signature but was informed that Mr. Goodreid was made redundant and that he took a job out of the area and did not leave a forwarding address. Consequently, Mr. Lamb conducted a search both in the internet using Google and internet telephone directory but both were unsuccessful in terms of discovering any new address information about the non-signing inventor. Mr. Lamb has provided evidence of these searches.

Accordingly, the actions enumerated by submitted declaration are sufficient to establish that the non-signing inventor could not be found or reached after diligent effort.

Regarding item (3), petitioner has stated the last known address of the non-signing inventor:

Regarding item (4), a declaration has been provided which is executed by Mr. Thomas N. Twomey, signing for Delphi Technologies on behalf of the non-signing sole inventor, Mr. Goodreid. The declaration, however, does not set forth Mr. Twomey as an officer and it is unclear if he is an appropriate corporate officer to sign on behalf of the corporation (Delphi Technologies). Note MPEP 1820. In addition, the declaration 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 sufficient proof that applicant has sufficient proprietary interest in the application because the title of the invention in the assignments is different from the title found in the international application and national stage application. A statement is needed stating that the priority document and the international application are the same invention.

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.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) 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 "Second 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). Failure to timely file a proper response to this decision will result in Abandonment of the application.

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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Leonard Smith
PCT Legal Examiner
PCT Legal Office

06 JUL 2005

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Bloomfield Hills, Michigan 48304-5151

In re Application of	: DECISION ON SECOND
GOODREID, Charles, Stuart	:
PCT No.: PCT/GB01/05598	:
Application No: 10/451,031	:
Int. Filing Date: 18 December 2001	: RENEWED PETITION UNDER
Priority Date: 18 December 2000	:
Attorney's Docket No.: 71030-015	:
For: SUPPORT AND GUIDING STUCTURE	:
FOR FRICTION ELEMENT IN DISC BRAKES	: 37 CFR 1.47(b)

This is in response to the "SECOND RENEWED PETITION" filed on 01 June 2005.

BACKGROUND

In a decision from this Office on 01 March 2005, the initial petition under 37 CFR 1.47(b) was dismissed. The decision stated that petitioner had not satisfied requirements (4) and (5) under 37 CFR 1.47(b); thus not completing the requirements under 37 CFR 1.47(b).

On 01 June 2005, petitioner submitted a "Second Renewed Petition" requesting reconsideration of the Office's decision on 01 March 2005 with respect to accepting the above application without the signature of nonsigning inventor Mr. Goodreid. Filed with the second renewed petition is a new Declaration/Power of Attorney.

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.

Petitioner has now satisfied requirements (4) and (5) of 37 CFR 1.47(b), thus completing the requirements under 37 CFR 1.47(b).

Regarding item (4) a declaration has been provided which is executed by Mr. Thomas N. Twomey, Vice President, signing on behalf of the corporation for the non-signing sole inventor, Mr. Goodreid. It sets forth Mr. Twomey relationship to the non-signing inventor and that he is an appropriate corporate officer to sign on behalf of the corporation.

Regarding item (5) applicant has stated that the priority document and the international application are the same invention.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

The renewed petition under 37 CFR 1.47(b) is **GRANTED**.

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

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) to continue national stage processing of the application. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **01 June 2005.**

Rafael Bacares
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PCT Legal Office
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06 JUL 20

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Charles Stuart Goodreid
56 Montalt Road
Coventry, West Midlands CV3 5LV
Great Britain

In re Application of
GOODREID, Charles, Stuart
PCT No.: PCT/GB01/05598
Application No: 10/451,031
Int. Filing Date: 18 December 2001
Priority Date: 18 December 2000
Attorney's Docket No.: 71030-015
For: SUPPORT AND GUIDING STUCTURE
FOR FRICTION ELEMENT IN DISC BRAKES

Dear Mr. Goodreid:

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

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

R Bacares

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

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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Mr. Charles Stuart GOODREID) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/GB01/05598 and was filed on 18 December 2001 in the name of Mr. Charles Stuart Goodreid for the invention entitled SUPPORT AND GUIDING STUCTURE FOR FRICTION ELEMENT IN DISC BRAKES. The national stage application number is 10/451,031 and has a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **01 June 2005**.

Image Receipt

OIPE JC49
FEB 2 0 2004
PATENT & TRADEMARK OFFICE

PATENT
Atty. Dkt. No. QUE04 P-316

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Wolfgang Reinecke et al
Serial No.	:	10/451,045
Filed	:	June 18, 2003
Confirmation	:	6497
Atty. Dkt.	:	QUE04 P-316
For	:	PROJECTION LENS

Office of Initial Patent Examination
Customer Service Center
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

REQUEST FOR CORRECTION OF OFFICIAL FILING RECEIPT

With respect to the official filing receipt received in the above-identified patent application (copy enclosed), Applicants request the following correction.

Under "FILING OR 371(c) DATE", the filing dated should be --June 18, 2003--. A copy of the PTO-stamped postal return card, which acknowledges receipt of this application on June 18, 2003, is enclosed for your reference.

REMARKS:

Correction of the official filing receipt as noted above is requested.

Respectfully submitted,

WOLFGANG REINECKE ET AL

By: Price, Heneveld, Cooper,
DeWitt & Litton

Carl S. Clark
Registration No. 28 288
695 Kenmoor S.E.
P.O. Box 2567
Grand Rapids, Michigan 49501

CERTIFICATE OF MAILING

I hereby certify that this correspondence, and all identified enclosures and attachments are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on 2/17/04.

Carl S. Clark

CSC/jkrp
Enclosures

CSC/JAP

OIPE JC46
FEB 2 0 2004
PATENT & TRADEMARK OFFICE

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
10/451,045	01/05/2004	2873	645	QUE04 P316	15	10	2

Filing Date should be --June 18, 2003--

CONFIRMATION NO. 6497

FILING RECEIPT

OC000000011858392

277
PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS, MI 49501

Date Mailed: 02/10/2004

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)

Wolfgang Reinecke, Zeuthen, GERMANY;
Horst Linge, Kaufungen, GERMANY;

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP01/14627 12/12/2001

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 00127683.1 12/18/2000

Projected Publication Date: 05/20/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Projection lens

OIPE JC46
FEB 2 0 2004
PATENT & TRADEMARK OFFICE

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

June 18, 2003

10/451045

Applicant : Wolfgang Reinecke et al.
For : PROJECTION LENS

Sir: Kindly acknowledge receipt of the accompanying Transmittal Letter (2 pages), Authorization to Charge Deposit Account (1 page in duplicate), Copy of PCT Application, Information Disclosure Statement (2 pages), Form PTO-1449, and references disclosed therein, Copy of the Search Report, Preliminary Amendment, Substitute Specification (plus, marked up version of specification), Declaration and Power of Attorney (unsigned) Translation of application (with abstract inserted therein) and Check in the amount of $450 by placing your receiving date stamp hereon and mailing.
QUE04 P316/kjc/EV271753477US

DT14 Rec'd PCT/PTO 18 JUN 2003

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1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

COPY MAILED

OCT 27 2008

OFFICE OF PETITIONS

In re Application of :
Guy Simonnet et al :
Application No. 10/451,055 : ON PETITION
Filed: August 19, 2003 :
Attorney Docket No. 427.074 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 29, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

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

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

The 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 22, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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). **There was no reply received with the petition submitted on May 29, 2008. 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).** A courtesy copy of the April 22, 2008 Office action is being mailed with this decision.

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

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

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

By facsimile: (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: A courtesy copy of the Office action mailed April 22, 2008.

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/451,055	08/19/2003	Guy Simonnet	427.074	9269

47888 7590 04/22/2008
HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER
AZPURU, CARLOS A

ART UNIT	PAPER NUMBER
1615	

MAIL DATE	DELIVERY MODE
04/22/2008	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)
	10/451,055	SIMONNET ET AL.
	Examiner	**Art Unit**
	Carlos A. Azpuru	1615

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 January 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,6-10 and 17-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-3,7-10 and 17-19* is/are allowed.

6)☒ Claim(s) *6 and 20-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Receipt is acknowledged of the amendments filed 01/07/2008, 01/18/2008 and 01/22/2008.

Amendment of the specification to conform to accepted US practice is noted. The rejection of claim 3 under 35 USC 112, first paragraph for scope of enablement is withdrawn in view of applicant's amendment of claim 3. The rejection under 35 USC 112, second paragraph of claim 9 is also withdrawn in view of applicant's amendment.

The rejection of claims 13-18 under 35 USC 112, first paragraph for enablement is withdrawn, but the rejection is restated for claims 20-23 until applicant submits the article supporting enablement in a properly filed information disclosure statement.

The following is a new rejection of the claims based on applicant's amendment:

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 20-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The prevention of pain in general has not been enabled. The Wands factors of the previous action are pertinent to this action and are applied regarding these claims.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 is indefinite in that morphine sulfate is now found twice in the claim. Correction is requested.

Allowable Subject Matter

Claims 1-3, 7, 8, 9 and 10, 17-19 are allowed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos A. Azpuru whose telephone number is (571) 272-0588. The examiner can normally be reached on Tu-Fri, 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos A. Azpuru/
Primary Examiner, Art Unit 1615

Carlos A. Azpuru
Primary Examiner
Art Unit 1615

caz

01 MAR 2005

#7

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Timothy E. Nauman
Fay, Sharpe, Fagan, Minnich & Mckee, LLP
1100 Superior Avenue, 7th Floor
Cleveland, Ohio 44114

In re Application of	:	
COOK, et al.	:	
Application No.: 10/380,437	:	DECISION ON PETITION
Filing Date: 19 June 2003	:	
Attorney Docket No.: DSGZ 2 00014	:	UNDER 37 CFR 1.181
For: LUGGED CAP FORMING SYSTEM	:	

This decision is in response to applicant's "Response to Notification of Defective Response" filed 09 February 2005 in the United States Patent and Trademark Office (USPTO). The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 19 December 2001, applicant filed international application PCT/US01/49392, which claimed priority of an earlier application filed 20 December 2000. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 20 June 2003.

On 19 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 12 November 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date and provide payment of the surcharge for providing an oath or declaration later than thirty months from the priority date.

17 February 2004, applicant filed a response including an executed combined declaration and power of attorney accompanied by a petition for a one-month extension of time.

On 19 March 2004, applicant was mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) informing applicant that the declaration filed 07 February 2002 was not in compliance with 37 CFR 1.497 (a) and (b) as the first listed inventor's name was different from that listed on the international application. Applicant was informed that the

declaration was therefore not considered a proper response to the Form PCT/DO/EO/905 mailed 12 November 2003. Applicant was afforded one month from the mailing of the Form PCT/DO/EO/916 or within the time remaining in the response set forth in the Form PCT/DO/EO/905, whichever was longer.

On 09 February 2005, applicant filed the present petition under 37 CFR 1.181 requesting withdrawal of the abandonment, indicating that a response was filed on 19 April 2004.

DISCUSSION

I. Petition Under 37 CFR 1.181

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice the correspondence will be considered timely filed if the party who forwarded the correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicant's present filing satisfies all three items above. As such, it is proper to accept applicant's response of 09 February 2005 as a copy of the original 19 April 2004. Therefore, applicant has timely responded to the Form DO/EO/916 mailed 19 March 2004.

II. Response of 19 April 2004

Applicant was mailed a Form DO/EO/916 on 19 March 2004 as there was a question as to the first name of inventor Cook. Applicant has presently submitted a statement from counsel addressing this concern.

Section 201.03 of the Manual of Patent Examining Procedure (MPEP) provides the procedures where a typographical or transliteration error in the spelling of an inventor's name is discovered. As discussed in that section, in such an instance a petition is not required: "Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration." Applicant's present filing contains such a statement regarding the correct name of the first inventor: Steven COOK. As such, the declaration filed 17 February 2004 is acceptable.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international application filing date of 19 December 2001 and a date of **17 February 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 7/25/07

TO SPE OF : ART UNIT 1617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/451061 Patent No: 7214672 B2

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

SPE

1617
Art Unit

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Paper No. None

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ALEXANDRIA VA 22314

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SEP 0 7 2005

OFFICE OF PETITIONS

In re Application of
Robert Fries et al.
Application No. 10/451,063
Filed: December 29, 2003
Attorney Docket Number: 239248US6PCT
Title: METHOD OF MAKING A CUTTING TOOL

DECISION ON PETITION UNDER 37 C.F.R. § 1.59

This is a decision on the petition filed on June 27, 2005, pursuant to 37 C.F.R. §1.59(b), requesting that certain material may be expunged from the application file.

The application was filed on December 29, 2003, along with an Application Data Sheet (ADS), which indicated that this application has been assigned to "De Beers Industrial Diamonds (Proprietary) Limited, Theta, South Africa" (hereinafter referred to as "De Beers.") On February 13, 2004, Petitioner filed a Request for a Corrected Filing Receipt, requesting that De Beers be listed on the corrected filing receipt.

With the present petition, Petitioner set forth that this assignment information is incorrect, and has requested that both the ADS and the Request for a Corrected Filing Receipt be expunged.

37 C.F.R. §1.59 sets forth:

§ 1.59 Expungement of information or copy of papers in application file.
(a)
(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section.
(2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.
(b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(h) and establish to the satisfaction

of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.
(c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

Neither of the two papers Petitioner wishes to have expunged form part of the original disclosure. As such, 37 C.F.R. §1.59(a)(2) does not prohibit their expungement, provided that this petition establishes to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.

Petitioner has included the fee associated with the filing of petition under 37 C.F.R. §1.59.

The expungement of the ADS which was submitted on filing:

The Office does not determine the validity of any assignment information submitted to it, and assignment information does not effect the ownership of the patent property[1]. Furthermore, for an assignee to establish a right to take action in an application, it is not enough that it's name merely appear on an ADS in the file – the assignee must file the proper submission pursuant to 37 C.F.R. §3.73. Therefore, the mere appearance of De Beers in the ADS grants the same no rights to the application. Should this application issue as a U.S. patent, the inclusion of De Beers on the ADS will not result in the listing of De Beers as an assignee on the issued patent. Assignment information is not taken from the ADS, but rather from form PTOL-85b, which is submitted with the payment of the issue fee[2]. As such, the erroneous information which appears on the ADS has no effect on the application file, the patentee, De Beers, or any patent which may issue on this application. It follows that Petitioner has not established to the satisfaction of the Director that it is appropriate to remove this erroneous information from the application file.

The expungement of the Request for a Corrected Filing Receipt:

On February 13, 2004, Petitioner filed a Request for a Corrected Filing Receipt, requesting that De Beers be listed on the filing receipt. This request, had it been entertained, would have had no effect, as assignment information is not printed on filing

1 See 37 C.F.R. §§3.54, 3.74, and MPEP §§301, 317.03, and 324
2 In order for an assignee to be listed on a patent, a request for the assignee to be listed must be made upon the submission of the issue fee, pursuant to 37 C.F.R. 3.81(a).

receipts[3]. As such, the request will simply not be acted on. The existence of the request in the file will not result in the issuance of a corrected filing receipt. Therefore, Petitioner has not established to the satisfaction of the Director that it is appropriate to remove this erroneous information from the application file.

For these reasons, the petition is **DISMISSED**.

The ADS which was submitted on filing **will not** be expunged from the file.

The Request for a Corrected Filing Receipt **will not** be expunged from the file.

The general phone number for the Office of Petitions, which should be used for status requests, is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

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

3 See MPEP 503 for a listing of information which appears on filing receipts.

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Paper No. None

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

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert Fries et al.	:	
Application No. 10/451,063	:	DECISION ON RENEWED PETITION
Filed: December 29, 2003	:	UNDER 37 C.F.R. §1.59(B)
Attorney Docket Number:	:	
239248US6PCT		
Title: METHOD OF MAKING A	:	
CUTTING TOOL	:	

This is a decision on the renewed petition filed on September 16, 2005, pursuant to 37 C.F.R. §§ 1.59(b) and 1.181, requesting that certain material may be expunged from the application file. The petition is properly treated as a petition under 37 C.F.R. §1.59(b)

The Office regrets the period of delay in issuing this decision.

BACKGROUND

The application was filed on December 29, 2003, along with an Application Data Sheet (ADS), which indicated that this application has been assigned to "De Beers Industrial Diamonds (Proprietary) Limited, Theta, South Africa" (hereinafter referred to as "De Beers.") On February 13, 2004, Petitioner filed a Request for a Corrected Filing Receipt, requesting that De Beers be listed on the corrected filing receipt.

PROCEDURAL HISTORY

In the original petition, filed on June 27, 2005, Petitioner set forth that this assignment information is incorrect, and that no assignment has been filed with the Office pertaining to the present application. Petitioner requested that both the ADS and the Request for a Corrected Filing Receipt be expunged.

The original petition was dismissed via the mailing of a decision on September 7, 2005, which indicated that Petitioner failed to establish to the satisfaction of the Director that the expungement of the information is appropriate. As such, a notice granting the petition for expungement was not provided.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.59 sets forth:

> § 1.59 Expungement of information or copy of papers in application file.
> (a)
> (1) Information in an application will not be expunged, except as provided in
> paragraph (b) of this section.
> (2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.
> (b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(h) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.
> (c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.
>
> [48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984,
> effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

ANALYSIS

Pursuant to Rule 1.59, information will not be expunged unless Petitioner meets his burden of "establishing to the satisfaction of the Director that the expungement of the information is appropriate." With this renewed petition, Petitioner has asserted that "because the erroneous information is not material to patentability and could cause confusion, it is 'appropriate' under 37 C.F.R. §1.59 to expunge the erroneous information from the Patent Office file[1]." For the reasons set forth in the decision on the original petition, Petitioner has not his burden of establishing that the expungement of the information is appropriate.

If the Petitioner does not list De Beers as an assignee on form PTOL-85b, De Beers will not appear on the issued patent as an assignee. Since De Beers will not appear on the issued patent, it is not clear why the failure to expunge this information would lead to any confusion.

CONCLUSION

The renewed petition is **DISMISSED.**

The ADS which was submitted on filing **will not** be expunged from the file.

The Request for a Corrected Filing Receipt **will not** be expunged from the file.

Any renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries concerning

---

1 Renewed petition, page 1.
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 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).

examination procedures or status of the application should be directed to the Technology Center.

NOTICE:

Any request for reconsideration of this decision under 37 C.F.R. §1.59(b) 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.

Thereafter, there will be no further reconsideration of this matter[6, 7].

Paul Shanoski

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

[6]For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.
7 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

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WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Patent No. 7,099,638
Issue Date: August 29, 2006
Application No. 10/451,069
Filed: June 20, 2003
Attorney Docket Number: Q75871

ON PETITION

This is a decision on the petition, filed June 4, 2007, under 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about May 26, 1998, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

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

Petitioners state that the Letters Patent was received from the USPTO and was subsequently lost. The petition fee in the amount of $400.00 has been charged to deposit account no. 19-4880 per the authorization but not in the amount of $130.00 as was indicated.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax – (571) 270-9937)

17 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEWITT ROSS & STEVENS
Firstar Financial Centre
Suite 401
8000 Excelsior Drive
Madison, WI 53717-1914

In re Application of:	:	
BROWN, Robert, Albert, et al.	:	
U.S. Application No.: 10/451,095	:	DECISION ON PETITION
PCT No.: PCT/GB01/05657	:	
International Filing Date: 19 December 2001	:	
Priority Date: 20 December 2000	:	
Attorney's Docket No.: 40225002/SCGLP6154553	:	
For: TISSUE GROWTH METHOD AND	:	
APPARATUS	:	

This decision is issued in response to applicants' "Petition To Accord Filing Date" filed 24 December 2003, which has been treated as a petition under 37 CFR 1.181 to confirm the filing of the executed declaration on 13 August 2003. No petition fee is required.

BACKGROUND

On 19 December 2001, applicants filed international application PCT/GB01/05657 which claimed a priority date of 20 December 2000 and which designated the United States. On 27 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., 20 June 2003.

On 18 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 small entity basic national fee and the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 14 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Missing Requirements Under 35 U.S.C. 371" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 14 November 2003, the DO/EO/US mailed a "Notification Of Acceptance Of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) indicating that the date of receipt of the 35 U.S.C. 371 requirements was 27 October 2003. A filing receipt was also issued indicating 27 October 2003 as the filing date.

On 24 December 2003, applicants filed the petition considered herein under 37 CFR 1.181. The petition asserts that applicants filed the executed declaration needed to complete the 35 U.S.C. 371 requirements on 13 August 2003. Accordingly, the petition requests correction of the Notification Of Acceptance and the filing receipt to indicate the proper 13 August 2003 filing date. Among the materials accompanying the petition are copies of the materials filed on 13 August 2003, as well as a copy of the return postcard that itemizes these materials and bears a USPTO receipt stamp dated 13 August 2003.

DISCUSSION

Based on applicants' statements in the present petition and the attached return postcard, it is concluded that the materials attached to the present petition, including the executed declaration, were originally filed in the USPTO on 13 August 2003. Accordingly, the Notification Of Acceptance mailed 14 November 2003, which identified 27 October 2003 as the receipt date for the 35 U.S.C. 371 requirements, is appropriately vacated. Similarly, the filing receipt, which identified 27 October 2003 as the filing date, is also appropriately vacated.

Corrected versions of the Notification Of Acceptance and the filing receipt will be issued indicating the correct date of 13 August 2003.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The materials attached to the present petition, including the executed declaration, are considered to have been filed on 13 August 2003.

The Notification Of Acceptance (Form PCT/DO/EO/903) mailed 14 November 2003 and the filing receipt issued herein are **VACATED**.

The National Stage Processing Branch of the Office of PCT Operations will be instructed to issue: (1) a new Notification Of Acceptance (Form PCT/DO/EO/903) identifying 13 August 2003 as the receipt date of the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), and (2) a corrected filing receipt.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Dec. 30, 2005

TO SPE OF : ART UNIT 2834 (*Darren Schuberg*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,914,340

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

Please complete this form and return with file, within 7 days to:
Palm location 7580, Certificates of Correction Branch – South Tower – 9A22
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please see claim discrepancy – original claims, Amdt. PE (2/12/04), clmpto, and then claims as printed in the Printed Patent. Your denial or approval decision is needed below.

sp Stacy Powell

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

Claims narrowed. The available subject matter included in the claims

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2834

Art Unit

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Alexandria, VA 22313-1450
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OSHA LIANG L.L.P.
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SUITE 2800
HOUSTON TX 77010

COPY MAILED

MAR 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Becker et al. :
Application Number: 10/451,120 :
Patent: 6,914,340
Attorney Docket Number: 17082/002001 :
Filing Date: December 12, 2003 :
Issue Date: July 5, 2005 : DECISION ON PETITION
:

This is a decision on the petition to correct the assignee under 37 CFR 1.183 filed on December 15, 2005. The petition is properly treated under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

Pursuant to petitioner's request deposit account 50-0591 is being charged the $130.00 processing fee pursuant to 37 CFR 1.17(i).

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

29 SEP 2005

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Harvey Lunenfeld
8 Patrician Drive
E. Northport, New York 11731

In re Application of LUNEFELD Application No.: 10/451,128 PCT No.: PCT/US01/05926 Int. Filing Date: 22 February 2001 Priority Date: 22 February 2000 Attorney's Docket No.:CSM0222000 For: CLIENT-SERVER MULTITASKING	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to the petition filed 09 September 2005 under 37 CFR 1.182 to amend the present application, and the supplemental petition filed 28 September 2005. The $400.00 petition fee has been paid. The petition is GRANTED without prejudice.

BACKGROUND

On 22 February 2001, applicant filed international application PCT/US01/05926, which claimed priority of an earlier U.S. application filed 22 February 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 September 2001. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 August 2002.

On 21 August 2002, 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 declaration as required by 35 U.S.C. 371(c)(4).

On 28 August 2003, the United States Designated/Elected Office mailed applicant a Notice of Acceptance under 35 U.S.C. 371 (Form PCT/DO/EO/903). The USPTO published the present application on 24 March 2005.

On 09 September 2005, applicant filed the present petition to enter additional claims. On 28 September 2005, applicant filed the surcharge for paying the examination and search fee later than 30 months from the priority date.

DISCUSSION

The Untied States Patent and Trademark Office issued an International Preliminary Examination Report (IPER)(Form PCT/IPEA/409) on 29 December 2001 indicating that all the claims meet the criteria set out in PCT Article 33(2)-(4). On 21 August 2002, applicant paid the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and set forth in then 37 CFR 1.492(a)(4). Applicants that pay the fee set forth 1.492(a)(4) are limited to the claims set forth in the IPER and may be amended subsequent to the date of entry into the national stage only to the extent necessary to eliminate objections as to form or to cancel rejected claims (See 37 CFR 1.496(b)). Applicant has petitioned to pay the higher national fee set forth in 37 CFR 1.492[1] (i.e., where the international preliminary examination fee has been paid to the USPTO) in order to have claims examined that were not presented in the international stage. In that the patent examiner has not begun the examination of the instant national stage application, the petition is granted.

FEES

Applicant paid $50 for the basic national fee under 37 CFR 1.492(a)(4). The basic national fee under 37 CFR 1.492(a) is $150, the search fee under 37 CFR 1.492(b) is $50, the examination fee under 37 CFR 1.492(c) is $100, the application size fee under 37 CFR 1.492(j) for each 50 sheets over 100 sheets (3 times $125 = $375), and the surcharge under 37 CFR 1.492(h) for paying the examination fee and search fee after July 1, 2004 is $65. Applicant paid for 4 independent claims and 21 total claims. The amendment cancels the 21 claims and replaces them with 51 claims, 3 of which are independent. Accordingly, applicant owes additional claim fees for 30 additional claims (30 times $25 = $750). The above fees will be charged to applicant's credit card.

CONCLUSION

This application is being forwarded to Art Unit 2142 for examination on the merits.

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

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

[1] 37 CFR 1.492 was amended on December 08, 2004, February 1, 2005 and July 1, 2005 to modify the national stage fees to include a basic national fee, a search fee, an examination fee, an application size fee, and a surcharge for late payment of the search and examination fee.

19 OCT 2005

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Harvey Lunenfeld
8 Patrician Drive
E. Northport, New York 11731

In re Application of	:
LUNEFELD	: DECISION ON
Application No.: 10/451,128	:
PCT No.: PCT/US01/05926	: PETITION
Int. Filing Date: 22 February 2001	:
Priority Date: 22 February 2000	: UNDER 37 CFR 1.182
Attorney's Docket No.:CSM0222000	:
For: CLIENT-SERVER MULTITASKING	:

This decision modifies the decision mailed 29 September 2005 in response to the petition filed 09 September 2005 under 37 CFR 1.182 to amend the present application, and the supplemental petition filed 28 September 2005. The $400.00 petition fee has been paid. The petition is GRANTED without prejudice.

BACKGROUND

On 22 February 2001, applicant filed international application PCT/US01/05926, which claimed priority of an earlier U.S. application filed 22 February 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 September 2001. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 August 2002.

On 21 August 2002, 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 declaration as required by 35 U.S.C. 371(c)(4).

On 28 August 2003, the United States Designated/Elected Office mailed applicant a Notice of Acceptance under 35 U.S.C. 371 (Form PCT/DO/EO/903). The USPTO published the present application on 24 March 2005.

On 09 September 2005, applicant filed the present petition to enter additional claims. On 28 September 2005, applicant filed the surcharge for paying the examination and search fee later than 30 months from the priority date.

DISCUSSION

The Untied States Patent and Trademark Office issued an International Preliminary Examination Report (IPER)(Form PCT/IPEA/409) on 29 December 2001 indicating that all the claims meet the criteria set out in PCT Article 33(2)-(4). On 21 August 2002, applicant paid the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and set forth in then 37 CFR 1.492(a)(4). Applicants that pay the fee set forth 1.492(a)(4) are limited to the claims set forth in the IPER and may be amended subsequent to the date of entry into the national stage only to the extent necessary to eliminate objections as to form or to cancel rejected claims (See 37 CFR 1.496(b)). Applicant has petitioned to pay the higher national fee set forth in 37 CFR 1.492[1] (i.e., where the international preliminary examination fee has been paid to the USPTO) in order to have claims examined that were not presented in the international stage. In that the patent examiner has not begun the examination of the instant national stage application, the petition is granted.

FEES

Applicant paid $50 for the basic national fee under 37 CFR 1.492(a)(4). The basic national fee under 37 CFR 1.492(a) is $150, the search fee under 37 CFR 1.492(b) is $50, the examination fee under 37 CFR 1.492(c) is $100, the application size fee under 37 CFR 1.492(j) for each 50 sheets over 100 sheets (3 times $125 = $375), and the surcharge under 37 CFR 1.492(h) for paying the examination fee and search fee after July 1, 2004 is $65. Applicant paid for 4 independent claims and 21 total claims. The amendment cancels the 21 claims and replaces them with 51 claims, 4 of which are independent. Accordingly, applicant owes additional claim fees for 30 additional claims (30 times $25 = $750). The above fees have been charged to applicant's credit card.

CONCLUSION

This application is being forwarded to Art Unit 2142 for examination on the merits.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
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Legal Administration

Telephone: (571) 272-3297
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[1] 37 CFR 1.492 was amended on December 08, 2004, February 1, 2005 and July 1, 2005 to modify the national stage fees to include a basic national fee, a search fee, an examination fee, an application size fee, and a surcharge for late payment of the search and examination fee.

19 OCT 2005

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Harvey Lunenfeld
8 Patrician Drive
E. Northport, New York 11731

In re Application of	:	
LUNEFELD	:	DECISION ON
Application No.: 10/451,128	:	
PCT No.: PCT/US01/05926	:	REQUEST
Int. Filing Date: 22 February 2001	:	
Priority Date: 22 February 2000	:	FOR REFUND
Attorney's Docket No.:CSM0222000	:	
For: CLIENT-SERVER MULTITASKING	:	

This decision is in response to the request for refund of overcharges filed 17 October 2005.

BACKGROUND

On 21 August 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite $50 basic national fee; $9 fee for claims in excess of 20; and $42 for one claim in excess of three independent claims.

On 29 September 2005, a decision was mailed granting applicant's petition filed 09 September to enter additional claims. On 28 September 2005, applicant filed the surcharge for paying the examination and search fee later than 30 months from the priority date.

FEES

Applicant paid $50 for the basic national fee under 37 CFR 1.492(a)(4). The basic national fee under 37 CFR 1.492(a) is $150, the search fee under 37 CFR 1.492(b) is $50, the examination fee under 37 CFR 1.492(c) is $100, the application size fee under 37 CFR 1.492(j) for each 50 sheets over 100 sheets (3 times $125 = $375), and the surcharge under 37 CFR 1.492(h) for paying the examination fee and search fee after July 1, 2004 is $65. Applicant paid for 4 independent claims and 21 total claims. The amendment cancels the 21 claims and replaces them with 51 claims, 4 of which are independent. Accordingly, applicant owes additional claim fees for 30 additional claims (30 times $25 = $750). The $150 basic national fee, the $50 search fee, $100 examination fee, the $375 application size fee, $65 surcharge, $750 additional claim fees for 30 additional claims and the $400 petition fee were charged to applicant's credit card on 29 September

2005. The $400 petition fee was additionally charged on 05 October 2005. Additionally the $50 basic national fee paid on 21 August 2002 was backed out on 29 September 2005 and placed in a holding code. The duplicate payment of the $400 petition fee will be credited to applicant's credit card. The $50 from the holding fee will be refunded by government check in due course.

CONCLUSION

The request for a fund of the duplicate payment of the $400 petition fee and the $50 in the holding code is GRANTED.

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

Telephone: (571) 272-3297
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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re Patent of Kato et al.	:	DECISION ON REQUEST
Patent No. 7,590,528	:	FOR RECONSIDERATION OF
Issue Date: September 15, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/451,141	:	AND NOTICE OF INTENT TO
371(c) Date: June 30, 2003	:	ISSUE CERTIFICATE OF
Attorney Docket No. 040373-0336	:	CORRECTION

This is a decision on the petition filed October 27, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand one hundred ninety-five (1195) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by one thousand one hundred ninety-five (1195) days is **GRANTED to the extent indicated herein**.

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

Issue 1

The period of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") consists solely of 933 days incurred as a result of the Office taking more than fourteen months, after the application fulfilled the requirements of 35 U.S.C. § 371, to mail an action under 35 U.S.C. § 132 or a notice of allowance.

The chart provided by Patentees states A Delay is 934 days.

Patentees could have argued A Delay is 934 days by filing a petition under 37 C.F.R. § 1.704(b).

37 C.F.R. § 1.704(d) states, "Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues."

Since the apparent dispute regarding the amount of A Delay could have been raised in a petition under 37 C.F.R. § 1.704(b), the Office will not address the merits of any argument that A Delay is 934 days instead of 933 days.

Issue 2

Patentees have submitted a chart which states the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 584 days. However, the period of B Delay is 580 days.

In this case, the period of B Delay began on the day after the date three years after the date the national stage commenced under 35 U.S.C. § 371(b) or (f). The expiration of the 30-month period pursuant to 35 U.S.C. § 371(b) fell on a Saturday. Therefore, the period expired on the subsequent business day. *See* PCT Rule 80.5. Accordingly, the commencement date is Monday, June 30, 2003, and the period of B Delay began on July 1, 2006, the day after the date three years after the date of commencement.

The period from the filing date of the request for continued examination ("RCE") to the issue date of the patent is not included in the period of B Delay. *See* 35 U.S.C. § 154(b)(1)(B)(i). A RCE was filed February 1, 2008. Therefore, the period of B Delay ended on March 31, 2008, the *day before* the RCE was filed.

The period of B Delay is 580 days which is the number of days beginning on July 1, 2006, and ending on March 31, 2008.

Issue 3

Based on the numbers on the chart supplied by Patentees, the petition appears to assert the number of days of overlap between A Delay and B Delay is 264 days.

The period of overlap is 262 days which is the number of days beginning on July 1, 2006, and ending on March 19, 2007, the date the Office mailed an Office action under 35 U.S.C. § 132.

Conclusion

The period of A Delay is 933 days.

The period of B Delay is 580 days.

The period of overlap is 262 days.

The period of Applicant delay is 58 days and is not in dispute.

The patent term adjustment is 1193 days which is the sum of 933 days of A Delay and 580 days of B Delay reduced by 262 days of overlap and 58 days of Applicant delay.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand one hundred ninety-three (1193)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,590,528 B2
ISSUE DATE	:	September 15, 2009
INVENTOR(S)	:	Kato 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 U.S.C. 154(b) by 875 days.

Delete the phrase "by 875 days" and insert - by 1193 days--

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FRIEDRICH KUEFFNER
SUITE 910
317 MADISON AVENUE
NEW YORK NY 10017

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Ulrich Muller	:	
Application No. 10/451,182	:	DECISION ON PETITION
Filed: June 20, 2003	:	
Attorney Docket No. BM-129PCT	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the final Office action mailed March 22, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 23, 2006. A Notice of Abandonment was mailed November 2, 2006.

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

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

(1) the delay in reply that originally resulted in the abandonment;
(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

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

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost three years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on June 23, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Friedrich Kueffner, was counsel of record at the time of abandonment, he should explain why this application became abandoned while it was under his control and what efforts were made to further reply of itself and with whom this matter was discussed outside of the practice of Friedrich Kueffner. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Friedrich Kueffner and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at the practice of Friedrich Kueffner, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan.

27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost three years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at the practice of Friedrich Kueffner and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S. District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In

accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Friedrich Kueffner
Suite 910
317 Madison Avenue
New York NY 10017

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FEB 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Ulrich Miller	:	
Application No. 10/451,182	:	DECISION ON PETITION
Filed: June 20, 2003	:	
Attorney Docket No. BM-129PCT	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed March 22, 2006. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 23, 2006. A Notice of Abandonment was mailed on November 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $540.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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.

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

This application is being referred to Technology Center AU 2836 for further processing of the Amendment filed January 11, 2010 and to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

25 FEB 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE
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BAYER CROPSCIENCE LP
PATENT DEPARTMENT
100 BAYER ROAD
PITTSBURGH, PA 15205-9741

In re Application of HILLEBRAND et al	:	
U.S. Application No.: 10/451,208	:	
PCT Application No.: PCT/EP01/14241	:	
Int. Filing Date: 05 December 2001	:	DECISION
Priority Date Claimed: 18 December 2000	:	
Attorney Docket No.: CS-7805/LeA 35,086	:	
For: AZINYL SULFONYLIMIDAZOLES FOR	:	
USE AS MICROBICIDAL AGENTS	:	

This is in response to the papers filed 24 February 2004.

BACKGROUND

On 05 December 2001, applicant filed international application PCT/EP01/14241, which claimed priority of an earlier Germany application filed 18 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 27 June 2002. The thirty-month period for paying the basic national fee in the United States expired on 18 June 2003.

On 16 June 2003, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 29 September 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely pay the basic national fee.

On 07 October 2003, applicant purportedly filed a petition under 37 CFR 1.137(b).

On 24 February 2004, applicant filed a copy of the 07 October 2003 petition along with a copy of a return postcard receipt.

DISCUSSION

The evidence of record is sufficient to establish that the petition under 37 CFR 1.137(b) was originally filed on 07 October 2003. Specifically, the copy of the return postcard, which includes the petition in its itemized contents and which bears a USPTO date stamp of 07 October 2003, serves as *prima facie* evidence that the petition was received by the USPTO on 07 October 2003.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 05 December 2001, and a date under 35 U.S.C. 371(c) of 07 October 2003.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

24 MAR 2004

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PATENT DEPARTMENT
100 BAYER ROAD
PITTSBURGH, PA 15205-9741

In re Application of HILLEBRAND et al	:	
U.S. Application No.: 10/451,208	:	
PCT Application No.: PCT/EP01/14241	:	
Int. Filing Date: 05 December 2001	:	COMMUNICATION
Priority Date Claimed: 18 December 2000	:	
Attorney Docket No.: CS-7805/LeA 35,086	:	
For: AZINYL SULFONYLIMIDAZOLES FOR	:	
USE AS MICROBICIDAL AGENTS	:	

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 05 December 2001, applicant filed international application PCT/EP01/14241, which claimed priority of an earlier Germany application filed 18 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 27 June 2002. The thirty-month period for paying the basic national fee in the United States expired on 18 June 2003.

On 16 June 2003, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 29 September 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely pay the basic national fee.

On 07 October 2003, applicant filed a petition under 37 CFR 1.137(b).

On 24 February 2004, applicant filed a copy of the 07 October 2003 petition along with a copy of a return postcard receipt.

On 25 February 2004, this Office mailed a decision granting the 07 October 2003 petition.

DISCUSSION

The Office of PCT Legal Administration has been informed that the requisite basic national fee could not be charged to Deposit Account No. 50-2510 due to insufficient funds.

CONCLUSION

For the reasons above, the portion of the 25 February 2004 decision granting the 07 October 2003 petition under 37 CFR 1.137(b) is hereby VACATED.

The application remains abandoned for failure to timely pay the requisite basic national fee under 35 U.S.C. 371.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

03 JUN 2004

#13

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PITTSBURGH, PA 15205-9741

In re Application of HILLEBRAND et al	:	
U.S. Application No.: 10/451,208	:	
PCT Application No.: PCT/EP01/14241	:	
Int. Filing Date: 05 December 2001	:	COMMUNICATION
Priority Date Claimed: 18 December 2000	:	
Attorney Docket No.: CS-7805/LeA 35,086	:	
For: AZINYL SULFONYLIMIDAZOLES FOR	:	
USE AS MICROBICIDAL AGENTS	:	

This is in response to applicant's "Communication Regarding Improper Notice of Abandonment" filed 28 May 2004.

The communication states that a response was filed on 29 March 2004. A review of the application file reveals that such purported response is not present.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

13 JUL 2004

#15

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PATENT DEPARTMENT
100 BAYER ROAD
PITTSBURGH, PA 15205-9741

In re Application of HILLEBRAND et al	:	
U.S. Application No.: 10/451,208	:	
PCT Application No.: PCT/EP01/14241	:	
Int. Filing Date: 05 December 2001	:	DECISION
Priority Date Claimed: 18 December 2000	:	
Attorney Docket No.: CS-7805/LeA 35,086	:	
For: AZINYL SULFONYLIMIDAZOLES FOR	:	
USE AS MICROBICIDAL AGENTS	:	

This is in response to the correspondence filed 14 June 2004, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 05 December 2001, applicant filed international application PCT/EP01/14241, which claimed priority of an earlier Germany application filed 18 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 27 June 2002. The thirty-month period for paying the basic national fee in the United States expired on 18 June 2003.

On 16 June 2003, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 29 September 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely pay the basic national fee.

On 07 October 2003, applicant filed a petition under 37 CFR 1.137(b).

On 24 February 2004, applicant filed a copy of the 07 October 2003 petition along with a copy of a return postcard receipt.

On 25 February 2004, this Office mailed a decision granting the petition under 37 CFR 1.137(b).

On 24 March 2004, this Office mailed a communication which vacated the granting of the petition under 37 CFR 1.137(b).

On 29 March 2004, applicant purportedly filed a response to the 24 March 2004 communication.

On 07 May 2004, the DO/EO/US mailed a Notice of Abandonment.

On 28 May 2004, applicant filed a request to have the Notice of Abandonment rescinded.

On 03 June 2004, this Office mailed a communication which indicated that the purported 29 March 2004 response was not present in the application file.

On 14 June 2004, applicant filed the present petition under 37 CFR 1.181, requesting that the holding of abandonment be withdrawn.

DISCUSSION

The evidence of record, including a copy of applicant's deposit account statement, sufficiently establishes that adequate funds were present in Deposit Account No. 50-2510 to cover the requisite basic national fee on 07 October 2003.

CONCLUSION

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

The communication mailed 24 March 2004 is hereby VACATED.

The Notice of Abandonment mailed 07 May 2004 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 05 December 2001, and a date under 35 U.S.C. 371(c) of 07 October 2003.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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SHELTON CT 06484-6212

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JUN 01 2010

OFFICE OF PETITIONS

In re Application of
Rauno Ratilainen et al
Application No. 10/451,219
Filed: June 20, 2003
Attorney Docket No. 800.0232.U1(US)

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed August 13, 2009, 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 2617 for appropriate action by the Examiner in the normal course of business on the reply received March 29, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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8000 TOWERS CRESCENT
TYSONS CORNER VA 22182

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OCT 2 6 2006

OFFICE OF PETITIONS

In re Application of :
Lakaniemi, et al. :
Application No. 10/451,220 :
Filed: November 21, 2003 :
Attorney Docket No. 60282.00085 :
For: A DEVICE AND METHOD FOR CONTROLLING A STREAM OF DATA PACKETS

ON PETITION

This is a decision on the petition filed August 15, 2006, under CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which requires all of the joint inventors to execute a supplemental declaration.

The petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 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 1.183 to waive 37 CFR 1.63 and 1.67" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

While this waiver petition is not a petition under 37 CFR 1.47, it is evaluated in much the same way a Rule 47 petition is. Therefore, a grantable petition 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) a petition fee, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1).

With respect to item (1), Applicant has failed to establish that the non-signing inventor, Ari Lakaniemi, cannot be located. The petition states that the "appropriate person within the Assignee's organization took reasonable steps to attempt to locate the inventors." However, the individual was only able locate one of two joint inventors. Therefore, only one of the two joint inventors executed the supplemental declaration.

A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located or reached.

While petitioner states that reasonable step were taken to locate Mr. Lakaniemi, petitioner (more importantly, the person who actually searched for the inventor) has not detailed the steps. Without a first hand account of the steps taken to locate the inventor, it is not possible to pass judgment on whether or not the steps were diligent and reasonable.

The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; inquiries of national registries, and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records of Internet searches would suffice.

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

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

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

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

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

Telephone inquiries should 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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OFFICE OF PETITIONS

In re Patent of :
Lakaniemi, et al. :
Patent No. 7,111,091 :
Issued : September 19, 2006 :
Application No. 10/451,220 :
Filed: November 21, 2003
Attorney Docket No. 60282.00085

ON PETITION

This is a decision on the reconsideration petition filed November 22, 2006, under CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which requires all of the joint inventors to execute a supplemental declaration.

Petitioner has submitted a proper supplemental declaration executed by previous non-signing joint inventor, Ari Lakaniemi. Therefore, further consideration of the Rule 183 petition is unnecessary. The petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 is **DISMISSED AS MOOT**.

After the mailing of this decision, the application file will be returned to Files Repository.

Telephone inquiries should 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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OFFICE OF PETITIONS

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

In re Application of	:	
Bernd Plagemann	:	
Application No. 10/451,223	:	DECISION ON PETITION
Filed: June 20, 2003	:	TO WITHDRAW
Attorney Docket No. 449122058900	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on August 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 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

03 MAR 2004

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03 MAR 2004

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LEYDIG, VOIT & MAYER
700 Thirteenth Street, N.W. Suite 300
Washington, DC 2005-3960

In re Application of	:	DECISION ON
Claude FIOR	:	
PCT No.: PCT/FR01/04098	:	
Application No.: 10/451,241	:	PAPERS FILED
Int. Filing Date: 20 December 2001	:	
Priority Date: 20 December 2000	:	
Attorney's Docket No.: 402684/WEINSTEIN	:	UNDER 37 CFR 1.42
For: VEHICLE CHASSIS WITH ...	:	
TO THE FRAMEWORKS	:	

This is a decision on the declaration filed 16 October 2003, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 20 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). Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided at such time.

On 30 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUREMENTS 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" must be submitted within two(2) months from its 30 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, a surcharge for providing the oath or declaration later than the appropriate 30 months from the priority date will be required under 37 CFR 1.492(e).

To satisfy the requirements of 35 U.S.C. 371(c)(4) that an oath or declaration of the inventor be submitted, applicant submitted on 16 October 2003 a declaration by Celine FIOR as legal representative of the inventor now deceased Claude FIOR.

DISCUSSION

The declaration is accepted under 37 CFR 1.42 because it includes the citizenship and mailing addresses of Celine FIOR(legal representative) and of deceased inventor, Claude FIOR. Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

Thus, the requirements under 35 USC 371(c) are satisfied.

CONCLUSION

For the above reasons, the submission of the declaration under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations until commencement of national stage processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is 16 October 2003.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

28 OCT 2003

#4

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Jeffrey A. Wyand
LEYDIG, VOIT & MAYER
700 Thirteenth Street, N.W., Suite 300
Washington, DC 20005-3960

In re Application of :
FIOR, Claude :
Application No.: 10/451,245 :
PCT No.: PCT/FR01/04096 :
Int. Filing Date: 20 December 2001 : **DECISION**
Priority Date: 21 December 2001 :
Attorney Docket No.: 402685/WEINSTEIN :
For: DEVICE FOR HITCHING A DIRECT- :
LINK VEHICLE TO THE WHEEL :
AXLES AND TRUCK . . . :

This is a decision on the declaration filed on 08 October 2003 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 30 September 2003, 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) was mailed indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and surcharge fee pursuant to 37 CFR 1.492(e) was required.

On 08 October 2003, applicants filed the instant response which was accompanied by, *inter alia*, a declaration signed by legal reresentatives of the deceased sole inventor and the $130.00 surcharge fee.

DISCUSSION

In the instant response, applicants have furnished a declaration signed by Fabian Fior and Céline Fior as legal reresentatives of Claude Fior. 37 CFR 1.42 states, in part:

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

Moreover, 37 CFR 1.497(a)(3) requires that the citizenship of each inventor must be listed on the declaration and 37 CFR 1.497(b)(2) dictates that the citizenship, residence, and mailing address of the legal representative must also be recorded on the declaration.

A review of the declaration submitted shows that citizenship, residence and mailing address information are listed next to the signature of each legal representative. However, it is not clear if this information is for the legal representative or the deceased sole inventor. Regardless, this information is required for both and must be clearly identified as such on the declaration.

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(a).

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

26 FEB 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jeffrey A. Wyand
LEYDIG, VOIT & MAYER
700 Thirteenth Street, N.W., Suite 300
Washington, DC 20005-3960

In re Application of	:	
FIOR, Claude	:	
Application No.: 10/451,245	:	
PCT No.: PCT/FR01/04096	:	
Int. Filing Date: 20 December 2001	:	**DECISION**
Priority Date: 21 December 2001	:	
Attorney Docket No.: 402685/WEINSTEIN	:	
For: DEVICE FOR HITCHING A DIRECT-	:	
LINK VEHICLE TO THE WHEEL	:	
AXLES AND TRUCK . . .	:	

This is a decision on the "Response to Decision" filed on 28 January 2004 which is treated as a renewed petition under 37 CFR 1.42.

BACKGROUND

On 28 October 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 28 January 2004, applicants filed the instant response which was accompanied by a one-month extension fee and another executed declaration.

DISCUSSION

In response to the decision dated 28 October 2003, applicants have furnished a facsimile copy of a declaration signed by Fabian Fior and Celine Fior as legal representatives of deceased sole inventor, Claude Fior. The legal representative Celine Fior is a minor and is represented by her mother, Anne-Marie Fior.

The declaration records the citizenship, residences, and mailing addresses of each of the legal representative as required by 37 CFR 1.497(b)(2). The citizenship of the deceased inventor is listed pursuant to 37 CFR 1.497(a)(3).

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 30 June 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 28 January 2004.

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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SPECKMAN LAW GROUP PLLC
1201 THIRD AVENUE, SUITE 330
SEATTLE, WA 98101

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MAY 22 2008

OFFICE OF PETITIONS

In re Application of :
Alicia Jennifer Hafeeza El-Haj et al :
Application No. 10/451,249 :
Filed: March 25, 2004 :
Attorney Docket No. 13395.1004 :

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 29, 2007, which set a shortened statutory period for reply of three (3) months. One-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 30, 2007.

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

This matter is being referred to Technology Center AU 1651 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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www.uspto.gov

08 OCT 2003

Ronald R. Santucci
Frommer Lawrence & Haug, LLP
745 Fifth Avenue
New York, NY 10151

In re Application of	:
FURUYA	: DECISION ON
Application No.: 10/451,261	
PCT No.: PCT/JP01/11272	: PAPERS FILED
Int. Filing Date: 21 Dec. 2001	:
Priority Date: 22 Dec. 2000	: UNDER 37 CFR 1.42
Attorney's Docket No.: 930055-2010	:
For: MULTIPLEXER	

This is a decision on applicant's "Response to Notification of Missing Requirements" filed 17 September 2003 forwarding a declaration executed by a legal representative of a deceased inventor.

BACKGROUND

On 21 December 2001, applicants filed international application PCT/JP01/11272, which designates the U.S. and claims a priority date of 22 Dec. 2000. Accordingly, the deadline for filing the national stage application in the U.S. expired at midnight on 22 June 2003.

On 20 June 2003, applicant filed a transmittal letter for entry into the national stage in the U.S. which was accompanied by, *inter alia*, the requisite basic national fee.

On 12 September 2003, the United States Patent and Trademark Office (USPTO) mailed a "Notification of Missing Requirements under 35 U.S.C. 371" (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and surcharge fee under 37 CFR 1.492(e). The notification set a two-month period for response.

On 17 September 2003, applicants filed the required surcharge fee and the declaration considered herein.

DISCUSSION

The declaration is executed by Yoshiko Furuya, as "legal representative" of the deceased inventor Shinji Furuya, and by the remaining inventors identified during the international phase. The declaration identifies the citizenship, residence and mailing address for all the inventors and the legal representative of the deceased inventor. As such, the declaration complies with 37

CFR 1.497(a)-(b). Accordingly, the requirements for entry into the national stage under 35 U.S.C. 371(c) have been completed.

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations to continue national stage processing of the application, including according the application a 35 U.S.C. 371(c) date of **17 September 2003**.

Boris Milef
Legal Examiner
PCT Legal Office

Telephone: (703) 308-3659
Facsimile: (703) 308-6459

DATE 10/12/07

APPLICATION NUMBER 10/451,268

DOC CODE Ret Dec

DOC DATE 11/27/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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

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NOV 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Nathalie AMANN	:	
Application No. 10/451,268	:	DECISION ON PETITION
Filed: March 12, 2004	:	TO WITHDRAW
Attorney Docket No. 449122059100	:	FROM RECORD
	:	

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster has been revoked by the assignee of the patent application on October 30, 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 Diane Goodwyn at 571-272-6735.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BELL, BOYD & LLOYD, LLP
PO BOX 1135
CHICAGO, IL 60690

31 JAN 2005

#12

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In re Application of	:	
BOUTON et al.	:	
Application No.: 10/451,269	:	DECISION ON
PCT No.: PCT/DE01/04729	:	
Int. Filing Date: 17 December 2001	:	PETITION UNDER
Priority Date: 22 December 2000	:	
Attorney Docket No.: 44912205800	:	37 CFR 1.137(b)
For: FILLING-LEVEL SENSOR	:	

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 23 December 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 December 2001, applicants filed international application PCT/DE01/04729, which claimed a priority date of 22 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 04 July 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 23 June 2003 (22 June 2003 being a Sunday).

On 20 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 30 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration 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. The NOTIFICATION set a two-month extendable period for reply.

On 01 December 2003, applicants submitted, *inter alia*, a declaration of inventors and the surcharge under 37 CFR 1.492(e).

On 11 December 2003, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE

RESPONSE indicating, *inter alia*, that the declaration of inventors submitted 01 December 2003 was not in compliance with 37 CFR 1.497(a)-(b) because it did not identify the citizenship of each inventor. This NOTIFICATION set a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the NOTIFICATION OF MISSING REQUIREMENTS mailed 30 September 2003, whichever was longer. This Notification also noted that no extension of this time limit may be granted under 37 CFR 1.136, but that the period for response set in the NOTIFICATION OF MISSING REQUIREMENTS mailed 30 September 2003 may be extended under 37 CFR 1.136(a).

On 23 December 2004, applicants submitted the instant "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" which was accompanied by, *inter alia*, a declaration of inventors.

DISCUSSION

The extendable period for reply to the NOTIFICATION OF MISSING REQUIREMENTS mailed 30 September 2003 expired at midnight on 30 April 2004.

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

As to item (1), applicant submitted a declaration of inventors on 23 December 2004. The declaration is in compliance with 37 CFR 1.497(a)-(b).

As to item (2), applicant submitted the petition fee on 23 December 2004.

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

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

CONCLUSION

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

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

Legal Administration.

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

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

26 MAR 2004

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Ralph A. Dowell
DOWELL & DOWELL
Suite 309, 1215 Jefferson Davis Highway
Arlington, VA 22202

In re Application of	:	
JIA, Ming, et al.	:	
U.S. Application No.: 10/451,274	:	DECISION ON PETITION
PCT No.: PCT/RU00/00515	:	UNDER 37 CFR 1.47(a)
International Filing Date: 20 December 2000	:	
Priority Date: None	:	
Attorney's Docket No.: 14379NP	:	
For: DIFFERENTIAL SPACE-TIME BLOCK	:	
CODING	:	

This decision is issued in response to applicants' 21 November 2003 submission of a "Petition Under 37 CFR 1.47(b)," treated in part as a petition under 37 CFR 1.47(a) to accept the application without the signature of the legal representative of deceased inventor Rui WANG. Applicant has paid the petition fee.

BACKGROUND

On 20 December 2000, applicants filed international application PCT/RU00/00515 which designated the United States. On 04 July 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 submission of the basic national fee was thirty months from the international filing date, i.e., 20 June 2003.

On 16 May 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 22 August 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements indicating that an executed declaration in compliance with 37 CFR 1.497 was required.

On 21 November 2003, applicants filed a response that included a declaration executed by the five surviving inventors, but not by the legal representative of the deceased inventor. The submission includes a "Petition Under 37 CFR 1.47(b)" which states that the legal representative has refused to executed the application materials; the petition is treated herein as a petition under 37 CFR 1.47(a).

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.[1]

Applicants here have submitted the petition fee, and the petition includes a statement of the nonsigning inventor's last known address. Items (1) and (2) are therefore satisfied.

Regarding item (3), 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 filed a declaration executed by the surviving inventors and including an unsigned signature box identifying the nonsigning legal representative. This declaration is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning legal representative. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the nonsigning legal representative has refused to execute the declaration. However, before a refusal to execute the application can be claimed, the MPEP § 409.03(d) requires that the nonsigning inventor be provided with a copy of the complete application, including specification, drawings, and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Here, the evidence submitted by applicants to demonstrate the legal representative's purported refusal to execute the application is contained in the declaration of Wendy Smith, and the attachments thereto. These materials state that Ms. Smith mailed a copy of an Assignment and Declaration (accompanied by the complete application papers) to the legal representative's last known address in October 2003, and that these papers were signed for by the legal representative. Applicants have provided copies of the materials sent to the legal representative, but have failed to include evidence to demonstrate that the materials were signed for by the legal representative (i.e., the courier receipt). Under these circumstances, where the Office is being asked to accept the silence of the legal representative as evidence of a refusal to sign, petitioner

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[1] Applicants cite 37 CFR 1.47(b) in the petition. However, where, as here, at least one of the applicants has executed the declaration, the applicable regulation is 37 CFR 1.47(a).

must provide some evidence that the application materials have been received by the nonsigning applicant. Absent further firsthand evidence that the application and request for signature were received by the legal representative, item (4) cannot be considered satisfied.

Applicants' have failed to satisfy all the requirements of a grantable petition under 37 CFR 1.47(a). The petition therefore cannot be granted on the present record.

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 adequate evidence that the nonsigning legal representative has received a copy of the complete application papers and has refused to execute the application, 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 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
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PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

15 JUL 2004

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Ralph A. Dowell
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Suite 309, 1215 Jefferson Davis Highway
Arlington, VA 22202

In re Application of:	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)
JIA, Ming, et al.	
U.S. Application No.: 10/451,274	
PCT No.: PCT/RU00/00515	
Int'l Filing Date: 20 December 2000	
Priority Date: None	
Attorney's Docket No.: 14379NP	
For: DIFFERENTIAL SPACE-TIME BLOCK CODING	

In a decision mailed by this Office on 26 March 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, petitioner had not submitted adequate evidence that the nonsigning legal representative has been presented with a copy of the complete application and refused to sign.

On 24 May 2004, petitioners filed the renewed petition considered herein. The renewed petition included a revised declaration from Wendy Smith, with exhibits. These materials provide the required firsthand statement and documentary evidence confirming that the nonsigning legal representative has been provided with the complete application, and that the legal representative has failed to respond to applicants' request that the legal representative sign the application papers. These materials satisfy the final requirement for a grantable petition.

Applicant has now satisfied all the requirements for a grantable petition under 37 CFR 1.47(a). Accordingly, the renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application is accepted without the signature of the legal representative of deceased inventor Rui R. Wang.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the legal representative of the application will be forwarded to the legal representative's last-known address, as set forth in the petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 21 November 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
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15 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Ms Chao Wang
1204-900 Dynes Road
Ottawa, Ontario
K2C 3L6
CANADA

In re Application of: JIA, Ming, et al.
U.S. Application No.: 10/451,274
PCT No.: PCT/RU00/00515
International Filing Date: 20 December 2000
Priority Date: None
Attorney's Docket No.: 14379NP
For: DIFFERENTIAL SPACE-TIME BLOCK CODING

Dear Ms. Wang:

You are identified as the legal representative of a deceased inventor (Rui R. Wang)in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, the deceased inventor will be designated as an inventor.

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

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

Counsel of Record:
Ralph A. Dowell
DOWELL & DOWELL
Suite 309, 1215 Jefferson Davis Highway
Arlington, VA 22202

23 JUN 2004

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#4

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Sidney Persley, Esq.
Sun Chemical Corporation
Law Division
222 Bridge Plaza South
Fort Lee, NJ 07024

In re Application of	:	
Stewart Kessel et al	:	
Application No.: 10/451279	:	
PCT Application No.: PCT/GB01/04290	:	DECISION ON
International Filing Date: 26 September 2001	:	
Priority Date: 21 December 2000	:	PETITION UNDER
Attorney Docket No.: P-5987-US	:	
For: INKS FOR IN-MOULD	:	37 CFR 1.137 (b)
DECORATION	:	

This is in response to applicant's petition under 37 CFR 1.137 (b) filed on 25 May 2004, to revive the above-identified application.

BACKGROUND

On 26 September 2001, applicant filed international application number PCT/GB01/04290 which claimed priority to an earlier filed Great Britain application 0031364.3 filed on 21 December 2000.

On 25 September 2003, the United States Patent and Trademark Office issued a Notification of Missing Requirements, requiring an oath or declaration of the inventors, in compliance with 37 CFR 1.497 (a) and (b), and $130 surcharge for providing the oath or declaration later than the appropriate 30 months from the priority date (37 CFR 1.492 (e)).

On 26 November 2003, the international application became abandoned with respect to the failure to respond within the time period set in the Notification of Missing Requirements.

DISCUSSION

A petition to revive under 37 CRF 1.137 (b) must be accompanied by: (1) a proper response, unless it has been previously submitted; (2) the requisite petition fee as required by 37 CFR 1.17 (m); (3) a statement that the " entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137 (c).

On 25 May 2004, applicant filed the present petition to revive the national stage application under 37 CFR 1.137 (b). Filed with the present petition were, inter alia: (1) the requisite $1330 Petition fee; (2) a declaration under 35 USC 1.497 (a) and (b); (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) a $130 surcharge for providing the oath or declaration later than the appropriate 30 months from the priority date (37 CFR 1.492 (e)).

With regard to item (2), the declaration submitted on 25 May 2004, is not acceptable in that it is a composite declaration comprising an original declaration executed by the British inventors and a photocopy or facsimile copy of the signature page of another declaration executed by the United States inventor. A complete copy of each of the declarations executed by the inventors is required. In addition, the first page of the declaration identifies the wrong foreign priority claims.

CONCLUSION

The petition to revive the international application under 37 CFR 1.137 (b) is DISMISSED as to the National stage in the United States of America.

If reconsideration on the merits of this decision 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 1.37 (b)." No petition fee is due. Extensions of time are available under 37 CFR 1.136 (a).

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

Michael Lebentritt
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Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
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1 5 NOV 2004

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SIDNEY PERSLEY, ESQ.
SUN CHEMICAL CORPORATION
222 BRIDGE PLAZA SOUTH
FORT LEE, NJ 07024

In re Application of	:	
KESSEL et al.	:	
Application No.: 10/451,279	:	DECISION ON
PCT No.: PCT/GB01/04290	:	
Int. Filing Date: 26 September 2001	:	PETITION UNDER
Priority Date: 21 December 2000	:	
Attorney Docket No.: P-5987-US	:	37 CFR 1.137(b)
For: INKS FOR IN-MOULD DECORATION	:	

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.137(b)" filed 12 August 2004.

BACKGROUND

On 26 September 2001, applicants filed international application PCT/GB01/04290 which designated the U.S. and 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. The thirty-month period for paying the basic national fee in the United States expired at midnight on 23 June 2003 (21 June 2003 being a Saturday).

On 23 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of inventors.

On 25 September 2003, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 26 November 2003, the international application became abandoned with respect to the United States of America for failure to respond within the time period set in the Notification of Missing Requirements.

On 25 May 2004, applicants submitted a "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR

1.137(b)" which was accompanied by, *inter alia,* an executed declaration of inventors, the petition fee, and the surcharge under 37 CFR 1.492(e).

On 28 June 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.137(b) because the declaration was not acceptable. The decision set a two-month extendable time period for response.

On 12 August 2004, applicants submitted the instant "RENEWED PETITION UNDER 37 CFR 1.137(b)" which was accompanied by, *inter alia*, a declaration of inventors.

DISCUSSION

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

As noted in the decision mailed 28 June 2004, applicants have satisfied items (2) and (3).

As to the required reply (item (1)), the declaration of inventors filed 12 August 2004 is not in compliance with 37 CFR 1.497(a)-(b). The published international application indicates Stewart Kessel and N. Kumar Menon as inventors while the declaration filed 12 August 2004 indicates Steward Kessel and Nandakumar Menon as inventors.

CONCLUSION

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

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response. A proper response would be a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application.

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

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

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

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

16 FEB 2005

#8

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SIDNEY PERSLEY, ESQ.
SUN CHEMICAL CORPORATION
222 BRIDGE PLAZA SOUTH
FORT LEE, NJ 07024

In re Application of	:	
KESSEL et al.	:	
Application No.: 10/451,279	:	DECISION ON
PCT No.: PCT/GB01/04290	:	
Int. Filing Date: 26 September 2001	:	PETITION UNDER
Priority Date: 21 December 2000	:	
Attorney Docket No.: P-5987-US	:	37 CFR 1.137(b)
For: INKS FOR IN-MOULD DECORATION	:	

This decision is in response to applicants' "SECOND RENEWED PETITION UNDER 37 CFR 1.137(b)" filed 03 January 2005.

BACKGROUND

On 26 September 2001, applicants filed international application PCT/GB01/04290 which designated the U.S. and 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. The thirty-month period for paying the basic national fee in the United States expired at midnight on 23 June 2003 (21 June 2003 being a Saturday).

On 23 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of inventors.

On 25 September 2003, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 26 November 2003, the international application became abandoned with respect to the United States of America for failure to respond within the time period set in the Notification of Missing Requirements.

On 25 May 2004, applicants submitted a "PETITION FOR REVIVAL OF AN

APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" which was accompanied by, *inter alia,* an executed declaration of inventors, the petition fee, and the surcharge under 37 CFR 1.492(e).

On 28 June 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.137(b) because the declaration was not acceptable. The decision set a two-month extendable time period for response.

On 12 August 2004, applicants submitted a "RENEWED PETITION UNDER 37 CFR 1.137(b)" which was accompanied by, *inter alia*, a declaration of inventors.

On 15 November 2004, a decision was mailed dismissing applicants' petition under 37 CFR 1.137(b). Specifically, it was noted that the declaration of inventors filed 12 August 2004 was not in compliance with 37 CFR 1.497(a)-(b) and thus the required reply had not been provided.

On 03 January 2005, applicants submitted the instant "SECOND RENEWED PETITION UNDER 37 CFR 1.137(b)" which was accompanied by a signature page of a declaration of inventors.

DISCUSSION

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

As noted in the decision mailed 28 June 2004, applicants have satisfied items (2) and (3).

As to the required reply (item (1)), the decision mailed 15 November 2004 noted that the published international application indicates Stewart Kessel and N. Kumar Menon as inventors while the declaration filed 12 August 2004 indicates Steward Kessel and Nandakumar Menon as inventors. Regarding Mr. Kessel, a new signature page of the declaration of inventors has been provided which indicates the inventor's name as Stewart Kessel and is signed by Mr. Kessel. However, a new signature page is not sufficient. A copy of the entire declaration submitted to applicant(s) for signing must be provided. Each submitted declaration must be complete, even if executed by only one of the inventors. The second renewed petition states that in a discussion with the undersigned on 30 November 2004, the undersigned indicated that the changes submitted in the second renewed petition would bring the declaration into compliance. While the undersigned did indicate that a new declaration of inventors identifying Mr. Kessel as Stewart Kessel and signed by him would satisfy 37 CFR 1.497(a)-(b) as to Mr. Kessel, the undersigned did not indicate that only a new signature page of the declaration would suffice.

Regarding Mr. Menon, the second renewed petition indicates that Mr. Menon's legal name is Nandakumar Menon and not N. Kumar Menon. Because this difference in names is more than a mere typographical error or a phonetic misspelling of applicant's legal name, a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $400 as well as a statement from the inventor. This statement should set forth that he is a joint inventor of the subject matter of the present application and should set forth the circumstances surrounding the difference in names on the international application and the declaration. Regarding the discussion with the undersigned on 30 November 2004, the undersigned was incorrect in that discussion in stating that an indication that Mr. Menon's correct name is Nandakumar Menon would be sufficient. Any inconvenience is regretted.

CONCLUSION

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

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response.

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

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

Daniel Stemmer
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19 SEP 2005

#10

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SIDNEY PERSLEY, ESQ.
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FORT LEE, NJ 07024

In re Application of: KESSEL, et al.	:	
U.S. Application No.: 10/451,279	:	DECISION ON PETITION UNDER
PCT No: PCT/GB01/04290	:	37 CFR 1.182 AND THIRD
Int'l Filing Date: 26 September 2001	:	RENEWED PETITION UNDER
Priority Date: 21 December 2000	:	37 CFR 1.137(b)
Attorney's Docket No.: P-5987-US	:	
For: INKS FOR IN-MOULD	:	
DECORATION	:	

This decision is issued in response to the "Third Renewed Petition Under 37 CFR 1.137(b)" and the "Petition Under 37 CFR 1.182" filed 27 May 2005. Applicant has submitted $130 as the petition fee for the petition under 37 CFR 1.182; however, the applicable petition fee is $400. Deposit Account No. 50-2215 will be charged the additional $270 required. No additional petition fee is required with respect to the renewed petition under 37 CFR 1.137(b).

BACKGROUND

The background for the present application is described in previous decisions mailed by this Office on 28 June 2004, 15 November 2004, and 16 February 2005. As discussed in these decisions, the present application became abandoned for failure to file a proper response to the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 25 September 2003; such Notification required submission of 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. Applicants' previous petitions for revival were dismissed for failure to satisfy all the requirements for a grantable petition. Specifically, applicants have failed to provide the "required reply," that is, an oath or declaration acceptable under 37 CFR 1.497.

On 27 May 2005, applicants filed the "Third Renewed Petition Under 37 CFR 1.137(b)" and the "Petition Under 37 CFR 1.182" considered herein (with required extension fee). The 27 May 2005 submission includes a revised declaration executed by all three inventors.

DISCUSSION

1. Petition Under 37 CFR 1.182

The petition under 37 CFR 1.182 seeks to correct the name of record for the third inventor from N. Kumar MENON (as set forth in the international application) to Nadakumar

MENON (as set forth on the revised declaration). The petition included the required petition fee and a statement from the inventor confirming that his correct name is Nadakumar MENON and that the incorrect listing of the inventor's name in the international application was the result of an error (the name listed was the inventor's nickname). Based on this petition, the name of record for the third inventor herein is appropriately corrected to Nadakumar MENON, as set forth on the revised declarations filed 27 May 2005.

2. Renewed Petition Under 37 CFR 1.137(b)

Based on the correction to the third inventor's name, the revised declarations filed with the present submission are acceptable under 37 CFR 1.497. Applicants have now submitted the "required reply," thereby satisfying the final requirement for a grantable petition for revival.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to correct the name of record for the third inventor is **GRANTED**. The third inventor's name is accepted as Nadakumar MENON, as set forth in the declaration filed 27 May 2005.

Applicants' third renewed petition for revival under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 27 May 2005.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

22 DEC 2003

#10

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Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

In re Application of TOLAN et al	:	
U.S. Application No.: 10/451,308	:	
PCT Application No.: PCT/CA01/01837	:	
Int. Filing Date: 19 December 2001	:	DECISION
Priority Date Claimed: 22 December 2000	:	
Attorney Docket No.: 10798/7	:	
For: ALKALINE EXTRACTION STAGES	:	
COMPRISING XYLANASE	:	

This is in response to applicant's "Petition to Claim Benefit Under 35 U.S.C. § 119(e) of Prior Filed Provisional Application (37 C.F.R. § 1.78(a)(6))" filed 06 November 2003.

BACKGROUND

On 19 December 2001, applicant filed international application PCT/CA01/01837, which claimed priority of an earlier United States application filed 22 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 04 July 2002. The thirty-month period for paying the basic national fee in the United States expired on 22 June 2003.

On 19 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 06 November 2003, applicant filed the present petition under 37 CFR 1.78(a)(6).

DISCUSSION

37 CFR 1.78(a)(6) is applicable to provisional applications filed on or after November 29, 2000. A petition under 37 CFR 1.78(a) 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 the present case, the provisional application was filed on 22 December 2000, and the petition was filed after the time period specified in 37 CFR 1.78(a)(5)(ii) and during the pendency of the present national stage application.

37 CFR 1.78(a)(6) states,

> If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application must be accompanied by:
>
> (i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted;
>
> (ii) The surcharge set forth in § 1.17(t); and
>
> (iii) A statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

With regard to item (i) above, the petition is accompanied by the required reference to the prior provisional application.

With regard to item (ii) above, the petition is accompanied by the required surcharge.

With regard to item (iii) above, the petition includes the required statement.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(6) is GRANTED.

Applicant is advised that the granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the inclusion of the prior-filed application on any future Filing Receipt should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. The examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

The application has an International Filing Date under 35 U.S.C. 363 of 19 December 2001, and a date under 35 U.S.C. 371(c) of 06 November 2003.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of
TOLAN, Jeff et al.
Application No. 10/451,308
Filed: November 06, 2003
Attorney Docket No. **10798/7**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 01, 2007.

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

A review of the file record indicates that the power of attorney to Brinks, Hofer, Gilson & Lione have been revoked by the assignee of the patent application on March 23, 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 Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

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SCHIFF HARDIN, LLP
PATENT DEPARTMENT
233 S. WACKER DRIVE-SUITE 6600
CHICAGO, IL 60606-6473

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In re Application of	:	
Angel Castillo SENAL	:	
Application No. 10/451,312	:	DECISION ON PETITION
Filed: November 12, 2003	:	
Attorney Docket No. P03,0234	:	

This is a decision on the petition, filed June 12, 2009 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 non-compliant notice mailed April 05, 2007, which set a one (1) month shortened statutory period for reply. The application became abandoned on May 06, 2007.

Petitioner asserts that the SPE for the application informed him via telephone on April 25, 2007, the Notice of Non-Compliant Amendment will be vacated and that an office action on merits will follow. Petitioner, also states that the notice of abandonment was not received by mail.

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.

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 $810.00 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 Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

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OFFICE OF PETITIONS

In re Application of :
LABOW, et al. :
Application No. 10/451,315 : DECISION ON PETITION
Filed: July 10, 2003 :
Attorney Docket No. **4-31687A** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 7, 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 Notice to File Corrected Application Papers (Notice), mailed February 20, 2007. The Notice set a period for reply of sixty (60) days from the mail date of the Notice. Accordingly, the application became abandoned on April 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

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
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Alexandria, VA 22313-1450
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BILL POLKINGHORN
DISCOVERY DISPATCH
9003 FLORIN WAY
UPPER MARLBORO, MD 20772

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OFFICE OF PETITIONS

In re Application of	:	
Nachum, Zvi	:	
Application No. 10/451,334	:	ON PETITION
Filed: June 20, 2003	:	
Attorney Docket No. 2464/14	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 28, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed May 13, 2005. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 14, 2005. A Notice of Abandonment was mailed December 5, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

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

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks none of the above items. However, both the petition and the amendment submitted with the petition were unsigned. MPEP 714.01(a) requires that all amendments and other papers filed in an application must be signed.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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UPPER MARLBORO, MD 20772

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OFFICE OF PETITIONS

In re Application of	:	
Nachum, Zvi.	:	
Application No. 10/451,334	:	ON PETITION
Filed: June 20, 2003	:	
Attorney Docket No. 2467/7	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed June 28, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

The $750.00 petition fee was submitted once again with the renewed petition. However, since the fee was previously collected, the $750.00 will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 3700 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application
Denis Martin et al.
Application No. 10/451,337
Filed: November 18, 2003
Attorney Docket No. **484112.422USPC**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed May 8, 2009. Applicant requests that the determination of patent term adjustment be corrected from four hundred eight (408) to one thousand three hundred forty-eight (1348) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008). Applicants seek 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 three 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 patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 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 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

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, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

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

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

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

[1] For example, if applicants dispute 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 applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,595,057	: DECISION ON REQUEST
Issued: September 29, 2009	: FOR RECONSIDERATION
Application No. 10/451,337	: OF PATENT TERM ADJUSTMENT
Filed: June 23, 2003	: AND
Attorney Docket No.	: NOTICE OF INTENT TO ISSUE
484112.422USPC	: 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 November 23, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 832 days to 1444 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 adjusted by one thousand four hundred forty-five (1445) days and is **GRANTED to the extent indicated herein**.

At the outset, patentees have miscalculated the total patent term examination. It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) and (a)(2) is 616 and 4 days. The "B" delay period, the over three year period begins on June 23, 2006 and ends on September 29, 2009, considering the 95 days of overlap for the period June 23, 2006 to September 26, 2006 and considering the 4 days of overlap for the period June 14, 2008 to June 18, 2008, is 1194 days. Additionally, for the filing of a Notice of Appeal on December 16, 2008, the 56 days of the over three year period consumed by appellate review, beginning on December 15, 2008 and ending on February 9, 2009, are not included in the B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 1445 days (620 "A delay" days plus 1194 "B delay" days minus 95 + 4 overlap days minus 56 appellate review days minus 214 days applicant delay), not 1444 days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand four hundred forty-five (1445)** days.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,595,057 B2

DATED : September 29, 2009

INVENTOR(S) : Denis Martin

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 (832) days

Delete the phrase "by 832 days" and insert – by 1445 days--

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MAR 14 2005

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

In re Application of	:
Brian Nielsen	:
Serial No.: 10/451,380	: PETITION TO MAKE SPECIAL
Filed: December 30, 2003	:
Attorney Docket No.: P68970US0	:

This is in response to applicants' petition filed February 28, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. 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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APR 22 2004

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

In re Application of	:
Katsunori Nakata et al	:
Serial No.: 10/451,402	: PETITION TO MAKE SPECIAL
Filed: June 23, 2003	:
Attorney Docket No.: Q76113	:

This is in response to applicants' petition filed March 31, 2004, 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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mb

Mailed: 6-20-07

In re application of	:	
Ulrich Hammon et al.	:	DECISION ON
Serial No. 10/451,405	:	PETITION
Filed: June 23, 2003	:	
For: METHOD FOR PRODUCING (METH) ACRYLIC ACID		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE REFUSAL OF ENTRY OF THE AMENDMENT, filed October 10, 2006.

On August 11, 2006, applicants filed an amendment after-final. On September 29, 2006, the examiner mailed an advisory action, indicating that the amendments would not be entered, since they would raise new issues and did not place the application in better form for appeal.

On October 10, 2006, the instant petition under 37 CFR 1.181 was filed to formally request the entry of the amendments, filed August 11, 2006.

DECISION

In the instant case, the office issued a PTO-90C on December 14, 2006, which indicated that the applicant's amendments of August 11, 2006 would be entered. Therefore, the issue of entry of the amendment is moot. Accordingly, the petition to allow entry of the amendment is **DISMISSED**.

Michael Barr, SPE 1746
Technology Center 1700
Chemical and Materials Engineering

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

10 OCT 2003

#3

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Edward F. Rehberg
Pharmacia & Upjohn Company
Global Intellectual Property
301 Henrietta Street
Kalamazoo, MI 49001

In re Application of PARODI, Luis A. Application No.: 10/451,410 PCT No.: PCT/US01/44697 Int. Filing Date: 07 December 2001 Priority Date: 14 December 2000 Docket No.: 00343.PCT1 For: A NOVEL SOCS (SUPPRESSOR OF CYTOKINE SIGNALING)	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 17 June 2003 is **GRANTED**.

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

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 17 June 2003 under 35 U.S.C. §371.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

2 0 NOV 2003

#6

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William L. Brooks
Armstrong, Westerman & Hattori, LLP
1725 K Street
Suite 1000
Washington, D.C. 20006

In re Application of	:	
SUGIHARA et al.	:	
Application No.: 10/415,412	:	
PCT No.: PCT/JP01/04598	:	
Int. Filing Date: 31 May 2001	:	DECISION
Priority Date: 31 May 2000	:	
Attorney Docket No.: 021573	:	
For: PLASTIC PALLET		

This decision is in response to applicants' "Petition under 37 CFR 1.181" filed 26 June 2003 and "Request for Refund" filed 26 August 2003.

BACKGROUND

On 31 May 2001, applicants filed international application PCT/JP01/04598, which claimed a priority date of 31 May 2000. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 02 December 2002.

On 27 November 2002, applicants filed a Transmittal Letter (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee; copy of the international application; and an executed declaration. These application papers were assigned application number 10/296,828.

On 26 June 2003, applicants filed "Petition under 37 CFR 1.181" requesting that the copy of the application papers accompanying the communication and purportedly filed on 27 November 2002 be accepted as having been received on 27 November 2002. This submission was treated as a new application and assigned application number 10/415,412.

On 26 August 2003, applicant filed "Request for Refund."

DISCUSSION

Upon review of both application files, it is concluded that the papers filed 26 June 2003 were erroneously processed as a purported new application and assigned application

No. 10/415,412. Accordingly, the papers filed on 27 November 2002 have been placed in application number 10/415,412. Purported application 10/296,828 is no longer an active application number and should not be used in any future correspondence regarding this application. Therefore, the petition under 37 CFR 1.181 is dismissed as moot since the original papers filed on 27 November 2002 have been located.

Applicants' request for refund filed 26 August 2003 is **GRANTED**. Applicants' Deposit Account No. 01-2340 will be refunded the following fees: $890.00 (fee code 1613) and 40.00 (fee code 8021).

Applicant should use application number **10/415,412** in all future communications with the United States Patent and Trademark Office in regards to the U.S. national stage of international application PCT/JP01/04598.

CONCLUSION

The petition under 37 CFR 1.181 to accept the copy of the national stage papers submitted on 26 June 2003 in lieu of the original is **DISMISSED** as moot.

The request for refund is **GRANTED**.

The application has an international filing date of 31 May 2001 under 35 U.S.C. 363 and a date of 27 November 2002 under 35 U.S.C. 371.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for mailing of a Notification of Acceptance of Application which identifies a date of **27 November 2002** under 35 U.S.C. 371.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

10 OCT 20

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NATH & ASSOCIATES
1030 15th STREET
6TH FLOOR
WASHINGTON DC 20005

In re Application of	:	
ROSEN	:	
Application No.: 10/451,419	:	DECISION ON
PCT No.: PCT/IB01/02194	:	
Int. Filing Date: 21 November 2001	:	PETITION UNDER
Priority Date: 22 November 2000	:	
Attorney Docket No.: 25525	:	37 CFR 1.137(b)
For: HIDING IMAGES IN HALFTONE PICTURES	:	

This decision is in response to applicant's "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR § 1.137(b)" filed 23 June 2003.

BACKGROUND

On 21 November 2001, applicant filed international application PCT/IB01/02194, which designated the United States and claimed a priority date of 22 November 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 30 May 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 May 2003.

On 23 June 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, an unexecuted declaration of inventors, and the instant "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR § 1.137(b)."

DISCUSSION

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

As to item (1), applicant submitted the basic national fee for a small entity on 23 June 2003.

As to item (2), applicant submitted the petition fee for a small entity on 23 June 2003.

As to item (3), petitioner's statement that "[t]he entire delay in filing this entry into the national phase due 22 May 2003, until the filing of this statement and the attached Petition under 37 CFR 1.137(b), is unintentional" has been construed as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." (Note that the required reply was payment of the basic national fee rather than "entry into the national phase".) If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

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

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating, *inter alia*, (1) that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required since the declaration filed 23 June 2003 was not signed and (2) that the surcharge for a small entity under 37 CFR 1.492(e) for filing the oath or declaration later than thirty months from the priority date are required.

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

14 JAN 2004

#5

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OLIFF & BERRIDE, PLC
P.O. Box 19928
Alexandria, Virginia 22320

In re Application of:	:	
MAKELA, Tapio, et al.	:	
U.S. Application No.: 10/451,434	:	DECISION ON PETITION
PCT No.: PCT/FI02/00046	:	
International Filing Date: 21 January 2002	:	
Priority Date: 22 January 2001	:	
Attorney's Docket No.: 116312	:	
For: LAYERED STRUCTURE, SENSOR AND METHOD OF PRODUCING AND USING THE SAME	:	

This decision is issued in response to applicants' "Response To Missing Requirements Under 35 U.S.C. 371" filed 20 November 2003, which has been treated as a petition under 37 CFR 1.181 to confirm the filing of an executed declaration and surcharge payment on 01 October 2003. No petition fee is required.

BACKGROUND

On 21 January 2002, applicants filed international application PCT/FI02/00046 which claimed a priority date of 22 January 2001 and which designated the United States. On 25 July 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., 22 July 2003.

On 23 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee.

On 28 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date was required.

On 20 November 2003, applicants filed the submission considered herein as a petition under 37 CFR 1.181. The petition asserts that on 01 October 2003, applicants filed an executed declaration and the $130 surcharge for filing this declaration later than thirty months after the priority date, that is, the materials required by the Notification Of Missing Requirements. Attached to the petition are copies of the materials purportedly filed on 01 October 2003 as well as a copy of a PTO Receipt which itemizes these materials and bears a USPTO receipt stamp dated 01 October 2003.

DISCUSSION

Based on applicants' statements in the present petition, the attached return postcard, and internal USPTO records which indicate the receipt of the $130 surcharge payment on 01 October 2003, it is concluded that the materials attached to the present petition, including the executed declaration and the surcharge payment, were originally filed in the USPTO on 01 October 2003. Accordingly, the Notification Of Missing Requirements mailed 28 October 2003, based as it was on applicants' purported failure to file these materials, is appropriately vacated.

A review of the declaration filed 01 October 2003 reveals that it is in compliance with 37 CFR 1.497.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The materials attached to the present petition, including the executed declaration and the surcharge payment, are considered to have been filed on 01 October 2003.

The Notification Of Missing Requirements mailed 28 October 2003 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The 35 U.S.C. 371(c) date is 01 October 2003.

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

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Morrison & Foerster
Suite 500
3811 Valley Centre Drive
San Diego, CA 92130-2332

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FEB 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Jacobus Stark et al.	:	
Application No. 10/451,448	:	DECISION ON PETITION
Filed: June 20, 2003	:	TO WITHDRAW
Attorney Docket No. 246152019800	:	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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney given to the attorneys and/or agents associated with Morrison & Foerster has been revoked by the assignee of the patent application on September 29, 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

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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
10/451,448	06/20/2003	Jacobus Stark	246152019800

CONFIRMATION NO. 1639

OC000000022569061

OC000000022569061

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Date Mailed: 02/21/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2006.

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.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/451,448	06/20/2003	Jacobus Stark	246152019800

CONFIRMATION NO. 1639

OC000000022569054

OC000000022569054

Kate H Murashige
Morrison & Foerster
Suite 500
3811 Valley Centre Drive
San Diego, CA 92130-2332

Date Mailed: 02/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2006.

- 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).

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

NEW 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
10/451,448	06/20/2003	Jacobus Stark	246152019800

CONFIRMATION NO. 1639

OC000000022569054

OC000000022569054

Kate H Murashige
Morrison & Foerster
Suite 500
3811 Valley Centre Drive
San Diego, CA 92130-2332

Date Mailed: 02/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2006.

- 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).

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

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LA VERGNE TN 37086-4130

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OFFICE OF PETITIONS

In re Application of	:	
Gregory Michael Orme	:	
Application No. 10/451,468	:	ON PETITION
Filed: November 4, 2003	:	
Title: Device for Stringed Instruments	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed September 2, 2007.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. 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 further petition fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed October 19, 2005, which set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on January 20, 2006. The Office mailed a Notice of Abandonment on June 15, 2006.

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

The instant petition has not satisfied requirement (1). Applicant has not submitted a proper reply to the October 19, 2005 final Office action. A proper response to a final office action consists of either: (1) an amendment that *prima facie* (i.e. on its face) places the application in condition for allowance; (2) a Notice of Appeal (and the required fee); (3) a Request for Continued Examination (and the required fee), or (4) a continuing application.

The amendment submitted with the petition has been determined by the examiner to not place the application in condition for allowance. Accordingly, on renewed petition, applicant will need to submit a Notice of Appeal, a Request for Continued Examination, or a continuing application.

Receipt of the $750 petition fee is acknowledged.

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 addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Gregory Michael Orme
22 Ellington St
Taragindi 4121 Australia

15 DEC 2003

#15

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ALEXANDRIA, VA 22313-1450
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CONNOLY BOVE LODGE & HUTZ LLP
1220 Market Street
P.O. Box 2207
Wilmington, Delaware 19899

In re Application of HOFFMOCKEL, Michael *et al* Application No.: 10/451,469 PCT No.: PCT/EP01/13351 Int. Filing Date: 19 November 2001 Priority Date: 15 December 2000 Attorney's Docket No.: 2000/G-015 (5587*354) For: PROCESS FOR REMOVING METHANOL FROM FORMALDEHYDE-CONTAINING SOLUTIONS	**DECISION ON** **PETITION UNDER** **37 CFR 1.181**

This decision is in response to applicants' "Response to Notice to File Missing Parts" filed on 20 October 2003 which is treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 22 July 2003, applicants purportedly filed documents in the above-captioned application which included an executed declaration and a $130.00 surcharge fee.

On 07 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497(a) & (b) must be provided. A two-month time period for response was set.

On 20 October 2003, applicants filed the instant petition which was accompanied by, *inter alia*, a stamped postcard receipt and a copy of the declaration purportedly filed 22 July 2003.

DISCUSSION

A review of the above-captioned application in the Office reveals that no documents dated 22 July 2003 were located in the file. Nevertheless, USPTO financial records indicate that a surcharge fee of $130.00 and a $40.00 assignment fee were paid on 22 July 2003 in the above-captioned application.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail.

The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped filing receipt for documents submitted 22 July 2003. The name of the applicants, application number, and title are all listed on the postcard receipt. The postcard receipt indicates that among the documents received in the USPTO included an "Executed Combined Declaration and Power of Attorney" and a "Check for $130.00." The postcard receipt is stamped "Rec'd PCT/PTO 22 JUL 2003" across its face.

Accordingly, applicants have provided *prima facie* evidence that the declaration and other documents listed above were received by the USPTO on 22 July 2003.

DECISION

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

The Form PCT/DO/EO/905 mailed 07 October 2003 is hereby **VACATED**.

Applicants included a copy of the executed declaration signed by the inventors in the instant petition which shows that it is in compliance with 37 CFR 1.497(a) & (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 19 November 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 22 July 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 02, 2006

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/451478 Patent No.: 7,021,261 B2

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

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

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

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

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

Comments: OK TO ENTER

Thomas N. Moulis
~~Primary Examiner~~

SPE

3747
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE, SUITE 2000
PHILADELPHIA, PA 19103-6996

Mail Date: 04/20/2010

Applicant	: Alexander Bruce Wilson	: DECISION ON REQUEST FOR
Patent Number	: 7578315	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/451,488	: OF WYETH
Filed	: 09/12/2003	:
		:

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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15 OCT 2003

John P. Sumner
Moore, Hanson, Sumner
2900 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402

In re Application of :
DURLING, Harold E. :
Application No.: 10/451,492 :
PCT No.: PCT/US01/28114 :
Int. Filing Date: 07 September 2001 :
Priority Date: 07 September 2000 :
Attorney Docket No.: S78-014-03-WO :
For: IGNITER FOR INTERNAL COMBUSTION ENGINES OPERATING OVER A WIDE RANGE OF AIR FUEL RATIOS

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 June 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has 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 of the inventor is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

18 NOV 2004

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Moore, Hansen & Summer, PLLP
225 South Sixth Street
Suite 4850
Minneapolis, MN 55402

In re Application of :
DURLING, Harold E. :
Application No.: 10/451,492 : DECISION ON PETITION
PCT No.: PCT/US01/28114 :
Int. Filing Date: 07 September 2001 :
Priority Date: 07 September 2000 :
Attorney Docket No.: S78-014-03WO :
For: IGNITER FOR INTERNAL COMBUSTION ENGINES OPERATING OVER A WIDE RANGE OF AIR/FUEL RATIOS

This is a decision on applicant's "Petition to Withdraw Holding of Abandonment" which is being treated as a petition under 37 CFR 1.181" filed 23 September 2004. No petition fee is required.

BACKGROUND

On 07 September 2001, applicants filed international application PCT/US01/28114 which claimed a priority date of 07 September 2000. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 26 August 2003.

On 19 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 petition to revive under 37 CFR 1.137(b), In a decision dated 15 October 2003, applicant's petition to revive under 37 CFR 1.137(b) was granted.

On 31 October 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 22 September 2004, 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 31 October 2003 within the time period set therein.

On 23 September 2004, applicant filed the present petition which was accompanied, among other things: a copy of the declaration(s) and power of attorney(s) and a post card receipt dated 23 December 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 23 December 2003. A review of the present application reveals that the declaration 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, and attorney docket number. The receipt itemizes a declaration of the inventor. The receipt is stamped "Rec'd. PCT/PTO 23 December 2003" across its face is sufficient to indicate that the above items were in fact received in the Office on 23 December 2003.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

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

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HOUSTON, TX 77056

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OFFICE OF PETITIONS

In re Application of :
Philippe Campo, et al. :
Application No. 10/451,496 :
Filed: June 20, 2003 :
Attorney Docket No. Serie 5151 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 3, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 4, 2005.

Receipt is acknowledged of the Information Disclosure Statement (IDS) filed with the instant petition.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed August 31, 2005 is accepted as having been unintentionally delayed.

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

The application matter is being referred to Technology Center 1700, Art Unit 1724 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 102705

Paper No.: _____

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction on Patent No.: 6882130

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

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

Thank You For Your Assistance

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

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

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

Comments:
Okay for entry

Edward H. Tso
Primary Examiner

SPE

2838
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

15 JUN 2004

#8

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Christopher W. Brody
Clark & Brody
1750 K Street NW, Suite 600
Washington, D.C. 20006

In re Application of	:	
GRANGEON et al.	:	
U.S. Application No. 10/451,532	:	DECISION ON PETITION
PCT No.: PCT/FR01/04189	:	
Int. Filing Date: 24 December 2001	:	
Priority Date: 29 December 2000	:	
Attorney Docket No.: 71247-0006	:	
For: GASKET FOR A FILTRATION ELEMENT AND MODULE INTEGRATING A FILTRATION ELEMENT FITTED WITH SUCH A GASKET	:	

This is a decision on applicants' "Petition under 37 CFR 1.47(a)" filed 29 April 2004 to accept the application without the signature of joint-inventor, Michel Millares.

BACKGROUND

On 24 December 2001, applicants filed international application PCT/FR01/04189 which claimed a priority date of 29 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., 29 June 2003.

On 24 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); an English translation of the international application; and a preliminary amendment.

On 30 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 29 April 2004, applicants filed the present petition under 37 CFR 1.47(a) and a five-month extension of time.

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 Michel Millares cannot be found or reached after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

A review of the present petition reveals that petitioner has not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventor, Michel Millares. Petitioner has provided a copy of the cover letter and delivery certificate addressed to Michel Millares, however, the cover letter and delivery certificate have not been translated. Additionally, were any other attempts made to locate Michel Millares? The single mailing of the papers to the nonsigning inventor's last known address does not constitute a "diligent" effort to locate the inventor. Applicant must show that alternative means were employed, such as a search of telephone and/or Internet directories, in an attempt to locate Michel Millares.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Michel Millares 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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Facsimile: 703-308-6459

2 3 NOV 2004

#10

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Christopher W. Brody
Clark & Brody
1750 K Street NW, Suite 600
Washington, D.C. 20006

In re Application of	:	
GRANGEON et al.	:	
U.S. Application No. 10/451,532	:	DECISION ON PETITION
PCT No.: PCT/FR01/04189	:	
Int. Filing Date: 24 December 2001	:	
Priority Date: 29 December 2000	:	
Attorney Docket No.: 71247-0006	:	
For: GASKET FOR A FILTRATION ELEMENT AND MODULE INTEGRATING A FILTRATION ELEMENT FITTED WITH SUCH A GASKET	:	

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 01 October 2004 to accept the application without the signature of joint-inventor, Michel Millares.

BACKGROUND

On 24 December 2001, applicants filed international application PCT/FR01/04189 which claimed a priority date of 29 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., 29 June 2003.

On 24 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); an English translation of the international application; and a preliminary amendment.

On 30 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 29 April 2004, applicants filed the present petition under 37 CFR 1.47(a) and a five-month extension of time. In a "Decision on Petition" dated 15 June 2004, applicants'

petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 01 October 2004, applicant 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) have been satisfied.

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 Michel Millares. The steps taken by Jean-Marc Thibault are sufficient to show that the missing inventor, Michel Millares, could not be found or reached after diligent effort.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

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

The application has an international filing date of 24 December 2001 under 35 U.S.C. 363, and will be given a date of **29 April 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

Anthony Smith
Attorney-Advisor
Office of Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

2 3 NOV 2004

#10

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Michel Millares
38, Rue Pierre Toesca
26100 Nyons France

In re Application of
GRANGEON et al.
U.S. Application No. 10/451,532
PCT No.: PCT/FR01/04189
Int. Filing Date: 24 December 2001
Priority Date: 29 December 2000
Attorney Docket No.: 71247-0006
For: GASKET FOR A FILTRATION ELEMENT AND MODULE INTEGRATING A FILTRATION ELEMENT FITTED WITH SUCH A GASKET

Dear Mr. Millares:

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

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

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

Counsel of Record:
Christopher W. Brody
Clark & Brody
1750 K Street NW, Suite 600
Washington, D.C. 20006

16 OCT 2003

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Browdy and Neimark PLLC
624 Ninth Street NW
Suite 300
Washington, DC 20001

In re Application of RAMI EVRON Serial No.: 10/451,543 PCT No.: PCT/IL01/00955 Int. Filing Date: 15 October 2001 Priority Date: 18 October 2000 Attorney's Docket No.: EVRON1A For: METHOD AND SYSTEM FOR POSITIONING A DEVICE IN A TUBULAR ORGAN	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 June 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the papers necessary to perfect the completion of entry into the U.S. national phase of this case from the due date for entry into the U.S. national phase (April 18, 2003) until the filing of this grantable petition under 37 CFR 1.137(b) was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

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

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventor and the surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

06 JUL 2005

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Jason M. Honeyman
Wolf Greenfield & Sacks, PC
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2211

In re Application of SCHWITTE, et al. Application No.: 10/451,547 PCT No.: PCT/EP01/15144 Int. Filing Date: 20 December 2001 Priority Date: 22 December 2000 Attorney Docket No.: H00075.70092.US For: WALL BOARDS OR PANEL BOARDS FOR USE IN INTERIOR CONSTRUCTION AND DRY CONSTRUCTION	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's facsimile filing of 28 June 2005 in the United States Patent and Trademark Office (USPTO). The filing is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present National stage application. No petition fees are required.

BACKGROUND

On 20 December 2001, applicant filed international application PCT/EP01/15144, which claimed priority of an earlier application filed 22 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 July 2002. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 22 July 2003.

On 23 July 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); an English translation of the international application and a First Preliminary Amendment.

On 30 September 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. in addition, applicant was advised of the need to pay the surcharge for providing an oath or declaration of the inventor later than thirty months from the priority date.

Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 07 June 2005, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 30 September 2003 within the time period set therein and that above-identified application was abandoned as to the United States.

On 28 June 2005, applicant filed the present petition to withdraw the holding of abandonment.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by applicant, title and docket number. The receipt identifies the application number as "10/451,547." Among the items listed on the receipt are "Declaration(s)" and "Check for $170.00" The receipt is stamped "OIPE JC91 Patent and Trademark Office NOV 26 2003" across its face. Thus, it is clear that applicant filed an executed declaration on 26 November 2003. For the reasons stated above, it is proper to grant applicant's petition at this time and accept the copy of the declaration filed 28 June 2005 as a substitute for the declaration originally filed 26 November 2003. It is noted that while the postcard lists the check in the amount of $170.00 there is no record of the check being processed. Therefore, as authorized, the fees will be deducted from Deposit Account No: 23-2825.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 26 November 2003. It is noted that the filed declaration does not list a residence or mailing address for the inventors. Pursuant to 37 CFR 1.497(c), a supplemental declaration in compliance with 37 CFR 1.63 or application data sheet in accordance with 37 CFR 1.67 is required.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed 07 June 2005 is hereby **VACATED**.

This application will be given an international application filing date of 20 December 2001 and a date of **26 November 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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OFFICE OF PETITIONS

In re Application of :
Volker Holzgrefe et al :
Application No. 10/451,556 : ON PETITION
Filed: December 5, 2003 :
Attorney Docket No. 10191/3053 :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed November 10, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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]

Petitioner requests a refund of $1,700.00 - issue fee and publication submitted on September 19, 2005.

Petitioner's attention is directed to MPEP §1308.01 which states that a refund may be requested **if the examiner has withdrawn the application from issue for the purpose of reopening prosecution.** However, in the instant application, the examiner has not reopened prosecution of the application.

Petitioner's attention is further directed to 37 CFR 1.26 which states:

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

> The Commissioner may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent or trademark 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.

In this case, the payment of the issue fee/publication fee was owed and required by law at the time of payment thereof. Therefore, payment was not made by mistake or in excess of that required nor was there a mistake in payment as contemplated by 37 CFR 1.26.

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

This matter is being referred to Technology Center AU 3752 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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AUSTIN TX 78767-0398

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OFFICE OF PETITIONS

In re Application of	:	
Kenneth Lewis Hawksworth	:	
Application No. 10/451,562	:	DECISION ON PETITION
Filed: June 20, 2003	:	
Attorney Docket No. 9650-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 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 June 27, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 28, 2006. A Notice of Abandonment was mailed on January 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment with remarks, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of June 27,2 006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1744 for appropriate action in the normal course of business on the reply received February 21, 2007.

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

Frances Hicks
Petitions Examiner
Office of Petitions

28 SEP 2006

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TESSERA
LERNER DAVID et al.
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WESTFIELD NJ 07090

In re Application of	:
BADIHI, Avner	: DECISION ON PETITION
Application No. 10/451,564	: UNDER 37 CFR 1.78(a)(3)
Filed: May 03, 2004	:
Attorney Docket No. TESHEL 3.3-011	:

This is a decision on the petition under 37 CFR 1.78(a)(3) filed May 19, 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, as set forth in the concurrently filed amendment and Application Data Sheet (ADS).

The petition is **GRANTED**.

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

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

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

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

(3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed nonprovisional and PCT applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) 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) 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.

It is noted that the supplemental ADS filed by applicants includes an added claim to a foreign application (specifically, applicants claim the benefit of Israeli application number 123207, filed 06 February 1998). As the present application is a U.S. national stage application, a foreign priority claim can only be made in accordance with the conditions of 35 U.S.C. 365(b). The provisions of 35 U.S.C. 119(b), including the petition procedure authorized thereunder, do not apply to national stage applications. Because the priority claim to Israeli application number 123207 was not made in accordance with the conditions and requirements of the PCT and the PCT Regulations in PCT application PCT/IL01/01183, the foreign priority claim may not be added now (see 37 CFR 1.55(a)(1)(ii); note that 37 CFR 1.55(c) does not apply to claims for the benefit of a foreign application under 35 U.S.C. 365(b)).

Any inquiries concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2826 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 and 365(c) to the prior-filed applications.

Boris Milef

Boris Milef
Legal Examiner

ATTACHMENT: Corrected Filing Receipt

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Lerner, David, Littenberg
Krumholz & Mentlik, LLP
600 South Avenue West
Westfield, NJ 07090

In re Application of:	:	
Badihi	:	DECISION ON PETITION
U.S. Application No: 10/451,564	:	UNDER 37 CFR 1.183
PCT Application No.: PCT/IL01/01183	:	
Int. Filing Date: 19 December 2001	:	
Attorney's Docket No.: 6727/IL680USO	:	
For: PACKAGED INTEGRATED	:	
CIRCUITS AND METHODS...	:	

This decision is in response to the "Petition for Suspension of Rules to Accept Unintentionally Delayed Claim for Benefit," filed 16 March 2007, requesting waiver of the provisions of 37 CFR 1.55(c) to accept a delayed claim of foreign priority in the present national stage application. The petition fee has been paid.

BACKGROUND

International application no. PCT/IL01/01183, which designates the U.S., has an international filing date of 19 December 2001 and claims priority to Israeli application no. 140482, filed 21 December 2000, and U.S. application 09/758,906, filed 11 January 2001. A Demand for international preliminary examination was filed 17 July 2002. Accordingly, the deadline for paying the U.S. basic national fee expired 21 June 2003.

On 20 June 2003, applicant filed a submission to enter the U.S. national phase for international application no. PCT/IL01/01183, including, *inter alia*, payment of the basic national fee and an application data sheet identifying the aforementioned priority claims. Neither the application data sheet, nor the specification, contained the reference to the U.S. application required under 37 CFR 1.78.

On 19 May 2006, a petition under §1.78 was filed correcting the reference to the prior filed U.S. application and, in addition, adding a further benefit claim to U.S. application no. 09/601,895. The petition was accompanied by an application data sheet that also added a claim of foreign priority to Israeli application no. 123207.

On 28 September 2006, a decision was mailed granting the petition under §1.78. The decision also noted that there is no provision for adding the foreign priority claim to Israeli application no. 123207 to the instant application and, accordingly, that priority claim was not entered.

DISCUSSION

Petitioner requests waiver of the provisions of 37 CFR 1.55(c) to the extent necessary to accept a delayed claim of foreign priority in the instant U.S. national phase application. As written, §1.55(c) provides a remedy for accepting a late claim for foreign priority under 35 U.S.C. 119(a)-(d) or 365(a), but does not provide for acceptance of claim for foreign priority under 35 U.S.C. 365(b).[1]

Entitlement to a right of priority to a foreign application in a U.S. national phase application is governed by 35 U.S.C. 365(b), which states:

> *(b) In accordance with the conditions and requirements of section 119(a) of this title and the treaty and the Regulations, an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States.*

As required under 35 U.S.C. 365(b), to be entitled to a right of priority to Israeli application no. 123207 in the instant application, applicant was required to comply with, *inter alia*, the PCT Regulations concerning priority claims. Applicant did not comply with PCT Rule 4.10.

Petitioner's reference to PCT Article 8(2)(b) is not helpful, as that section concerns the conditions and effect of priority claims to *domestic* applications (i.e., for the U.S. designation, priority claims to prior filed U.S. applications). Here, petitioner is seeking to add a priority claim to a *foreign* application.

The authority under 37 CFR 1.55(c) to accept a late claim of foreign priority is derived from 35 U.S.C. 119(b), as amended under the AIPA. The provisions of 35 U.S.C. 119(b), however, do not apply to U.S. national phase applications. See, e.g., the legislative history of public law 94-131. The Office cannot waive a requirement of a statute and, as such, cannot grant the requested relief.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.183 is DISMISSED, without prejudice.

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[1] 37 CFR 1.55(c) provides:

(c)Unless such claim is accepted in accordance with the provisions of this paragraph, any claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) not presented within the time period provided by paragraph (a) of this section is considered to have been waived. If a claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) is presented after the time period provided by paragraph (a) of this section, the claim may be accepted if the claim identifying the prior foreign application by specifying its application number, country (or intellectual property authority), and the day, month, and year of its filing was unintentionally delayed. A petition to accept a delayed claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) must be accompanied by:

(1)The claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted;

(2)The surcharge set forth in § 1.17(t); and

(3)A statement that the entire delay between the date the claim was due under paragraph (a)(1) of this section 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.

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

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: (571) 272-3288
Facsimile: (571) 273-0459

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SAN DIEGO, CA 92130-3014

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OFFICE OF PETITIONS

In re Application of	:	
Marie D. Parnell, et al.	:	
Application No. 10/451,570	:	DECISION ON PETITION
Filed: December 5, 2001	:	TO WITHDRAW
Attorney Docket No. 246152019600	:	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 3, 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 E. Ciotti 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). The power of attorney filed on October 17, 2006 does not include the reel and frame number or a proper chain of title.

There are no pending office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-275-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARIE D. PARNELL
26, HARTINGTON ROAD
SK7 2DZ BRAMHALL, CHESHIRE
UNITED KINGDOM

cc: MR. BRYAN H. DAVIDSON
NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD
11TH FLOOR
ARLINGTON, VA 22203-1808

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OFFICE OF PETITIONS

In re Application of	:	
Marie D. Parnell, et al.	:	
Application No. 10/451,570	:	DECISION ON REQUEST FOR
Filed: December 11, 2003	:	REVOCATION OF POWER
Attorney Docket No. BJS-4662-232	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed October 17, 2006.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper.

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 October 17, 2006 does not include a proper chain of title or the reel and frame number on the 3.73(b) statement.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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Kenyon & Kenyon
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In re Application of	:	DECISION ON
Derek Lawrence GOLD	:	
Application No.: 10/451,571	:	
PCT No.: PCT/GB01/05146	:	PETITION
Int. Filing Date: 22 November 2001	:	
Priority Date: 21 November 2000	:	
Attorney's Docket No.: 12801/1	:	UNDER 37 CFR 1.137(b)
For: CONVEYOR LIFT	:	

This decision is in response to applicants' "Petition To Revive Under 37 CFR 1.137(b)," filed on 20 June 2003. The petition of 1,300.00 has been charged to petitioner's Deposit Account No.: 11-0600 as requested on the Petition.

BACKGROUND

On 01 November 2001, this international application was filed, claiming an earliest priority date of 01 November 2000. A copy of the intentional application was transmitted on 30 May 2002 to the USPTO from the International Bureau.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 24 May 2003. This international application became abandoned with respect to the United States at midnight on 24 May 2003 for failure to pay the required basic national fee.

On 20 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.

Applicant's statement that "There was never any intention on the part of any persons associated with this application to abandon this application" is being construed as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

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In re Application of	:	DECISION ON
GOLD, Derek Lawrence	:	
PCT No.: PCT/GB01/05146	:	
Application No.: 10/451,571	:	PAPERS FILED
Int. Filing Date: 22 November 2001	:	
Priority Date: 24 November 2000	:	
Attorney's Docket No.: 12801/1	:	UNDER 37 CFR 1.42
For: CONVEYOR LIFT	:	

This is a decision on the declaration filed 16 August 2004, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 20 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). Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided at such time.

On 14 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUREMENTS 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" must be submitted within two (2) months from date of mailing of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application. In addition, a surcharge for providing the oath or declaration later than the appropriate 30 months from the priority date will be required under 37 CFR 1.492(e).

In response to the Notification mailed on 14 January 2004, applicant filed a declaration signed by Henry Gerald MUTKIN as legal representative of the inventor now deceased GOLD, Derek Lawrence.

DISCUSSION

A review of the application file reveals that the declaration does not comply with 37 C.F.R. §1.497(b)(2).

Because the inventor GOLD, Derek Lawrence is deceased and Henry Gerald MUTKIN has been appointed as the legal representative for the deceased inventor, 37 C.F.R. §1.497(b)(2) indicates that "[i]f the person making the oath or the declaration or any supplemental or oath or declaration is not the inventor (§§1.42, 1.43, or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state (the inventor's citizenship and so on). If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative." (see MPEP § 409.01)

In this instance, it is unclear if the information provided below the signature of Mr. Mutkin is for the legal representative or for the deceased inventor. The citizenship, residence and mailing address of the legal representative and the deceased inventor needs to be provided as required under 37 C.F.R. §1.497(b)(2).

Consequently, applicants have not satisfied the requirements under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time are available 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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21 APR 2005

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GOLD, Derek Lawrence	:	
PCT No.: PCT/GB01/05146	:	
Application No.: 10/451,571	:	
Int. Filing Date: 22 November 2001	:	RENEWED PAPERS FILED
Priority Date: 24 November 2000	:	
Attorney's Docket No.: 12801/1	:	
For: CONVEYOR LIFT	:	UNDER 37 CFR 1.42

This is a decision on the "RENEWED SUBMISSION UNDER 37 CFR 1.42" filed 25 February 2005.

BACKGROUND

In a decision from this Office on 30 December 2004, the request filed on 16 August 2004 was dismissed. The decision indicated that it was unclear if the information provided was for the deceased inventor, Mr. Gold, or the legal representative, Mr. Mutkin. It was stated an acceptable declaration under 37 CFR §1.497(b)(2) states the citizenship, residence, mailing address of the legal representative, Henry Gerald MUTKIN.

On 25 February 2005, applicants filed the present renewed submission under 37 CFR § 1.42 accompanied with a newly executed declaration.

DISCUSSION

The renewed submission includes, a newly executed declaration signed by MUTKIN, Henry Gerald and PAGE, Christopher John as legal representatives of the deceased inventor (GOLD, Derek Lawrence) and the declaration now sets forth the residence, citizenship and mailing addresses of both the deceased inventor and the legal representatives. Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

CONCLUSION

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

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 **25 February 2005**.

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(54) Title: PHAGE DISPLAY LIBRARIES OF HUMAN V_H FRAGMENTS

(57) Abstract: Phage display libraries are taught in which the recombinant phage population displays a plurality of potential binding fragments having preferred characteristics of solubility and/or intermolecular interaction. Also taught are methods of biasing display libraries to produce variants which more closely approximate the preferred characteristics of the parental binding fragment.

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PHAGE DISPLAY LIBRARIES OF HUMAN V_H FRAGMENTS

Field of the Invention

The present invention relates to combinatorial libraries including phage display libraries which display single domain heavy chain binding fragments having preferred characteristics of solubility.

Background of the Invention

Developments in antibody engineering and recombinant DNA technology have made it possible to generate forms of recombinant antibody fragments which, in many ways, are functional substitutes of larger intact immunoglobulin molecules. Single heavy domain antibody fragments ("dAb") have been the subject of several reports in the patent and scientific literature. The literature reports efforts to generate phage display libraries of such fragments for biopanning against a target ligand.

U.S. Patent No. 5,702,892 ('892) discloses a phage display library constructed in an M13 derived expression vector, in which recombinant phage of the library contain a polynucleotide encoding a fusion protein which comprises a phage coat protein and an immunoglobulin heavy chain binding-fragment. The heavy-chain binding-fragment spans from a position upstream of CDR1 to a position downstream of CDR3. '892 describes that the DNA sequence encoding the CDR3 region and/or the CDR1 region may be randomly varied so that the population of phage expresses a series of potential heavy chain binding domains for panning against the target ligand. U.S. Patent No. 5,759,808 discloses a phage display library comprising a population of phage based on random variation of a cDNA sequence obtained from lymphocytes of camelids previously immunized with target antigens. Camelid heavy chain antibodies occur naturally, in a composition of about 45%, as heavy chain dimers. Heavy chain antibodies specific for a target antigen may be generated by immunizing a member of the camelid species with the target antigen (see Lauwereys et al. (1998) The EMBO J. 17, 3512-3520).

Hamers-Casterman et al. (1993) Nature 363, 446-448 report that camelid heavy chain antibodies are naturally more hydrophilic at amino acid residues at locations 44, 45 and 47 (Kabat numbering system), in FR2, which corresponds to the surface where they normally

contact the VL domain. Another salient feature of a camelid V_H is that it generally has a comparatively longer CDR3 with a high incidence of cysteines and thus may form, via paired cysteines in CDR1 and CDR3, exposed loops, which are more amenable to binding into cavities such as the active site of enzymes and antibodies (Desmyter et al. (1996) Nat. Struct. Biol. Vol. 3, No. 9, p. 803). However, it has been questioned whether single domain antibodies with desired affinities can be generated with such configurations in the absence of prior immunization, i.e. with a naïve library (Lauwereys et al. (1998) supra).

The present invention discloses advances in the technology related to creating libraries containing immunoglobulin-like proteins that specifically bind target ligands eg. antigens.

Summary of the Invention

According to one aspect, the invention is directed to a library for expression of immunoglobulin heavy chain domains, said library comprising a repertoire of nucleic acid sequences each encoding a polypeptide comprising a V_H, said V_H comprising a CDR and any one, two, three or four, or five, amino acids from a group comprising 6-A, 23-A, 82a-N, 93-A and 108-Q, said repertoire comprising a diversity of sequences which differ from one another at least in a subsequence coding for part of the CDR so as to provide nucleic acid encoding a repertoire of polypeptides comprising V differing at least in said CDR and comprising at least one amino acid of said group.

In addition to a library of nucleic acid molecules, the term expression library is understood to specifically include a phage, viral, bacterial or other cell surface display library, a ribosome display library or any other functional nucleic acid expression system which permits the expression products to be screened.

According to another aspect, the invention is directed to a method for generating a V_H expression library having a diversity of CDR sequences, said method comprising: providing expression vectors, said vectors comprising a nucleic acid sequence which encodes a polypeptide comprising a V_H, said V_H comprising a CDR and any one, two, three or four, or five, amino acids from a group comprising 6-A, 23-A, 82a-N, 93-A and 108-Q; introducing by mutagenesis a diversity of CDR sequences into said V_H nucleic acid sequence; and recovering an expression library having a diversity of binding activities.

According to another aspect, the invention is directed to an expression library which expresses polypeptides comprising Vs, said library comprising a set of framework regions carrying a diversity of CDR sequences, said library having a diversity of binding activities, said frame work regions comprising one, two, three or four, or five, amino acids from a group comprising 6-A, 23-A, 82a-N, 93-A and 108-Q. The invention is also directed to a method of identifying a polypeptide comprising a V_H, which binds to a target ligand, the method comprising the steps of screening polypeptide members of this immediately aforementioned expression library for their respective ability to bind to the target ligand; and identifying at least one polypeptide member which binds to the target ligand.

According to another aspect, the invention is directed to a polypeptide comprising a V_H, said polypeptide derived from a library according to any of the preceding paragraphs.

The invention is directed to a population of variants of at least one parental V_H ligand-binding molecule (dAb), wherein said parental V_H ligand-binding molecule comprises an immunoglobulin V_H binding fragment comprising, at least in substantial part, at least the framework (FR) regions of the immunoglobulin V_H fragment depicted Figure 2, wherein said variants comprise at least in substantial part, the FR regions of the immunoglobulin V_H fragment depicted Figure 2, including at least one (and preferably all) of amino acid residues, 6, 23, 82a, 93, and 108, and differ from said parental ligand-binding molecule in amino acid residues constituting at least part of at least one of the CDRs of said parental ligand-binding molecule. Preferably said population of variants is constituted by one or more combinatorial libraries of such variants, for example, protein arrays, phage display libraries, ribosome display libraries etc.

It is to be understood that the variants may (though not necessarily) form part of another structure or molecule, for example in the case of phage display, part of the coat protein of the phage. Accordingly, the term variant is used broadly to refer to variants of the essential molecule (a ligand-binding molecule) when forming part of another structure or molecule (eg. as in phage display or ribosome display) or when independent of any such combination, eg. in the case of protein arrays whose members may not be associated with individual supporting structures/molecules.

In a particularly preferred embodiment said parental V_H ligand binding molecule and said variants comprise each of amino acid residues 6, 23, 82a, 93 and 108, depicted in Figure

2 and more preferably each of amino acid residues 6, 23, 74, 82a, 83, 84, 93, and 108 depicted in Figure 3. More preferably, said parental V_H ligand binding molecules and said variants include the entirety of the FR regions the parental V_H ligand molecule depicted in Figure 2 or 3, optionally subject to one or more additions, deletions and/or substitutions, (preferably conservative amino acid substitutions) which, if they do not improve, preferably at least do not adversely affect the solubility properties of said variants. Optionally, said parental V_H ligand binding molecules and variants additionally include, the entirety of the CDR1 and CDR2 depicted in Figure 2 or 3, optionally subject to one or more additions, deletions and/or substitutions (preferably conservative amino acid substitutions) which, if they do not improve, preferably at least do not adversely affect the solubility properties of said variants. In a particularly preferred embodiment, said parental V_H ligand molecule and said variants, additionally comprise, the entirety of CDR3 of the parental V_H ligand binding molecule depicted in Figure 2 with the exception of amino acids 100i to 100n, which are randomized to create said population of variants subject only to one or more additions, deletions, and/or substitutions, (preferably conservative amino acid substitutions) which, if they do not improve, preferably at least do not adversely affect the solubility properties of said variants. In another embodiment, said parental V_H ligand binding molecule and said variants comprise one or more amino substitutions relative to Figure 2, including any combinations thereof.

In a further preferred embodiment nucleotides corresponding to amino acid residues 3-16 are optimized to remove a putative recombination site.

For purposes herein, it is to be understood that an adverse affect on the solubility properties is to be assessed in terms of the percentage of dimer and higher aggregate forms, relative to monomer, as determined by size exclusion chromatography (i.e. the respective areas under the peaks representing monomer, dimer and higher aggregate forms, as illustrated in Figure 5).

In another aspect, the invention is directed to a ligand-binding molecule or variant which has been identified as binding to a target ligand by screening a combinatorial library of the invention for one or more ligand-binding molecules which specifically recognize said target ligand. The invention is also directed more generally to any specific such ligand-binding molecule which is derived from such combinatorial library of the invention. It is

understood herein that such specific ligand-binding molecule may be directly obtained from such a library or may be indirectly derived, for example, through the course of further antibody engineering or other modification steps (eg. creating fragments, derivatives, a secondary library, etc) using a ligand-binding molecule directly or indirectly obtained from such library. It also understood that the invention excludes known ligand-binding molecules. In one embodiment of this aspect of the invention the target ligand is a cancer antigen.

Figures 2, 3 and 4 depict variations, more fully described below, on the preferred immunoglobulin V_H ligand binding fragment and/or nucleic acid construct depicted in Figure 1. Figure 1 describes a wild-type parental immunoglobulin V_H binding fragment derived from human monoclonal antibody BT32/A6 (hereinafter referred to as "A6") partially described in U.S Patent No. 5,639,863 (hereinafter referred to as the '863 patent). As described in our co-pending application PCT/CA00/01027, the contents of which are hereby incorporated by reference, A6 has preferred solubility and other characteristics which lend themselves well to the creation of libraries, including naïve libraries, of various types of human immunoglobulin fragments including dAbs as more fully described below. Accordingly, A6, and in particular, as more fully described below, at least a substantial part of the framework (FR) regions of the A6 V_H fragment depicted in Figure 2, alone or in combination with features of its CDR3, provides a useful departure point, in the form of a parental ligand-binding molecule, for the randomization or partial randomization of amino acid residues which tend to play a predominant role in ligand-binding, namely the CDR regions of the heavy chain and particularly the CDR3 of the heavy chain. As more fully described below, the nucleic acid changes (removal of the recombination site) relative to A6 wild-type (Figure 1) reflected in Figure 4 may be incorporated into Figures 2 and 3 respectively.

The combinatorial library of the invention may be generated by phage display. In a preferred embodiment of one aspect of the invention, the invention is directed to a phage display library displaying a plurality of different variants of a parental V_H ligand-binding molecule, wherein said parental ligand-binding molecule comprises an immunoglobulin V_H binding fragment comprising, at least in substantial part, at least the FR regions of the immunoglobulin V_H fragment depicted in Figure 3 including at least one of amino acid residues 6, 23, 74, 82a, 83, 84, 93 and 108, and wherein said variants are encoded by nucleic

acid sequences which vary from the nucleic acid sequence encoding said parental ligand-binding molecule in a subsequence (at least one) encoding at least part of one of the CDRs of said parental ligand-binding molecule, preferably the CDR3, whereby said plurality of variants comprise at least, in substantial part, the FR regions of the immunoglobulin V_H fragment depicted in Figure 3, including at least one of said amino acid residues and are differentiated, at least in part, by amino acid variations encoded by variations in said subsequence.

In a preferred embodiment, in addition to substantial preservation and optional improvement of the FR regions of A6, the A6-based parental ligand molecule comprises (and therefore preserves within members of the library), in substantial part (subject to at least partial randomization of selected regions of one of the CDRs (preferably the CDR3), to create binding diversity within the library, one or more of the CDR regions of the A6 V_H fragment. In a further preferred embodiment, at least the length of the wild-type V_H CDR3 (23 amino acids) and preferably also elements of its amino acid composition, is preserved or at least partially preserved (approximately16-23 amino acids and more particularly 18 to 23 amino acids). Optionally the CDR3 may also be lengthened by approximately 1 to 10 residues. The library may optionally have representation of binding molecules having CDR3s of varying lengths.

It is known that a dAb molecule, due to the removal of its light chain partner, tends to, in most, if not all cases, aggregate, in varying degrees due to the "sticky" nature of the VL interface. This stickiness is attributable, at least in part, to the hydrophobic nature of the V_H residues at this interface. This stickiness results in substantial dimer and/or multimer formation which may reduce, on the whole, the solubility characteristics of members of the library. Accordingly, in a further preferred aspect of the invention A6 V_H amino acid residues at the VL interface are substituted by residues which tend to minimize aggregate formation, for example, hydrophilic amino acids, including one or more of the highlighted substitutions reflected in Figure 8, relative to Figure 1.

Alternatively, in yet a further preferred embodiment of the invention, more fully described below, such substitutions are not fixed within the entire population of the library, but are introduced by randomizing or partially randomizing various A6 V_H amino acid residues, particularly including FR residues, among the residues at the interface. (see for

example, Padlan et al "Anatomy of the Antibody Molecule" Molecular Immunology Vol. 31, p169-217, Table 25 for itemization and related discussion of these residues).

Particularly in the case of larger size libraries, for example those generated by ribosome display, it is possible to introduce diversity in one or more FR regions containing amino acid residues identified herein as important for improving solubility properties, in addition to one or more regions affecting the specificity of the dAb, eg. the V_H CDR3 and CDR1.

Alternatively, in yet a further preferred embodiment of the invention, FR regions, other than, or in addition to, modifications to the VL interface (FR2) may be modified by at least partial randomization, for example, one or both of FR1 (one or more of residues 4 to 21) and FR4 (one or more of residues 100o to 113) to improve, on the whole, the solubility characteristics of members of the library (for example, biasing at least some and preferably all of one or both of these sets of residues [at least 70% or more], preferably 90% in favour of the parental amino acid constitution to achieve 10% randomization).

In the case of A6 dAb fragments, it has been found that recombination events within the nucleic acid sequence encoding the V_H binding fragment tend to result in deletions yielding shorter molecules, with possible compromise in binding characteristics. Thus, in a further preferred aspect of the invention nucleic acid sequences which promote such recombination events (at putative recombination sites) are substituted, to oppose this tendency, preferably in a manner that does not result in an amino acid change. These changes may be incorporated, for example, into the nucleotide sequences encoding the parental V_H ligand-binding molecule depicted in Figure 2 or 3.

In particularly preferred aspects, the present invention provides a heterogeneous population of genetic packages (eg. phage) having a genetically determined outer surface protein, wherein the genetic packages collectively display a plurality of different, preferably human (i.e. having substantial identity, preferably at least 80% homology to human framework and other conserved regions) V_H ligand-binding fragments, each genetic package including a nucleic acid construct coding for a fusion protein which comprises at least a portion of the outer surface protein and a variant of at least one soluble parental ligand-binding fragment preferably derived from or having a substantial part of the FR regions of the amino acid sequence identified in one of Figures 2 or 3 (or a sequence at least 80%,

preferably 85 to 100%, more preferably 90-100%, homologous (% identity) thereto), including at least one and preferably all of amino acid residues 6, 23, 82a, 93 and 108 depicted in Figure 2 or 3, wherein the variant V_H ligand-binding fragments preferably span from a position upstream of an immunoglobulin heavy chain CDR1 to a position downstream of CDR3 (preferably including substantially all of FR1 and/or FR4), and wherein at least part of a CDR, preferably the CDR3, is a randomly generated variant of a CDR of said parental V_H ligand binding-fragment and wherein the fusion protein is preferably expressed in the absence of an immunoglobulin light chain whereby the variant V_H ligand-binding fragments are, on the whole, better adapted to be or better capable of being expressed as soluble proteins. Various combinations of 2,3 and 4 substitutions relative to wild-type A6 at amino acid residues 6, 23, 82a, 93 and 108 are also contemplated by the invention.

In yet another embodiment of the invention, by biasing the amino acid constitution, preferably on an individual amino acid by amino acid basis, in favor of the wild-type or parental amino acid constitution, even portions of the parental ligand-binding molecule that are randomized in favor of generating variability in the variant binding fragments can be engineered to maintain favorable solubility characteristics of the parental binding domain. In one embodiment of the invention, a portion of the construct encoding at least part of the CDR3 is biased or partially biased in favor of the parental amino acid constitution.

In a further preferred embodiment, the parental V_H binding-fragment naturally has a long CDR3 that is amenable to forming exposed loops for binding into cavities. In a most preferred embodiment, the parental V_H ligand-binding fragment is built on a human framework or is adapted from or adaptable to a human framework.

In another preferred embodiment, the preferred binding region of the variants (corresponding to the randomized or partially randomized part of the CDR3) is located in carboxy terminal region of the CDR3.

In summary, according to a preferred embodiment of the invention, a substantial part of the amino acid sequence identified in Figure 2, preferably including at least part of the CDR3, supplies the preferred amino acid constitution of the various preferred parental ligand-binding molecules, such that a population of variant heavy chain ligand-binding molecules built on this framework of amino acids are on the whole better adapted to be or better capable of being expressed as soluble proteins.

Generally, the importance of amino acid residues 6, 23, 82a, 93, and 108, shown in Figure 2, particularly when all five are combined, is that they can be used to significantly augment the solubility properties of a parental V_H ligand binding fragment, preferably one, like A6, that has useful solubility properties to begin with, to produce a library of dAb variants for panning against a target ligand, said variants on the whole being better adopted to be or better capable of being expressed as soluble proteins.

Brief Description of the Drawings

The invention will now be described with reference to the drawings, wherein:

Figure 1 is a sequence diagram showing the A6 V_H ligand-binding molecule from which we construct parental V_H ligand binding molecules according to the invention.

Figure 2 is a sequence diagram showing a preferred parental V_H ligand-binding molecule (A6V_H-L1) according to the invention, incorporating amino acid substitutions E6A, S23A, S82aN, 93A and T108Q.

Figure 3 is a sequence diagram showing the A6V_H-L2 ligand-binding molecule according to the invention, incorporating 3 additional amino acid substitutions at positions 74, 83 and 84.

Figure 4 is a sequence diagram showing the A6V_H ligand-binding molecule (encoded by A6 chi (-)) according to the invention, in which nucleic acids corresponding to amino acids 3 to 16 of A6 have been modified to remove a putative recombination site, leaving the amino acid constitution of A6 unchanged.

Figure 5 is a size exclusion chromatogram of A6V_H-L1 dAb following IMAC purification comparing A6V_H-L1 (plot A) to wildtype A6V_H (plot B) and showing a much greater proportion of monomer (represented by the largest peak). Plot C represents a camelized version of A6 with amino acid substitutions of positions 44, 45, 47 and 94 as described herein and in the literature.

Figure 6 is a size exclusion chromatogram of Yst9.1-L3-9, which was used for binding against Yst9.1 scFv, depicted in Figure 7.

Figure 7 is a sensorgram showing the binding of 10 (M Yst9.1-L3-9 binding to immobilized Yst9.1 scFv. The control surface (BSA) data has been subtracted from the

active surface (Yst9.1) data in this sensorgram. The rate constants were calculated by separate fitting of the association (fit shown) and dissociation data to a 1:1 interaction model.

Figure 8 is a sequence diagram showing amino acid substitutions for optional camelization according to one embodiment of the invention.

Figure 9 is a diagrammatic representation of vector, SJFI, used to create the vector into which the library may be cloned.

Figure 10 is a sequence diagram depicting the library construction strategy for library A6V_H-L1.

Figure 11 is a sequence diagram depicting the library construction strategy for library A6V_H-L1a.

Detailed Description of Preferred Embodiments

In a preferred embodiment, the invention is directed to a population of genetic packages having a genetically determined outer surface protein including genetic packages which collectively display a plurality of different ligand-binding molecules in association with the outer surface protein, each package including a nucleic acid construct coding for a fusion protein which is at least a portion of the outer surface protein and a variant of at least one soluble parental ligand-binding molecule derived from or having the amino acid sequence identified in Figure 2 (or a sequence preferably at least 80% homologous to the framework and conserved regions thereof), which includes at least one and preferably all of amino acids 6, 23 82a, 94 and 108 shown in Figure 2 (or conservative substitutions of those residues which, if they do not improve, at least do not adversely affect the solubility properties of said parental V_H ligand binding molecule), wherein at least part of the construct, preferably including at least part of the CDR3 identified in Figure 2, encodes or is biased in favor of encoding, the amino acid constitution of the parental ligand binding fragment such that the plurality of different ligand-binding domains are on the whole better adapted to be or better capable of being expressed as soluble proteins. The variant V_H ligand-binding molecules are preferably characterized by a CDR3 having 16 to 33 amino acids.

Preferably, the replicable genetic package is a recombinant phage and the heterogeneous population of replicable genetic packages collectively constitute a phage display library.

In a further embodiment, the VL interface is engineered to avoid hydrophobic amino acids. In another embodiment, the VL interface is engineered for amino acids, which form weak interactions. In another embodiment the parental ligand binding molecule has a camelid type VL interface. In another embodiment, at least one of the VL interface amino acids are randomized or partially randomized in the construction of the library.

Preferably the potential V_H binding fragments include the entire FR1 through to FR4 regions, although it is to be understood that partial deletions, for example, within CDR2, are contemplated to be within the scope of the invention.

Preferably, CDR3s of a variety of different lengths from 16 to 33 amino acids are predominantly represented among the potential V_H binding fragments. Preferably CDR3s of a variety of different lengths, from 18 to 28 amino acids, or from 20 to 25, or from 18 to 23, amino acids are predominantly represented in the library. In a preferred embodiment of the invention, the parental V_H ligand-binding fragment is built on a human framework and preferably is the parental V_H ligand-binding fragment identified in Figure 2 which has a CDR3 of 23 amino acids in length.

More importantly, the invention encompasses a phage display library which is constructed using a parental V_H ligand-binding molecule derived from native A6V_H (Figure 1), or is built on any framework which is at least 80% (preferably 85%, more preferably 90 to 95%) homologous to the framework and other conserved regions of a fully human V_H chain. The invention also contemplates that the parental V_H binding-fragment, though not human, is adapted (egg. humanized) or adaptable (egg. to be adapted after selection of preferred binders) to a human framework.

In another embodiment, the invention also contemplates the random, biased or fixed occurrence of features disclosed in the camelid literature, for example pairable cysteines in CDR1 and CDR3 (optional) and/or the substitution of hydrophilic amino acids at least one of positions 44, 45, and 47 and preferably also positions 93 and 94 (Kabat numbering system).

In a most preferred embodiment of the invention, the parental ligand-binding molecule is a V_H fragment derived from a human IgM heavy chain, and preferably comprises FR1 through FR4 of the V_H chain. A partial sequence of the preferred antibody BT32/A6 (A6) is disclosed in U.S. Patent No. 5,639,863, incorporated herein by reference. The entire sequence is supplied now in Figure 1.

In Figure 1, the CDR regions are demarcated. The amino acid residue numbers in Figure 1 and throughout the disclosure refer to the Kabat numbering system (Kabat et al. 1991, Sequences of Proteins of Immunological Interest, publication No. 91-3242, U.S. Public Health Services, NIH, Bethesda MD) except in the sequence listings and where explicitly stated or otherwise implied. Figure 1 corresponds to SEQ. ID. NO. 1 (nucleic acid) and SEQ.ID. NO. 2 (amino acid). Figure 1 demarcates and labels regions CDR1 (corresponding to SEQ. ID. NO. 3), CDR2 (SEQ. ID. NO. 4) and CDR3 (SEQ. ID. NO. 5).

The A6 framework provides preferred solubility characteristics for creating dAb libraries. The term preferred solubility characteristics, as used herein, refers to at least one of the several, often correlated, characteristics including good yield, expression as a soluble product (as opposed to inclusion bodies) within the periplasm of the host organism, eg. *Escherichia Coli,* and a reduced tendency to dimerize and form other aggregates.

The term "V_H" is used to refer to the variable heavy chain domain and variants thereof made by routine skill in the art, including known forms, truncated and fusion protein forms thereof, which variants retain its essential binding characteristics. This term is used interchangeably with the terms such as V_H binding fragment, V_H ligand binding fragment, dAb and immunoglobulin V_H fragment, to which the same meaning is ascribed.

The term "subsequence" is used to refer to a subset of nucleotides within a referenced nucleic acid sequence and includes a single nucleotide and consecutive and non-consecutive nucleotides within a sequence of greater than two consecutive nucleotides.

The terms "polypeptide", "peptide" and "protein", unless the context implies otherwise, are used interchangeably herein, to refer to polymers of amino acid residues of any length.

The term "combinatorial library" is used herein to refer to a set of molecules, typically belonging to a defined (narrowly or broadly) class comprising a substantial number of potentially useful variants, wherein the variations in the molecule represent a complete or partial set of permutations or combinations of at least some constituent elements of a reference molecule, which is typically a template or "parental" molecule, or simply the class itself. For clarity, in the case of polypeptides and nucleic acids, the constituent elements are amino acids and nucleic acid bases, respectively.

As used herein, the phrase "in substantial part" refers to variations relative to a referenced molecule which do not significantly impair the "functionality" of that molecule. In the case of the parental ligand-binding molecule and variants thereof, functionality refers primarily to the solubility and binding characteristics of the molecule. Such variations (i.e. the referenced molecule in substantial part) can be tested systematically to assess their impact. In the case of framework regions, in contrast to CDR regions, due to the substantial conservation of the framework amino acid residues, a substantial part of the framework would preferably refer to at least 80% identity of the amino acid residues and more preferably an 85 to 100% identity, and even more preferably at least a 90% identity of the amino acid residues. However, it is understood that each of the previous percentages could be relaxed to discount instances where the absence of identity in a given residue, is due to a well recognized conservative amino acid substitution, or where a particular class of functionality is noted, e.g. hydrophilic, if the substitution is with a residue of the same class. In the case of CDR residues, these numbers could be considerably even more relaxed, and includes 50 to 100% homology, and all incremental percentages and all ranges of percentages therebetween. The term "in substantial part", in reference to portions of framework and CDR regions, also contemplates the possibility of additions and deletions in those regions which preferably do not impact the solubility and binding characteristics of the ligand-binding molecule in question.

The term ligand-binding fragment is used broadly to define the whole or any part of an antibody that is capable of specifically binding to any ligand, in the broadest sense of the term ligand.

An A6-based human heavy domain ligand-binding-fragment is well suited for the development of a combinatorial library (optionally a phage display library) that is used to generate soluble binding fragments that are useful for human diagnosis and therapy (due to limited HAMA response). These phage display libraries are used to selectively generate molecular probes that specifically interact with a ligand, including without limitation, natural and synthetic molecules and macromolecules and can be used *in vitro* (i.e., a diagnostic) and *in vivo* (i.e., a diagnostic and/or therapeutic) as indicators, inhibitors and immunological agents. The types of natural and synthetic molecules and macromolecules include but are not limited to: antibodies and fragments thereof; enzymes; cell receptors; proteins, polypeptides,

peptides; polynucleotides, oligonucleotides; carbohydrates such as polysaccharides, oligosaccharides, saccharides; lipids; organic-based and inorganic-based molecules such as antibiotics, steroids, hormones, pesticides, herbicides, dyes, polymers.

Conventional antibodies such as those found in human or murine species are composed of two identical light chains and two identical heavy chains. The combining sites of these antibodies are formed by association of the variable domains of both chains. This association is mediated through hydrophobic interactions at the interface. Structural and biochemical studies have shown that the heavy chain variable domain (V_H) provides most of the antigen-contacting residues (Padlan, 1994) (Chothia & Lesk, 1987) (Chothia, Novotny, et al., 1985). This finding has formed the basis for the development of single heavy domain antibodies (dAbs) - recombinant antigen binding fragments consisting of only the V_H (Ward, Gussow, et al., 1989) (Cai & Garen, 1996). However, in the absence of their VL partners, V_Hs have been found to be insoluble, presumably because of the exposed hydrophobic VL interface (Ward, Gussow, et al., 1989). Heavy chain antibodies, found in camelids (Hamers, Atarhouch, et al., 1993) (Sheriff & Constantine,), lack light chains and as a result have variable domains that reflect the absence of a VL partner. Single domain antibodies derived from these antibodies are highly soluble and the structural basis of solubility has been partially elucidated. First, conserved human/murine interface residues such as Val37, Gly44, Leu45 and Trp47 are generally replaced in heavy chain antibodies by tyrosine or phenylalanine, glutamate, arginine or cysteine, and glycine, respectively. These mutations increase the hydrophilicity of the VL interface either by non-polar to polar substitutions or, in a more subtle way, by inducing local conformational changes (Desmyter, Transue, et al., 1996) (Spinelli, Frenken, et al.,). This explanation is supported by experiments in which an insoluble human V_H was made soluble by introducing the aforementioned mutations at positions 44, 45 and 47 (Davies & Riechmann, 1994). Second, in the solved structures of two camel dAbs, the CDR3s fold back on the V_H surface, masking a significant surface area of the VL interface (Desmyter, Transue, et al., 1996)(Decanniere, Desmyter, et al., 1999).

Several other features of V_HHs are noteworthy. One is the frequent occurrence of the cysteine residues in CDR1 and CDR3 (Muyldermans, Atarhouch, et al., 1994) (Lauwereys, Arbabi, et al., 1998 (Vu, Ghahroudi, et al., 1997). While the location of the CDR1 cysteine is typically fixed at position 33, that of the CDR3 cysteine varies. These two residues form a

disulfide linkage between CDR1 and CDR3 (Desmyter, Transue, et al., 1996) (Davies & Riechmann, 1996). In the crystal structure of a dAb-lysozyme complex, the disulfide linkage imparts rigidity on the CDR3 loop which extends out of the combining site and penetrates deep into the active site of lysozyme (Desmyter, Transue, et al., 1996). A second feature is the longer average length of the V_HH CDR3, relative to human or murine V_Hs (Muyldermans, Atarhouch, et al., 1994). A longer CDR3, which is a feature of A6, increases the antigen binding surface and, to some extent, compensates for the absence of the antigen binding surface provided by the VL in conventional antibodies (Desmyter, Transue, et al., 1996). A third feature is the absence of the CDR3 salt linkage that is typically present in conventional antibodies and formed by arginine or lysine residues at position 94 and aspartate at position 101 (Desmyter, Transue, et al., 1996) (Muyldermans, Atarhouch, et al., 1994) (Spinelli, Frenken, et al., 1996) (Davies & Riechmann, 1996) (Chothia & Lesk, 1987) (Morea, Tramontano, et al., 1998).

As antigen binding fragments, dAbs are an attractive alternative to scFvs because of their much smaller size and the fact that they demonstrate affinities comparable to those demonstrated by scFvs (Ward, Gussow, et al., 1989) (Spinelli, Frenken, et al., 1996) (Lauwereys, Arbabi, et al., 1998) (Davies & Riechmann, 1995) (Arbabi, Desmyter, et al., 1997) (Reiter, Schuck, et al., 1999). Smaller size is an advantage in applications requiring tissue penetration and rapid blood clearance. Smaller molecules also offer a tremendous advantage in terms of structural studies (Davies & Riechmann, 1994) (Constantine, Goldfarb, et al., 1992 (Constantine, Goldfarb, et al., 1993).

Phage antibody library construction is much simpler and more efficient if single domain antibodies (dabs) are used instead of Fabs or single chain Fvs. Randomization can be introduced at a much higher percentage of CDR positions without exceeding practical library size. The problem of shuffling original VL-V_H pairings is also avoided. Camelid phage dAb libraries constructed from the V_HH repertoire of camels immunized with target antigens have performed well (Arbabi, Desmyter, et al., 1997) (Lauwereys, Arbabi, et al., 1998) (Decanniere, Desmyter, et al., 1999). However, construction of libraries from immunized camels presents obvious problems. In addition, the non-human nature of products from these libraries limits their usefulness. Synthetic dAb libraries (Davies & Riechmann, 1995)

(Reiter, Schuck, et al., 1999), particularly those based on a human V_H framework, alleviate these problems.

As described in detail in Example 1, a dAb phage display library, according to the invention was constructed by randomizing positions 100i – 100n of the parental V_H ligand binding fragment identified in Figure 2 (A6V_H-L1)

The actual library size was 2.4 x 108 with 6.4 x 107 possible sequences. The sequences of 27 clones randomly picked from the unpanned library confirmed the integrity of the library (Table 1).

Table 1. Sequences of the randomized region (100i-n) of randomly picked clones from the A6V_H-L1a library.

1.	DQFTHS	15.	CVRGAE
2.	SSMYGN	16.	SPSLAA
3.	IKMQQN	17.	HASGRS
4.	SVDARD	18.	GYMCSL
5.	VSRFGA	19.	HNKDLA
6.	GLGSPK	20.	LADLYM
7.	IDAKWA	21.	WRRAHE
8.	VSRFGA	22.	SDLFAR
9.	HCLPDG	23.	VSRFGA
10.	RWR?VP	24.	RYRHST
11.	VSRFGA	25.	ARLAGP
12.	LECEGC	26.	SYRPYL
13.	RNVGAL	27.	VVLGNS
14.	RRSDYL		

As shown in Figure 5, this potential V_H ligand binding fragment shown has a substantially improved percentage of monomer relative to A6 wild-type .

The A6V_H-L1 library was panned against the anti-FLAG IgG M-2, H11 scFv and Brucella scFv.

M-2 Results

Three rounds of panning were performed. Twenty one clones from rounds 2 and 3 were sequenced (Table 2). The motif recognized by M-2 is XYKXXD. As we observed previously with the camelized A6V_H library, the epitope was preferentially positioned at the C-terminus of the randomized region with the D residue of non-randomized FDI sequence forming part of the epitope. As shown in Table, the sequences of the M-2 binders identified by phage ELISA reasonably reproduce the motif recognized by M-2.

Table 2. Sequences of M-2 binders identified by phage ELISA.

Sequence	# of clones
(A) deleted constructs	
EVQLQAS-----SGYYEDDYRLFDIWGQGTQVTVSS	6
EVQLQASGGGLVQP-----GYYDSSGYYKDLDTRFDIWGQGTQVTVSS	1
EVQLQASGGGLVQPGGSLRLS----RLKVEYYDSSYYGDHYKWFDIWGQ GTQVTVSS	**1**
(B) Full length constructs (CDR3 only)	
DRLKVEYYDSSGYYRNEYKEFDI	1
DRLKVEYYDSSGYYVDEYKSFDI	1
DRLKVEYYDSSGYYAGRYKDFDI	1
DRLKVEYYDSSGYYRSDYKRFDI	1
DRLKVEYYDSSGYYASHYKDFDI	1
DRLKVEYYDSSGYYVDGYKDFDI	1
DRLKVEYYDSSGYYTADYKMFDI	1
DRLKVEYYDSSGYYDMDYKTFDI	1
DRLKVEYYDSSGYYKS?YKSFDI	1
DRLKVEYYDSSGYYDYKSQDFDI	1
DRLKVEYYDSSGYYKNWDSTFDI	1
DRLKVEYYDSSGYYKDWDSSFDI	1
DRLKVEYYDSSGYYKDGDSFFDI	1

H11 Results

Three rounds of panning were performed in each instance. No deleted sequences were observed for either antigen.

Twenty -one H11 binders were sequenced. The sequence FSSP is present in 13 of the 21 H11 binders (Table 3).

Table 3. CDR3 sequences H11 binders identified by phage ELISA. The randomized region is shown in bold.

CDR3	# of clones
(A) H11 scFv	
DRLKVEYYDSSG--YSFSSPFDI	7
DRLKVEYYDSSGYYYDFSSPFDI	3
DRLKVEYYDSSGYYNLFSSPFDI	1
DRLKVEYYDSSGYYSEFSSPFDI	1
DRLKVEYYDSSGYYSDFSSPFDI	1
DRLKVEYYDSSGYYTDMSWEFDI	1
DRLKVEYYDSSGYYDLGSWEFDI	1
DRLKVEYYDSSGYYDYVSWEFDI	1
DRLKVEYYDSSGYYDWGSWTFDI	1
DRLKVEYYDSSGYYDG?TWDFDI	1
DRLKVEYYDSSGYYWEGSGLFDI	1
DRLKVEYYDSSGYYIWYSGLFDI	1
DRLKVEYYDSSGYYSSWASAFDI	1

Brucella scFv (Yst9.1)

Clones obtained by panning against Yst9.1 scFv were selected for expression. Two clones had VSRFGA sequence. The VSRFGA dAb was designated Yst9.1-L3-9.

The VSRFGA clone was expressed in good yield (approximately 18 mg/liter of bacterial culture) and was characterized by BIACORE.

Yst9.1-L3-9 dAb Binding to Immobilized Yst9.1 scFv

Following IMAC, the dAb was purified by Superdex 75 size exclusion chromatography prior to BIACORE analysis. It gave an elution profile that was similar to the parent A6V_H-L1 molecule (Figure 6).

For the determination of binding kinetics and affinities, the purified dAb was injected over active (1800 RU of Yst9.1) and reference surfaces (9400 RU of BSA) to generate the sensorgram and constants presented in Figure 7. The Yst9.1 surface was regenerated with 10 mM HCl (6 sec contact). All proteins were immobilized on CM5 chips by amine coupling. A 2000 RU H11 scFv surface was also used as a reference. The dAb did not bind to BSA. The subtracted data, using the BSA surface as a reference, for dAb binding to Yst9.1 scFv fit quite well to a 1:1 interaction model. A KD of 117 nM was calculated.

According to another embodiment of the invention, the parental ligand-binding fragment has additional amino acid substitutions at VL interface which reduce the tendency to aggregation attributable to the "stickiness" of the V_H dAb at this interface. For example, substitutions at positions 44, 45 and 47 relative to the wild-type A6V_H (Figure 1) are illustrated in Figure 8.

According to another preferred embodiment of the invention, the parental ligand-binding fragment has a long CDR3.

In a particularly preferred embodiment, the library is constructed using the A6V_H-L1 parental V_H ligand binding molecule as a template and preserves the entire length of this CDR3 and, additionally, at least one of positions 44, 45, 47 and 94 (and preferably all) is altered, (preferably including 44 or 45) to camelid type residues.

Davies and Riechmann (1995) constructed a camelized dAb library by randomizing CDR3 amino acid residues but the library was ten times larger and yielded anti-hapten dAbs with dissociation constants in the range of 100-400 nM. However, the isolated anti-protein dAbs had weak affinity (Davies & Riechmann, 1995) (Davies & Riechmann, 1996). Therefore, a smaller library such as the one constructed here may therefore contain only weak anti-protein dAbs. The isolation of such dAbs would be difficult with monovalent display (Lowman, Bass, et al., 1991). In a phage vector format the dAb are displayed 3-5 copies and therefore there is potential for avidity which increases the likelihood of isolating weak binders (Nissim, Hoogenboom, et al., 1994).

Additional embodiments of the randomization strategy for the libraries of the invention, are described below.

The present inventors have also found a method of enhancing the probability that the binding fragments displayed in the library have characteristics which approximate the desired solubility characteristics found in the wild type binding fragment. During construction of the library, nucleotides of the variable region are added in a step-wise addition and by selecting a nucleotide ratio which is biased in favor of producing amino acids which reflect the DNA of the parental or wild type species.

Thus, a method for biasing a library in favor of obtaining selected percentages of wild type amino acid residues is achieved by creating residue substitutions by using different spiking levels of the various dNTPs as described below. When creating a phage library, the randomization of amino acids is often achieved by DNA synthesis. A primer is annealed next to DNA encoding for the variable region, and nucleotides are randomly added to synthesize randomized variable regions. Normally, at the step of synthesizing the DNA used to produce the variable region of the phage library, one uses a nucleotide ratio of 1:1:1:1, which generates a totally random variable region. By the present method, during synthesis of the variable region, the likelihood of achieving affinity or other desirable traits found in the wild type as follows. At each step of adding a nucleotide to the DNA variable region, one selects a dNTP ratio which is biased in favor of producing amino acids which reflect the DNA of the parental (wild type) species.

Table 4 charts particular amino acid residues or sequences of residues and preferred types of amino acid substitutions according to various examples of the invention to be defined hereafter. The selection of amino acids for randomization or partial randomization is based on adopting one or more of a variety of approaches including one of more of the following:

1. universal recognition of wild-type amino acids through a broad-based biasing in favour of the wild-type amino acids in one or more regions of interest (approximately 10%-90% biasing) in order to maintain the characteristics of the parental V_H ligand-binding molecule;

2. selective recognition of amino acids that are important to maintain as wild-type through biasing (approximately 10-100%) in order maintain conserved or strategic regions of amino acid residues of the parental V_H ligand-binding molecule; and
3. recognition of selected amino acids as important for intermolecular interaction and biasing those amino acids to wild-type and amino acids of the same type.

Table 4

Amino Acid Residue #s	Description of Various Preferred Amino Acid Constitutions
a. At least one of 100a-100h, preferably at each position of 100a-100h	Randomize; At least approximately 10% biasing in favor of wild-type amino acids; At least approximately 50% biasing in favor of wild-type amino acids; At least approximately 90% biasing in favor of wild-type amino acids; Randomize, but bias 100f to wild-type (approximately 10-100%)
b. At least one amino acid of: 100a-100b and 100g-100h preferably at each position of 100a-100b and 100g-100h	Randomize; Randomize with bias to wild-type (approximately 10-100%), preferably at least approximately 50% wild-type, alternatively at least approximately 90% wild-type amino acids; Randomize with bias to one of the amino acids selected from the group consisting of tyrosine, histidine, glutamine, asparagine, lysine, aspartic acid and glutamic acid (approximately 10-100%)
c. At least one of 100b-100g, preferably at each position of 100b-100g	Randomize; Delete;
d. 100a-100h	Random additions of up to 10 amino acids; Random deletions of up to 7 amino acids;
e. 95-100o	Randomize; Random additions of up to 10 amino acids; Random deletions of up to 7 amino acids;
f. At least one of 95-100, preferably at each position of 95-100	Randomize; Randomize with bias to wild-type (approximately 10-100%), preferably at least approximately 50% wild-type, or preferably at least approximately 90% wild-type amino acids; Invariant (primer spans this region)
g. 101-102 conserved amino acids	Invariant (primer spans this region) N/A

i. At least one amino acid of 100a-100b, 100g-100h and 100l-100o, preferably at each position of 100a-100b, 100g-100h and 100l-100o	Randomize with bias to wild-type (approximately 10-100%), preferably at least approximately 50% wild-type, more preferably at least approximately 90% wild-type amino acids; Randomize with bias to one of the amino acids selected from the group consisting of tyrosine, histidine, glutamine, asparagine, lysine, aspartic acid and glutamic acid (approximately 10-100%); Bias to aromatic amino acids (10-100%)
j. 95-100h	Randomize but maintain any 5-10 consecutive amino acids as wild-type
k. 100a-100o	Randomize but maintain any 5-10 consecutive amino acids as wild-type

Unless otherwise necessarily implied as a result of logistical considerations, it is to be understood that the various embodiments which relate to choice of amino acids for random, biased or fixed substitution (specified in column 1) as well as the various embodiments related to types of substitutions (column 2) are not mutually exclusive. Moreover the various permutations and combinations of such substitutions are hereby contemplated as embodiments of the invention. For example, substitutions referred to in row a. (any one or more amino acids and preferably all amino acids of residues 100a – 100h) #3 (at least approximately 50% wild-type amino acids) may combined with row b. (any one or more and preferably all of amino acids residues 100a, 100b, 100g and 100h) #2 (for instance, at least approximately 90% wild-type amino acids) so that, for instance, any 3 of the amino acids in 100a – 100h are biased in favor of wild-type in approximately 50% of the variant V_H ligand-binding fragments and 100a and 100b are biased in favor of wild-type in 90% of potential binding fragments.

By necessary implication the three amino acids that are biased in favor of wild-type are not residues 100a and 100b, but they may be any other three residues. Accordingly, the broadest possible interpretation is to be given to the disclosure of the various combinations and permutations of the embodiments disclosed herein. Furthermore, it is to be understood that each of the various embodiments described herein are disclosed, except insofar as logistically impossible, in reference to each of the various aspects and definitions of the invention. Moreover, it is to be understood that phrases such as at least approximately 10%, or approximately 10-100% are intended to specify a preference for each of the unit percentages between about 7 and 100% that are practically achievable by oligonucleotide primer design and PCR amplification described herein below, as well as other well known

PCR techniques and techniques of Controlled Mutation described in the art, and routine variations of such techniques. By the same token, phrases such as at least 80% are intended to specify a preference for each of the unit percentages between 80% and 100%. It is to be understood that biasing of a percentage less than 100% implies unless otherwise implied or stated that the remaining percentage is fully randomized. Furthermore, it is to be understood, for example, that 90% biasing in favor of wild-type amino acids at a given amino acid position is to be approximated by controlling the percentage amounts of each of the three relevant nucleotides (so that, for example, the product of the probabilities of occurrence of the three desired nucleotides in sequence in the growing chain is 90%) so as to supply 90% of correct coding triplet(s) and a total of 10% of random coding triplets, having regard to the degeneracy of the genetic code (for example if two different coding triplets result in a given amino acid, then the sum of the probabilities of achieving those two triplets will have to equal 90%). This is preferably accomplished on an amino acid by amino acid basis so that, for example the probability of achieving two and three wild-type amino acids in sequence, in the case of 90% biasing is 0.81 and 0.73, respectively, etc. It is to be understood that this high level of biasing may be suitable only for part of the coding sequence into which variability is introduced and that higher levels of biasing are acceptable, when for example substantially all of the amino acids of a long CDR3 are biased, as disclosed in one of embodiments herein.

Accordingly there is a balance to be struck between a large diverse library and biasing for multifactorial characteristics such as solubility. Nevertheless it is contemplated that the library produced may be a pooled library in which several libraries each having varying degrees of biasing to wild-type, for example, 60%, 50%, 40% and 30%, are pooled together to obtain the both desired variability and similarity. The preferred parental binding-fragment may be engineered to maximize the desired characteristic (e.g. solubility, intermolecular interaction) and then made the subject of libraries with varying degrees of biasing. In this connection, the library could be biased to be rich in amino acids, which are highly soluble. It is to be understood that both arms (halves) of the preferred longer loop forming CDR3s may be biased to amino acids that are favored for intermolecular interaction, preferably charged amino acids, so as to provide a method of generating, in addition to loop size, varying loop structures. This bias may be systematically introduced or systematically reduced by randomization, in cooperating pooled libraries having varying degrees of biasing.

With respect to the application of these methods to parental V_H, preferably, CDR3s of a variety of different lengths from 16 to 33 amino acids are predominantly represented among the variant V_H ligand-binding fragments. Preferably CDR3s of a variety of different lengths, from 18 to 25 amino acids, or, from 18 to 23 amino acids are predominantly represented in the library. Although the term "predominant" ordinarily implies a majority representation of the specified long CDR3 variant V_H ligand-binding fragments, the invention also contemplates an even less substantial representation, especially within a reasonably large size library ($>10^7$). Preferably, the specified long CDR3 variant V_H ligand-binding fragments have a majority representation within the library and more preferably an even greater or exclusive representation.

Optionally, the parental V_H ligand-bindingmolecule is reduced in size and the parental V_H ligand-binding molecule is optionally modified by deleting a portion of the CDR2. In another embodiment, CDR3s of the same length as that of the parental V_H ligand-binding molecule are predominantly or exclusively represented in the variant V_H ligand-binding fragments.

In another aspect, the CDR3 region is specifically retained along with human sequence elements of other regions that confer favorable characteristics solubility, to create a phage display library having favorable characteristics of solubility, preferably when compared with variant V_H ligand-binding fragments that have fully randomized hypervariable regions (particularly CDR3). In particular, the present inventors have found that favorable solubility characteristics of a parental V_H ligand-binding molecule can be maintained in the population of variant V_H ligand-binding fragments in the course of randomizing the hypervariable regions by biasing all or selected amino acids residues to wild-type and/or biasing in favor of amino acids residues that favor certain or a variety of types of intermolecular interaction. This is respectively accomplished by increasing the percentage amounts of nucleotide bases that represent wild-type amino acids and/or amino acids that provide favorable intermolecular interactions during the randomization procedure e.g. site directed PCR mutagenesis.

Thus, variant V_H ligand-binding fragments having relatively long CDR3s of varying lengths are produced by randomly or partially randomly inserting varying numbers of nucleotide triplets in any part of a randomized portion of the parental V_H framework. Primers

of the desired length and nucleotide composition are synthesized followed by PCR amplification. Desired randomization can be achieved by biasing nucleotide composition of the primer. The production of displays of long CDR3 variant binders may also be accomplished by pooling several libraries of variantV_H ligand-binding fragments having randomized or partially randomized CDR3s of different respective uniform lengths. These strategies are not mutually exclusive.

The additional following terms are used herein as follows, unless the context logically implies otherwise:

"Biasing", "biased in favor of" and related forms of these terms are generally intended to refer to weighting in the course of introducing variation in the parental ligand-binding molecule.

"Homologous" or "homology" as used herein refers to "identity" or "similarity" as used in the art, meaning relationships between two or more polynucleotide or amino acid sequences, as determined by comparing the sequences. In the art, identity also means the degree of sequence relatedness between polynucleotide sequences, as the case may be, as determined by the match between strings of such sequences. Both identity and similarity can be readily calculated (Lesk, A. M., ed., *Computational Molecular Biology*, Oxford University Press, New York, 1988; Smith, D. W., ed., *Biocomputing: Informatics and Genome Projects*, Academic Press, New York, 1993; Griffin, A. M., and Griffin, H. G., eds., *Computer Analysis of Sequence Data, Part I*, Humana Press, New Jersey, 1994; von Heinje, G., *Sequence Analysis in Molecular Biology*, Academic Press, 1987; and Gribskov, M. and Devereux, J., eds., *Sequence Analysis Primer*, M Stockton Press, New York, 1991). While there exist a number of methods to measure identity and similarity between two polynucleotide sequences, both terms are well known to skilled artisans (von Heinje, G., 1987;Gribskov, M. and Devereux, J., 1991; and Carillo, H., and Lipman, D., 1988). Methods commonly employed to determine identity or similarity between sequences include, but are not limited to those disclosed in Carillo, H., and Lipman, D. (1988, *SIAM J. Applied Math.*, 48: 1073). Methods to determine identity and similarity are codified in computer programs. Preferred computer program methods to determine identity and similarity between two sequences include, but are not limited to, GCG program package (Devereux, J., et al.(1984), *Nucleic Acids Research* 12(1): 387), BLASTP, BLASTN, and FASTA (Atschul, S. F. et

al.(1990), *J. Molec. Biol.* 215: 403). "Percent homology" or "% homologous" or related terms include both of the following interpretations / methods of calculation: 1) an approximate percentage of the sequence referenced in terms of the number of common residues (e.g. 80% of 11 is understood to be an approximation insofar as application of the percentage does not yield a unit number of residues, in which case both the immediately higher number and immediately lower unit numbers, 9 and 8 respectively, are deemed to be covered); 2) the percentage of binding fragments theoretically achievable that have the full wild-type sequence, which is calculated as a product of the probabilities that the wild-type amino acid will occur at a given amino acid position.

"Conserved" regions refer to those which are commonly found in at least other antibodies of the same type or in at least the same species of mammal.

"Wild-type" refers to the parental binding-fragment, which may be a variant of the natural or to the native A6 V_H parental ligand-binding fragment, depending on the context.

"Step-wise" refers to the addition of, for example, nucleic acids, in a manner such that the quantity of nucleic acids added at each step is rigorously control, usually one nucleic acid at a time.

"Spanning" does not preclude deletions or additions within the parental V_H binding-fragment that are not inimical to the operation of the invention.

"Camelid type" refers specifically to one or more features of the camelid VL interface.

"Soluble" includes the generally ascribed meaning in the art and without limitation includes (based on solubility correlated phenomena) the relative amounts of naturally-folded recombinant protein released from the cell.

"Percent biasing" or "% of binding fragments" (or "biasing 10-100%", etc.) refers to biasing on an individual amino acid basis (though other techniques to accomplish the same effect might apparent to those skilled in the art). Similarly, the specification that wild-type amino acids occur at a specified position or series of positions in, for example, at least approximately 50% of potential binding fragments is intended to mean both that 50% biasing is sought at a given such position or that a total of 50% of the correct nucleotide triplets are represented.

"Approximately" in reference to percentages is intended to accommodate attrition of various desired variant V_H ligand-binding fragments, the assumption that the probabilistic outcomes will not be achieved in practice and that certain variation in methods to accomplish the specified results is deemed to be suitable. The term 50% in reference to an uneven number of amino acids residues means that either one more or one less than half of the amino acids is referred to.

The practice of the present invention employs, unless otherwise indicated, conventional techniques of molecular biology (including recombinant techniques), microbiology, cell biology, biochemistry and immunology, which are within the skill of the art. Such techniques are explained fully in the literature, such as, "Molecular Cloning: A Laboratory Manual", second edition (Sambrook et al., 1989); "Oligonucleotide Synthesis" (M.J. Gait, ed., 1984); "Animal Cell Culture (R.I. Freshney, ed., 1987); "Methods in Enzymology" (Academic Press, Inc.); "Handbook of Experimental Immunology" (D.M. Wei & C.C. Blackwell, eds.); "Gene Transfer Vectors for Mammalian Cells" (J.M. Miller & M.P. Calos, eds., 1987); "Current Protocols in Molecular Biology (F.M. Ausubel et al., eds., 1987); "PCR: The Polymerase Chain Reaction", (Mullis et al., eds., 1994); "Current Protocols in Immunology" (J.E. Coligan et al., eds., 1991). These references are incorporated herein by reference. These techniques are applicable to the production of the polynucleotides and polypeptides of the invention, and, as such, may be considered in making and practicing the invention. Particularly useful techniques for particular embodiments will be discussed in the sections that follow.

Recombinant genetic techniques have allowed cloning and expression of antibodies, functional fragments thereof and the antigens recognized. These engineered antibodies provide novel methods of production and treatment modalities. For instance, functional immunoglobulin fragments have been expressed in bacteria and transgenic tobacco seeds and plants. Skerra (1993) *Curr.Opin. Immunol.* 5:256:262; Fiedler and Conrad (1995) *Bio/Technology* 13:1090-1093; Zhang et al. (1993) *Cancer Res.* 55:3384-3591; Ma et al. (1995) *Science* 268:916; and, for a review of synthetic antibodies, see Barbas (1995) *Nature Med.* 1:836-839. These and more current references describing these techniques, which these references, particularly those well known to persons practicing in the relevant arts, are hereby incorporated herein by reference.

Nucleotide sequences can be isolated, amplified, and processed by standard recombinant techniques. Standard techniques in the art include digestion with restriction nucleases, and amplification by polymerase chain reaction (PCR), or a suitable combination thereof. PCR technology is described in U.S. Patent Nos. 4,683,195; 4,800,159; 4,754,065; and 4,683,202, as well as *PCR: The Polymerase Chain Reaction*, Mullis et al., eds., Birkauswer Press, Boston (1994).

In addition to the specific PCR methods of biasing to wild-type A6 amino acid residues detailed below, it is possible to produce multiple different oligonucleotide primers consisting of specified amino acid residues (one or more) of the wild-type A6 molecule (e.g. CDR3 residues), mixing these in appropriate concentrations with a completely randomized (e.g. CDR3) oligonucleotide primer and subjecting the mixture of oligonucleotide primers to PCR. This will result in a biased phage library population of one's choosing (i.e. the amounts of the selectively randomized and totally randomized primers in the mixture will determine the per cent of each CDR3 representation in the library).

Polynucleotides comprising a desired sequence can be inserted into a suitable vector, and the vector in turn can be introduced into a suitable host cell for replication and amplification. Polynucleotides can be introduced into host cells by any means known in the art. Cells are transformed by introducing an exogenous polynucleotide by direct uptake, endocytosis, transfection, f-mating or electroporation. Once introduced, the exogenous polynucleotide can be maintained within the cell as a non-integrated vector (such as a plasmid) or integrated into the host cell by standard methods. See, e.g., Sambrook et al. (1989). RNA can also be obtained from transformed host cell, or it can be obtained directly from the DNA by using a DNA-dependent RNA polymerase.

Suitable cloning and expression vectors include any known in the art, e.g., those for use in bacterial, mammalian, yeast and insect expression systems. Specific vectors and suitable host cells are known in the art and are not described in detail herein. See e.g. Gacesa and Ramji, *Vectors*, John Wiley & Sons (1994).

Phage display techniques are generally described or referenced in some of the preceding general references, as well as in U.S. Patent Nos. 4,593,002; 5,403,484; 5,837,500; 5,571,698; 5,750,373; 5,821,047; 5,223,409 and 5,702,892. "Phage Display of Peptides and Proteins", (Kay, Brian K. et al., 1996); "Methods in Enzymology", Vol. 267 (Abelson, John

N., 1996); "Immunology Methods Manual", (Lefkovits, Ivan, 1997); "Antibody phage display technology and its applications", (Hoogenboom, Hennie R. et al., 1998). *Immunotechnology* 4 p.1-20; Cesareni G et al. Phage displayed peptide libraries. *Comb Chem High Throughput Screen.* 1999 Feb;2(1):1-17; Yip, YL et al. Epitope discovery using monoclonal antibodies and phage peptide libraries. *Comb Chem High Throughput Screen.* 1999 Jun;2(3):125-38; Rodi DJ et al. Phage-display technology--finding a needle in a vast molecular haystack. *Curr Opin Biotechnol.* 1999 Feb;10(1):87-93.

Generally, DNA encoding millions of variants of a parental binding-fragment can be batch-cloned into the phage genome as a fusion to the gene encoding one of the phage coat proteins (pIII, pVI or pVIII). Upon expression, the coat protein fusion will be incorporated into new phage particles that are assembled in the bacterium. Expression of the fusion product and its subsequent incorporation into the mature phage coat results in the ligand being presented on the phage surface, while its genetic material resides within the phage particle. This connection between ligand genotype and phenotype allows the enrichment of specific phage, e.g. using selection on immobilized target. Phage that display a relevant ligand will be retained, while non-adherent phage will be washed away. Bound phage can be recovered from the surface, reinfected into bacteria and re-grown for further enrichment, and eventually for analysis of binding. The success of ligand phage display hinges on the combination of this display and enrichment method, with the synthesis of large combinatorial repertoires on phage.

While the use of phage is described as an embodiment for the production of libraries for displaying, and selecting particular binding fragments, it is to be understood that and suitable genetic package may be used for the production of libraries of the invention. Such suitable genetic packages include cells, spores and viruses (see US Patent No. 5,571,698), or any other suitable replicable genetic packages. With respect to cell based approaches, another popular method of presenting a library is the two-hybrid system (Feilds and Sternglanz, 1994, *Trends in Genetics* 10:286-292). Those skilled in the art will appreciate that in vitro systems (non-cell based) may be equally applicable to the methods of the present invention, for example ribosome display (Hanes et al., 1998) or RNA-peptide fusion (Mattheakis et al., 1994, Proc Natl Acad Sci USA 91:9022-26; Hanes et al., 1999, Curr Top Microbiol Immunol 243:107-22).

Ribosome display is a well documented technique that may be useful for generating libraries. This entirely in vitro method allows for libraries with a diversity of $>10^{12}$. In this method, a peptide is displayed on the surface of a ribosome that is translating it. Briefly, a library of mRNA molecules (we could start with A6) is translated in vitro translation system to the 3' end, such that the ribosome does not fall off. The protein emerges from the ribosome in such a way that it can fold, but does not fall off. In some instances, there is an additional folding step in an oxiding environment (important for proteins with disulfide bonds). The whole complex of folded protein, ribosome and mRNA, which is stable for several days, can then be panned against a ligand that is recognized by the translated protein. (For example, the translated protein could be an antibody and the ligand is its antigen). The mRNA can then be amplified by reverse transcription and PCR. This technique has been used to successfully generate scFv antibody fragments with high affinity for their target. Reference is made to Hanes,J., Jermutus,L., Weber-Bornhauser,S., Bosshard,H.R. & Pluckthun,A. Ribosome display efficiently selects and evolves high-affinity antibodies in vitro from immune libraries. *Proc. Natl. Acad. Sci. USA* **95**, 14130-14135 (1998); Schaffitzel,C., Hanes,J., Jermutus,L. & Pluckthun,A. Ribosome display: an in vitro method for selection and evolution of antibodies from libraries. *Journal of Immunological Methods* **231**, 119-135 (1999); He,M. *et al.*. Selection of a human anti-progesterone antibody fragment from a transgenic mouse library by ARM ribosome display. *Journal of Immunological Methods* **231**, 105-117 (1999); Roberts,R.W. Totally in vitro protein selection using mRNA-protein fusions and ribosome display. *Current Opinion in Chemical Biology* **3**, 268-273 (1999); Williams,C. Biotechnology match making: screening orphan ligands and receptors. *Current Opinion in Biotechnology* **11**, 42-46 (2000); Mattheakis,L.C., Bhatt,R.R. & Dower,W.J. An in vitro polysome display system for identifying ligands from very large peptide libraries. *Proc. Natl. Acad. Sci. USA* **91**, 9022-9026 (1994).

Construction of A6V_H-L1 Library

Example 1

A dAb phage display library was constructed employing the $V_H$portion of A6 as a starting template and amino acid substitutions at positions 6, 23, 82a, 93 and 108, as shown in Table 5 below. In addition, silent mutations were introduced in codons for amino acids 3-16 (FR1) to remove a putative recombination site. All mutations were introduced by splice overlap extension – PCR (SOE). The modified V_H was used as a scaffold for complete randomization at positions 100i-100n located at the carboxy terminal of the CDR3 of A6.

Table 5. A6V_H-L1 Template

	Position and Amino Acid Identity				
Position	6	23	82a	93	108
Wild Type A6V_H	E	S	S	V	T
Modified A6V_H	A	A	N	A	Q

Removal of Putative Recombination Site

The codons for amino acids 3 – 16, which surround the recombination site, were changed. Using the Chi.R/FP and Chi.F/RP primer pairs (Table 6) and pSJF-A6V_H plasmid as template, 5' and 3' fragments were synthesized by PCR in a total volume of 50 μl containing 10 pmol of each primer, 2mM of each of the four dNTPs, 1X buffer and 2.5 units of AmpliTaq™ DNA polymerase (Perkin Elmer). The PCR protocol consisted of an initial denaturation step at 94°C for 3 min followed by 30 cycles at 94°C for 30 sec, 55°C for 30 sec, 72°C for 1 min and a final extension step at 72°C for 10 min. The two fragments were gel purified using the Q1Aquick Gel Extraction™ kit (Q1AGEN) and a larger construct was assembled from the 5' and 3' fragments by performing splice overlap extension (SOE) PCR using RP and FP. Briefly, the reaction vial containing both 5' and 3' fragments, 200 μM each of the four dNTPs, 5 μl 10X buffer (NEB), and 2 units of Vent DNA polymerase (NEB) were subjected to 7 cycles of 1 min at 94°C and 2.5 min at 72°C. To amplify the assembled

construct, RP and FP primers were added at a final concentration of 1 pmol/μl and the mixture was subjected to 30 cycles of 1 min at 94°C, 30 sec at 55°C, and 1 min at 72°C. The amplified product was purified (Q1Aquick PCR Purification™ kit) and used as template for the mutagenesis steps. Sequencing revealed that the putative recombination sequences had been removed.

Modification of Positions 6, 23, 82a, 93 and 108

Employing SOE, positions 23, 82a, 93 were mutated initially (Table 5). Using the Chi template, three fragments were synthesised by PCR using the A6V_H.S23A.R/A6V_H.S82aN/V93A.F (fragment 1), A6V_H.S23A.F/RP (fragment 2) and A6V_H.V93A.R/FP (fragment 3) primer pairs (Table 6). The first two fragments were assembled by SOE using RP/A6V_H.S82aN/V93A and the resultant fragment was spliced to the third fragment using RP/FP primers. Sequencing revealed the desired mutations at positions 23, 82a and 93. This product in turn was used as template for the final round of SOE experiments to alter positions 6 and 108. First, two fragments were synthesized using the A6V_H.E6A.R/A6V_H.T108Q.F and A6V_H.E6A.F/RP primer pairs followed by SOE using RP/A6V_H.T108Q.F primers. The final construct was purified, digested with *Bam*HI and *Eco*RI, purified again and ligated to *Bam*HI/*Eco*RI-restricted expression plasmid. The colonies were then screened to identify clones containing the mutated A6V_H.

TABLE 6. PRIMERS USED CHI SITE REMOVAL AND MUTAGENSIS OF A6V_H.

Chi.R
CAATTACAAGAAAGTGGTGGCGGACTGGTGCAACCAGGAGGTTCCCTGAGACTC
Chi.F
ACTTTCTTGTAATTGGACCTCGGCCTGCGC
A6VH.S23A.R
CTCTCCTGTGCTGCCTCTGGA
A6VH.S23A.F
TCCAGAGGCAGCACAGGAGAG
A6VH.S82aN/V93A.F
CGCACAGTAATACACAGCCGTGTCCTCAGCTCTCAGACTGTTCATTTGAAGATA
A6VH.V93A.R
GTGTATTACTGTGCGAAAGACAGG
A6VH.E6A.R
CAATTACAAGCTAGTGGTGGC
A6VH.E6A.F
GCCACCACTAGCTTGTAATTG
A6VH.T108Q.F
TATGGATCCTGAGGAGACGGTGACCTGTGTCCCTTGGCC
A6VH.ApaII.R
CATGACCACAGTGCACAGGAGGTCCAATTACAAGCTAGA
A6VH.NOT.T108Q
CGATTCTGCGGCCGCTGAGGAGACGGTGACCTGTGTCCCTTGGCCCCAGATATC
RP
GCGGATAACAATTTCACACAGGAA
FP
CGCCAGGGTTTTCCCAGTCACGAC

Cloning, Expression and Evaluation of Dimer/Multimer Formation

The modified A6V_H, designated A6V_H-L1 was cloned into a vector for expression in E. coli using EcoR1 and BamH1. Thirty ml of LB containing 100 ug/ml ampicillin was inoculated with a single colony harboring pSJF2-dAb and the culture was shaken at 240 rpm at 37°C overnight. In the morning the entire overnight culture was used to inoculate 1 liter of

M9 medium supplemented with 5 μg/ml vitamin B1, 0.4% casamino acids and 100 μg/ml ampicillin. The culture was shaken at room temperature for 30 hr at 160 rpm and subsequently supplemented with 100 ml of 10x induction medium and 100 ul of 1M isopropylthio-β-D-galactoside. The culture was shaken for another 60 hr, the periplasmic fraction was extracted by osmotic shock method (Anand et al., 1991), and the presence of dAb in the extract was detected by Western blotting (MacKenzie 1994). The periplasmic fraction was dialyzed extensively in 10 mM HEPES (N-[2-hydroxyethyl]piperazine-N' [2-ethanesulfonic acid]) buffer pH 7.0, 500 mM NaCl. The presence of the dAb C-terminal His_5 tag allowed a one step protein purification by immobilized metal affinity chromatography using HiTrap Chelating™ column (Phamacia). The 5-ml column was charged with Ni^{2+} by applying 30 ml of a 5 mg/ml $NiCl_2.6H_2O$ solution and subsequently washed with 15 ml deionized water. Purification was carried out as described (MacKenzie, 1994) except that the starting buffer was 10 mM HEPES buffer, 10 mM imidazole, 500 mM NaCl, pH 7.0, and the bound protein was eluted with a 10-500 mM imidazole gradient. The purityof the protein was determined by SDS-PAGE (Laemmli). To detect the presence of dimer/multimer dAb in the protein preparation, gel filtration chromatography was performed using Superdex75 (Pharmacia) as described (Deng et al., 1995).

Library Construction

A PCR product was generated using $A6V_H$-L1 as template and primers RP and $A6V_H$.Rndm100i-n.F, CCTTGGCCCCAGATATCAAA6[(A/C)NN]GTAATAACCACTACTATC. The latter primer was degenerate in the region encoding residues 100i-n. A second PCR employed 180 pmol of the above product and 100 pmol of each of the two primers $A6V_H$.Apal.R, CATGACCACAGTGCACAGGAGGTCCAATTACAAGCTAG, and $A6V_H$.NotT108Q.F, CGATTCTGCGGCCGCTGAGGAGACGGTGACCTGTGTCCCTTGGCCCCAGATATC. The second set of primers are complimentary to the 5' and 3' ends of the dAb genes and incorporate *ApaI* and *NotI* restriction sites (underlined sequences) at the end of the amplified genes. The amplified products were purified, cut sequentially with *ApaI* and *NotI* restriction endonucleases, purified again, and ligated to the *ApaI*/*NotI*-treated fd-tet phage vector. Following this, 1.5 μg of the desalted ligated product was mixed with 40 μl of competent *E.*

coli strain TG1 and the cells were transformed by electroporation. Transformation, library phage amplification and purification and library size determination were performed as described below. The randomization strategy is depicted in Figure 11.

Library size determination.

To determine the size of the library, immediately following the transformation and after the addition of the SOC medium an small aliquot of the electroporated cells were serially diluted in exponentially growing TG1 cells. Two hundred μl of the diluted cells was mixed with 3 ml of 50°C agarose top and immediately poured onto 2xYT plates pre-warmed to 37°C. Plates were incubated overnight at 37°C and the number of plaques were used to determine the size of the library.

Panning

Panning was performed using the Nunc-Immuno MaxiSorp™ 8-well strips (Nunc). Briefly, the wells were coated overnight by adding 150 μl of 100 μg/ml antigen in PBS. In the morning, they were rinsed three times with PBS and subsequently blocked with 400 μl PBS-2% (w/v) skim milk (2% MPBS) at 37°C for 2 hr. The wells were rinsed as above and 10^{12} transducing units phage in 2% MPBS were added. The mixture was incubated at room temperature for 1.5 hr after which the unbound phage in the supernatant was removed. The wells were rinsed 10 times with PBS-0.1% (v/v) Tween 20 and then 10 times with PBS to remove the detergent. The bound phage was eluted by adding freshly prepared 200 μl 100 mM triethylamine, pipetting the content of the well up and down several times and incubating the mixture at room temperature for 10 min. The eluted phage was transfered to a tube containing 100 μl 1 M Tris-HCl, pH 7.4 and vortexed to neutralize triethylamine. Following this, 10 ml exponentially growing TG1 culture was infected with 150 μl eluted phage by incubating the mixture at 37°C for 30 min. Serial dilutions of the infected cells were used to determine the titer of the eluted phage as described in the previous section. The remaining of the infected cells were spun down and then resuspend in 900 μl 2xYT. The cells were mixed in 300 μl aliquots with 3 ml agarose top and the phage propagated on the plates overnight at 37°C. In the morning the phage was purified, the titer was determined, and a total of 10^{11} transducing units phage were used for further rounds of selection.

Example 2

A library (A6V_H-L1a) in which residues 100i and 100n were deleted and residues 95 –100h were randomized with 50% biasing in favour of the parental amino acid constitution, was also constructed. The procedure for A6V_H-L1a construction was identical to that for A6V_H-L1 except that the randomization primer used in the first PCR step was A6V_H.95-100hRndm CCCTTGGCCCCAGATATCAAA14[(A/C)NN]TTTCGCACAGTAATACAC. The sequence of the A6V_H for this library is shown in Figure 12.

Example 3

A6V_H-L2, a parental V_H ligand binding molecule in which each of positions 6, 23, 74, 82a, 83, 84, 93 and 108 were modified as shown in Figure 3 relative to the native A6V_H (Figure 1), was also constructed. Mutations at positions 74, 83 and 84 were introduced with a single mutagenic primer, A6V_H.S74A.F, (5'CATTTGAAG-ATACAGAGTGTTCTTGGCATTGTCTCT3'), which when used together with RP (see Example 1 above) generated an N-terminal fragment. A second primer, A6V_H.R83K/A84P.R, (5'TATCTTCAAATGAACAGTCTGAAAC-CAGAGGACACGGCT3'), together with FP (see Example 1 above) generated a C-terminal fragment. The two fragments were joined by SOE, using RP and FP as primers, to give the gene encoding A6V_H-L2. This molecule showed slightly better levels of monomer production when expressed and assessed by size exclusion chromatography when compared with A6V_H-L1.

Table 7. Amino acid identity at positions 6, 23, 74, 82a, 83, 84, 93 and 108 for A6V_H and the mutants of A6V_H.3

Amino acid Identity								
Kabat #	**6**	**23**	**74**	**82a**	**83**	**84**	**93**	**108**
A6VH	E	S	S	S	R	A	V	T
A6VH-L1	A	A	S	N	R	A	A	Q
A6VH-L2	A	A	A	N	K	P	A	Q

Example 4 - Surface Plasmon Resonance

Binding studies were performed using BIACORE Upgrade (Biacore Inc., Piscataway, NJ) as described (Jönsson et al., 1991). Approximately 14, 000 RU of anti-FLAG M2 IgG or control IgG were immobilized on CM5 sensor chips by amine coupling. Single-domain antibodies were passed over the sensor chips surfaces in 10 mM HEPES buffer, pH 7.4, 150 mM NaCl, 3.4 mM EDTA, 0.005% P-20 (Biacore Inc.) at 25°C and at a flow rate of 5 μl/min. Sensorgram data were analyzed using the BIAevaluation 3.0 software package (Biacore Inc.).

Example 5 - Enzyme-Linked Immunosorbent Assay (ELISA)

Nunc-Immuno MaxiSorp™ plates (Nunc) were coated overnight at 4°C with 150 μl of 10 μg/ml of 3B1 scFv or BSA in PBS. The contents were removed and the plates were tapped on a paper towel to remove any liquid remaining in the wells. The wells were blocked by adding 300 μl of 2% MPBS and incubating for 2 hr at 37°C. The contents of the wells were emptied as before, 100 μl of purified dAb phage in 2% MPBS was added, and the wells were incubated at room temperature for 1.5 hr. The contents were emptied again and the wells were washed 5 times with PBS-0.05% (v/v) Tween 20 and subsequently blotted on a paper towel to remove any remaining wash buffer. One Hundred μl of recommended dilution of HRP/Anti-M13 monoclonal antibody conjugate (Amersham Pharmacia Biotech) in 2% MPBS was added and the wells were incubated at room temperature for 1 hr. The wells were washed six times as before and the binding of dAb to the antigen was detected colorimetrically by adding 100 μl of equal mixtures of TMB Peroxidase Substrate and H_2O_2 (Kirkegaard and Perry Laboratories, Gaithersberg, MD, USA) at room temperature for several minutes. The reaction was stopped by adding 100 μl of 1 M H_3PO_4 and the A_{450} was measured by DYNATECH MR5000 plate reader (Dynatech Laboratories, Chantilly, VA, USA).

Example 6 - Introducing Genetic Variation into the Sequence Corresponding to the A6 Heavy Chain CDR3 Region - Randomized Residues

Oligonucleotides comprising randomly mutated CDR3 regions were prepared on an Applied Biosystems 394 DNA synthesizer as described above.

1. Production of 23 randomized residues (CDR3 1-23):

The anti-codon formula [(A/C)NN] is used resulting in a reduction in possible codon usage from 64 to 32 and reduces the number of possible stop codons. Position one, therefore, comprises only A and C in the synthetic reaction mixture. For complete randomization of the second and third positions of the codons the dNTP mixture comprise 25% each of A,G,C and T.

The 3' oligonucleotide randomizing primer was designed such that the last 15 nucleotides of framework 3 and the first 17 nucleotides of framework 4 were kept constant for hybridization. The nucleotides encoding the intervening amino acids, namely amino acids 1-23 of the CDR3 region were randomized using the following primer:
5' (GTTGTCCCTTGGCCCCA n[(A/C)NN]TTTCACACAGTAATA] 3' (Where n=23,antisense strand).

Using a 50% A and 50% C for the first nucleotide position for each anti-codon triplet and 25% each of A, C, G, and T for the second and third nucleotide positions for n=23, complete randomization of the 23 amino acids of the A6 CDR3 is achieved.

2. Synthesis of CDRs comprising 15-23 residues

The primers are adapted by reducing n to 15-23 in the above primer formulae whilst keeping the flanking nucleotides constant.

3. For synthesis of CDR3s comprising 24-33 residues

The primers would be adapted by increasing n to 24-33 in the above primer formula while keeping the flanking nucleotides constant.

Example 7 - Selective Randomization Biasing for 50% Homology to Parental Tyrosine

To achieve approximately 50% homology to wild type at any one position in the A6 dAb CDR3 region during antisense synthesis using the DNA synthesizer, the following example would be used. In the case of tyrosine, which is encoded by TAC or TAT (antisense strand GTA or ATA) the nucleotides would be spiked as follows for the antisense strand.

First anticodon nucleotide position: 80% of A and 20% of C is added to the dNTP solution, and G and T are not added to reduce codon degeneracy.

Second anticodon nucleotide position: 80% T and approximately 6.67% of C, 6.67 of A and 6.67% of G.

Third anticodon nucleotide position the mixture: 80% of A and approximately 6.67% of T and 6.67% of G and 6.7% C.

The calculated probability of tyrosine would thus be 0.8x 0.8 x 0.8 x 100% = 51.2 %. Thus approximately 51% of the chains of the library will contain a wild-type A6 tyrosine in that specified position.

Example 8 - Selective Randomization Biasing for 50% Homology to Parental Serine

Using the same strategy in order to achieve approximately 50% homology to wild type serine at one or more positions, the following example is useful.

Using only A and/or C in the first anticodon position the amino acid serine could have two codons these are AGT, TCT and TCG (antisense ACT, AGA and CGA, respectively). The nucleotide spiking levels would be as follows:

First anticodon nucleotide position: 50% A and 50% C.

Second anticodon nucleotide position: 35.35% C, 35.35% G, 14.65% A and 14.65% T

Third anticodon nucleotide position: 35.35% A, 35.35% T, 14.65% C and 14.65% G.

The probability of producing serine for any given fragment, using this strategy is (1 x [0.3535+0.3535] x [0.3535+0.3535] x 100% = 50 %. Thus, approximately 50% of the chains will have a serine in the selected position.

Example 9 - Selective Randomization Biasing for 50% Homology to Parental Serine

To achieve approximately 10% homology to wild type at any one position in the A6 dAb CDR3 region during antisense synthesis using the DNA synthesizer, the following

example can be used. In the case of tyrosine which is encoded by TAC or TAT (antisense strand GTA or ATA) the nucleotides would be spiked as follows for the anti sense strand.

First anticodon nucleotide position: 47% of A and 53% of C is added; G and T are not added to reduce codon degeneracy.

Second anticodon nucleotide position: 47% T and approximately 17.67 % of C, 17.67 of A and 17.67% of G.

Third anticodon nucleotide position: 47% of A and approximately 17.67% of T and 17.67% of G and 17.67% C.

The calculated probability of tyrosine is thus 0.47x 0.47 x 0.47 x 100% = 10.4 %. Thus approximately 10% of the chains of the library will contain a wild-type A6 tyrosine in that specified position.

Example 10 - Selective Randomization Biasing for 50% Homology to Parental Serine

To achieve approximately 90% homology to wild-type amino acids at any positions in the A6 dAb CDR3 region during antisense synthesis using the DNA synthesizer , the following example would be used. In the case of tyrosine which is encoded by TAC or TAT (antisense strand GTA or ATA) the nucleotides would be spiked as follows:

First anticodon nucleotide position: 97% of A and 3% of C is added, G and T are not added to reduce codon degeneracy. For this reason, only A and C are used in the first anticodon position for all 20 naturally occurring amino acids.

Second antcodon nucleotide position: 97% T and approximately 1 % of C, 1% of A and 1% of G.

Third anticodon nucleotide position: 97% of A and approximately 1% of T and 1% of G and 1% C.

The calculated probability of tyrosine would be 0.97x 0.97 x 0.97 x 100% = 91.3 %. Thus approximately 90% of the chains of the library will contain a wild-type A6 tyrosine in that specified position.

Using the approaches in the examples above, approximately 10 % to approximately 90 % of wild type amino acid representation at one or more specified amino acid residues in the A6 CDR3 can be calculated and applied to the DNA synthesizer.

The present invention may be embodied in other specific forms without departing from the spirit or essential characteristics thereof. Certain adaptations and modifications of the invention will be obvious to those skilled in the art. Therefore, the presently discussed embodiments are considered to be illustrative and not restrictive. It is understood that the claims may refer to aspects or embodiments of the invention that are only inferentially referred to in the disclosure. All references disclosed in this application are hereby incorporated by reference.

Additional References:

Anand, N. N., Dubuc, G., Phipps, J., MacKenzie, C. R., Sadowska, J., Young, N. M., Bundle, D. R., and Narang, S. A. (1991). Synthesis and expression in Escherichia coli of cistronic DNA encoding an antibody fragment specific for a Salmonella serotype B O-antigen. *Gene* **100**:39-44.

Arbabi, G. M., Desmyter, A., Wyns, L., Hamers, R., and Muyldermans, S. (1997). Selection and identification of single domain antibody fragments from camel heavy-chain antibodies. *FEBS Lett* **414**:521-526.

Bodenhausen, G. and Ruben, D. J., Chem. Phys. Lett., 69, 185-188, 1980.

Cai, X. and Garen, A. (1996). A melanoma-specific VH antibody cloned from a fusion phage library of a vaccinated melanoma patient. *Proc Natl Acad Sci U S A* **93**:6280-6285.

Chothia, C and Lesk, A. M. (1987). Canonical structures for the hypervariable regions of immunoglobulins. *J Mol Biol* **196**:901-917.

Chothia, C., Novotny, J., Bruccoleri, R., and Karplus, M. (1985). Domain association in immunoglobulin molecules. The packing of variable domains. *J Mol Biol* **186**:651-663.

Clackson, T., Hoogenboom, H. R., Griffiths, A. D., and Winter, G. (1991). Making antibody fragments using phage display libraries. *Nature* **352**:624-628.

Constantine, K. L., Goldfarb, V., Wittekind, M., Anthony, J., Ng, S. C., and Mueller, L. (1992). Sequential 1H and 15N NMR assignments and secondary structure of a recombinant anti-digoxin antibody VL domain. *Biochemistry* **31**:5033-5043.

Constantine, K. L., Goldfarb, V., Wittekind, M., Friedrichs, M. S., Anthony, J., Ng, S. C., and Mueller, L. (1993). Aliphatic 1H and 13C resonance assignments for the 26-10 antibody VL domain derived from heteronuclear multidimensional NMR spectroscopy. *J Biomol NMR* **3**:41-54.

Dan, M., Earley, E. M., Griffin, M. C., Maiti, P. K., Prashar, A. K., Yuan, X. Y., Friesen, A. D., and Kaplan, H. A. 1995. Human monoclonal antibody BT32/A6 and a cell cycle-independent glioma-associated surface antigen. J. Neurosurg. **82**, 475-480.

Davies, J. and Riechmann, L. (1994). 'Camelising' human antibody fragments: NMR studies on VH domains. *FEBS Lett* **339**:285-290.

Davies, J. and Riechmann, L. (1995). Antibody VH domains as small recognition units. *Biotechnology N Y* **13**:475-479.

Davies, J. and Riechmann, L. (1996b). Affinity improvement of single antibody VH domains: residues in all three hypervariable regions affect antigen binding. *Immunotechnology* **2**:169-179.

Davies, J. and Riechmann, L. (1996a). Single antibody domains as small recognition units: design and in vitro antigen selection of camelized, human VH domains with improved protein stability. *Protein Eng* **9**:531-537.

Decanniere, K., Desmyter, A., Lauwereys, M., Ghahroudi, M. A., Muyldermans, S., and Wyns, L. (1999). A single-domain antibody fragment in complex with RNase A: non-canonical loop structures and nanomolar affinity using two CDR loops. *Structure* **7**:361-370.

Delaglio, F., Grzesiek, S., Vuister, G. W., Zhu, G., Pfeifer, J. and Bax, A., J. Biomol. NMR 6, 277-293, 1995.

Deng, S. J., MacKenzie, C. R., Hirama, T., Brousseau, R., Lowary, T. L., Young, N. M., Bundle, D. R., and Narang, S. A. (1995). Basis for selection of improved carbohydrate-binding single-chain antibodies from synthetic gene libraries. *Proc Natl Acad Sci U S A* **92**:4992-4996.

Deng, S. J., MacKenzie, C. R., Sadowska, J., Michniewicz, J., Young, N. M., Bundle, D. R., and Narang, S. A. (1994). Selection of antibody single-chain variable fragments with improved carbohydrate binding by phage display. *J Biol Chem* **269**:9533-9538.

Desmyter, A., Transue, T. R., Ghahroudi, M. A., Thi, M. H., Poortmans, F., Hamers, R., Muyldermans, S., and Wyns, L. (1996). Crystal structure of a camel single-domain VH antibody fragment in complex with lysozyme [see comments]. *Nat Struct Biol* **3**:803-811.

Hamers, C. C., Atarhouch, T., Muyldermans, S., Robinson, G., Hamers, C., Songa, E. B., Bendahman, N., and Hamers, R. (1993). Naturally occurring antibodies devoid of light chains. *Nature* **363**:446-448.

Harrison, J. L., Williams, S. C., Winter, G., and Nissim, A. (1996). Screening of phage antibody libraries. *Methods Enzymol* **267**:83-109.

Johnson, B. A. and Blevins, R. A., J. Chem., Phys., 29, 1012-1014, 1994.

Jönsson, U., Fägerstam, L., Ivarsson, B., Johnsson, B., Karlsson, R., Lundh, K., Löfås, S., Persson, B., Roos, H., Rönnberg, I., Sjölander, S., Stenberg, E., Ståhlberg, R., Urbaniczky,

C., Östlin, H., and Malmqvist, M. (1991). Real-time biospecific interaction analysis using surface plasmon resonance and a sensor chip technology. BioTechniques **11**, 620-627.

Knappik, A. and Pluckthun, A. (1994). An improved affinity tag based on the FLAG peptide for the detection and purification of recombinant antibody fragments. *BioTechniques* **17**:754-761.

Laemmli, U. K. (1970). Cleavage of structural proteins during the assembly of the head of bacteriophage T4. *Nature* **227**:680-685.

Lauwereys, M., Arbabi, G. M., Desmyter, A., Kinne, J., Holzer, W., De Genst, E., Wyns, L., and Muyldermans, S. (1998). Potent enzyme inhibitors derived from dromedary heavy-chain antibodies. *EMBO J* **17**:3512-3520.

Lowman, H. B., Bass, S. H., Simpson, N., and Wells, J. A. (1991). Selecting high-affinity binding proteins by monovalent phage display. *Biochemistry* **30**:10832-10838.

MacKenzie, R. and To, R. (1998). The role of valency in the selection of anti-carbohydrate single-chain Fvs from phage display libraries. *J. Immunol. Methods* **220**, 39-49.

MacKenzie, C. R., Sharma, V., Brummell, D., Bilous, D., Dubuc, G., Sadowska, J., Young, N. M., Bundle, D. R., and Narang, S. A. (1994). Effect of C lambda-C kappa domain switching on Fab activity and yield in Escherichia coli: synthesis and expression of genes encoding two anti-carbohydrate Fabs. *Biotechnology N Y* **12**:390-395.

MacKenzie, C.R., Hirama, T., Deng, S.-J., Bundle, D.R., Narang, S.A., and Young. N.M. (1996). Analysis by surface plasmon resonance of the influence of valence on the ligand-binding affinity and kinetics of an anti-carbohydrate antibody. J. Biol. Chem. **271**, 1527-1533

McAfferty, J., Griffiths, A.D., Winter, G. and Chiswell, D.J. (1990). Nature **348**, 552-554.

Messing, J. (1983). New M13 vectors for cloning. Methods in Enzymology 101, 20-78.

Miceli, R. M., Degraaf, M. E., and Fischer, H. D. (1994). Two-stage selection of sequences from a random phage display library delineates both core residues and permitted structural range within an epitope. *J Immunol Methods* **167**:279-287.

Morea, V., Tramontano, A., Rustici, M., Chothia, C., and Lesk, A. M. (1998). Conformations of the third hypervariable region in the VH domain of immunoglobulins. *J Mol Biol* **275**:269-294.

Muyldermans, S., Atarhouch, T., Saldanha, J., Barbosa, J. A., and Hamers, R. (1994). Sequence and structure of VH domain from naturally occurring camel heavy chain immunoglobulins lacking light chains. *Protein Eng* 7:1129-1135.

Narang, S. A., Yao, F. L., MichnieWics, J. J., Dubuc, G., Phipps, J., and Somorjai, R. L. (1987) Protein Eng. **1**, 481-485.

Narang, S. A., Brummell, D. A., Sharma, V., Dubuc, G., MacKenzie, C. R., MichnieWics, J. J., Sadowska, J., Anand, N., Young, N. M., and Bundle, D.R. (1991) Nucleic Acids Res. Symp. Ser. **24**, 173-179.

Nissim, A., Hoogenboom, H. R., Tomlinson, I. M., Flynn, G., Midgley, C., Lane, D., and Winter, G. (1994). Antibody fragments from a 'single pot' phage display library as immunochemical reagents. *EMBO J* **13**:692-698.

Padlan, E. A. (1994). Anatomy of the antibody molecule. *Mol Immunol* **31**:169-217.

Piotto, M., Saudek, V., and Sklenar, V. (1992) *J. Biomol. NMR 2,* 661-665.

Reiter, Y., Schuck, P., Boyd, L. F., and Plaksin, D. (1999). An antibody single-domain phage display library of a native heavy chain variable region: isolation of functional single-domain VH molecules with a unique interface. *J Mol Biol* **290**:685-698.

Sambrook, J. Fritsch E. F. and Maniatis T (1989). "Molecular Cloning: A laboratory Manual (2nd ed.)," Cold Spring Harbor Laboratory, Cold Spring Harbor, NY.

Sanger, F., Nicklen, S., and Coulson, A. R. (1977). DNA sequencing with chain-terminating inhibitors. *Proc Natl Acad Sci U S A* **74**:5463-5467.

Sheriff, S. and Constantine, K. L. (1996). Redefining the minimal antigen-binding fragment [news; comment]. *Nat Struct Biol* **3**:733-736.

Sklenar, V., Piotto, M., Leppik, R., and Saudek, V. (1993) *J. Magn. Reson. A102,* 241-245.

Slatter, M., Schleucher, J. and Griesinger, C., Progr. NMR Spectrosc., 1999, 34, 93-158.

Spinelli, S., Frenken, L., Bourgeois, D., de Ron, L., Bos, W., Verrips, T., Anguille, C., Cambillau, C., and Tegoni, M. (1996). The crystal structure of a llama heavy chain variable domain [letter] [see comments]. *Nat Struct Biol* **3**:752-757.

Tung, W. L. and Chow, K. C. (1995). A modified medium for efficient electrotransformation of E. coli. *Trends Genet* **11**:128-129.

Vierra, O. and Messing, J. (1982). The pUC plasmids , an M13mp7-derived system for insertion mutagenesis and sequencing with synthetic universal primers. Gene **19**, 259-268.

Vu, K. B., Ghahroudi, M. A., Wyns, L., and Muyldermans, S. (1997). Comparison of llama VH sequences from conventional and heavy chain antibodies. *Mol Immunol* **34**:1121-1131.

Ward, E. S., Gussow, D., Griffiths, A. D., Jones, P. T., and Winter, G. (1989). Binding activities of a repertoire of single immunoglobulin variable domains secreted from Escherichia coli [see comments]. *Nature* **341**:544-546.

Wishart, D. S. and Sykes, B. D., J Biomol NMR, 4, 171-180, 1994.

Wishart, D. S., Bigam, C. G., Yao, J., Abildgaard, F., Dyson, H. J., Oldfield, E., Markley, J. L. and Sykes, B. D., J. Biomol. NMR, 6 135-140, 1995.

Zacher, A.N., Stock, C.A., Golden, J.W. and Smith, G.P. (1980). Gene **9**, 127-140.

CLAIMS

We claim:

1. A library for expression of immunoglobulin heavy chain domains, said library comprising a repertoire of nucleic acid sequences each encoding a polypeptide comprising a V_H, said V_H comprising a CDR and any one, two, three or four, or five, amino acids from a group comprising 6-A, 23-A, 82a-N, 93-A and 108-Q, said repertoire comprising a diversity of sequences which differ from one another at least in a subsequence coding for part of the CDR so as to provide nucleic acid encoding a repertoire of polypeptides comprising V_Hs differing at least in said CDR and comprising at least one amino acid of said group.

2. A library according to claim 1, wherein said group further comprises 74-A, 83-K, 84-P and wherein said repertoire of nucleic acid sequences each encode a polypeptide comprising a V_H which comprises any one, two, three, four, five, six, seven or eight amino acids of said group and include at least one amino acid of the group as defined in claim 1.

3. A library according to claim 1 or 2, wherein said CDR is a CDR3.

4. A library according to claim 1, 2 or 3, wherein said CDRs are derived from a pre-existing repertoire of CDRs.

5. A library according to claim 1, 2 or 3, wherein said CDRs comprise random sequences.

6. A library according to claim 1, 2 or 3, wherein said nucleic acid encoding a repertoire of immunoglobulin heavy chain variable domains further comprises a subsequence encoding one or more constant domains for expression of Ig-type chains.

7. A method for generating a V_H expression library having a diversity of CDR sequences, said method comprising:

(a) providing expression vectors, said vectors comprising a nucleic acid sequence which encodes a V_H comprising a CDR and any one, two, three or four, or five, amino acids from a group comprising 6-A, 23-A, 82a-N, 93-A and 108-Q;

(b) introducing by mutagenesis a variation in the said V_H nucleic acid sequence; and

(c) recovering an expression library having a diversity of binding activities.

8. A library which expresses V_Hs, said library comprising a set of framework regions carrying a diversity of CDR sequences, said library having a diversity of binding activities, said frame work regions comprising one, two, three or four, or five, amino acids from a group comprising 6-A, 23-A, 82a-N, 93-A and 108-Q.

9. A method according to claim 7 or a method according to claim 8, wherein said CDR is a CDR3.

10. A library according to claim 8, which expresses V_Hs having CDR diversity in only the CDR3 sequences.

11. A library produced by the method of claim 7.

12. A library according to claim 6, wherein said framework regions collectively are at least 90% homologous to the framework regions depicted in Figure 2.

13. A library according to claim 8 or 12 having CDRs which collectively are at least 80% homologous to the CDRs depicted in Figure 2.

14. A library according to claim 8, 12 or 13, wherein said framework regions comprise at least 2 amino acids of a group comprising 6-A, 23-A, 82a-N, 93-A and 108-Q.

15. A library according to claim 8, 12 or 13, wherein said framework regions comprise at least 3 amino acids of a group comprising 6-A, 23-A, 82a-N, 93-A and 108-Q.

16. A library according to claim 8, 12 or 13, wherein said framework regions comprise least 4 amino acids of a group comprising 6-A, 23-A, 82a-N, 93-A and 108-Q.

17. A library according to claim 8, 12 or 13, wherein said framework regions comprise 5 amino acids of a group comprising 6-A, 23-A, 82a-N, 93-A and 108-Q.

18. A polypeptide comprising a V_H, said polypeptide derived from a library according to any of claims 1 to 6, 8, or 10-17.

19. A combinatorial library comprising variants of a parental V_H ligand binding molecule, wherein said parental ligand binding molecule comprises an immunoglobulin V_H fragment comprising at least in substantial part, at least the FR regions of the immunoglobulin V_H domain depicted in Figures 2 and wherein said variants comprise, at least in substantial part, at least the FR regions of the immunoglobulin V_H domain depicted in Figure 2 including at least one of amino acid residues 6, 23, 82a, 93 and 108 depicted in Figure 2, and differ from said parental ligand binding molecule in amino acid residues constituting part of at least one of the CDRs of said parental ligand binding molecule.

20. A library according to claim 19, wherein said variants comprise each of amino acid residues 6, 23, 82a, 93 and 108 depicted in Figure 2 subject only to conservative substitutions which on the whole do not adversely affect the solubility properties of such variants.

21. A library according to claim 19, having a substantial representation of variants which have a CDR3 that is 16 to 33 amino acids in length.

22. A library according to claim 21, wherein substantially all of said variants have a CDR3 that is the same length.

23. A library according to claim 21, wherein said variants have CDR3s which vary in length.

24. A library according to claim 22 or 23, predominantly comprising variants which have a CDR3 that is 18 to 28 amino acids in length.

25. A library according to claim 22 or 23, predominantly comprising variants which have a CDR3 that is 20 to 25 amino acids in length.

26. A library according to claim 22, predominantly comprising variants which have a CDR3 that is 23 amino acids in length.

27. A library according to claim 22 or 23, wherein said variants vary from said parental ligand binding molecule in amino acids constituting at least part of the CDR3.

28. A library according to claim 27, wherein said parental ligand binding molecule comprises an immunoglobulin V_H binding fragment comprising, at least in substantial part, the CDR3 region of the immunoglobulin V_H domain depicted in Figure 2.

29. A library according to claim 22, wherein said parental ligand binding molecule comprises an immunoglobulin V_H binding fragment comprising, at least in substantial part, the CDR regions of the immunoglobulin V_H domain depicted in Figure 2.

30. A library according to claim 22, wherein said variants comprise the same FR regions as said parental binding molecule.

31. A phage display library according to claim 22, wherein said parental ligand binding molecule comprises the entire FR regions of the immunoglobulin V_H domain depicted in Figures 2.

32. A library according to claim 19, wherein said parental ligand binding molecule comprises at least in substantial part the FR2 region of the immunoglobulin V_H domain depicted in Figure 2, including residues 44, 45 and 47 depicted in Figure 2, and wherein the FR2 regions is at least partially randomized to generate variants having one or more hydrophilic amino acids at V_H-VL interface.

33. A library according to claim 20, wherein said variants vary from said parental ligand binding molecule at amino acids which are proximal to the carboxy terminus of the CDR3.

34. A library according to claim 20, wherein said variants vary from said parental ligand binding molecule in an amino acids which are immediately upstream of position 100o.

35. A library according to claim 20, wherein said variants vary from said parental ligand binding molecule in an amino acids 100i to 100n identified Figure 2.

36. A library according to claim 20, wherein said parental ligand binding molecule is derived from a human V_H domain identified in Figure 1 or is built on any framework which is at least 80% homologous to the framework and other conserved regions of said human V_H domain.

37. A method of identifying a polypeptide comprising a V_H which binds to a target ligand, comprising the steps of:
(a) screening polypeptide members of the library of any one of claims 1-6, 10-17, or 19-36 for their ability to preferentially bind to the target ligand; and
(b) identifying at least one polypeptide member which binds to the target ligand.

38. A library as claimed in any one of claims 1-6, 10-17, or 19-36, wherein said V_H is human V_H.

39. An immunoglobulin domain comprising a polypeptide comprising a V_H, said V_H comprising a CDR and any one, two, three or four, or five, amino acids from a group comprising 6-A, 23-A, 82a-N, 93-A and 108-Q.

40. An immunoglobulin domain according to claim 38, wherein said group further comprises 74-A, 83-K, 84-P.

41. An immunoglobulin domain according to claim 38 or 39, wherein said CDR is a CDR3.

42. An immunoglobulin domain according to claim 38, 39 or 40, wherein said CDR is derived from a pre-existing repertoire of CDRs.

43. An immunoglobulin domain according to claim 38, 39 or 40, wherein said CDR comprises random sequences.

44. An immunoglobulin domain according to claim 38, 39 or 40, wherein said immunoglobulin heavy chain variable domains further comprises one or more constant domains for expression of Ig-type chains.

45. An immunoglobulin domain comprising a variant of a parental V_H ligand binding molecule, wherein said parental ligand binding molecule comprises an immunoglobulin V_H fragment comprising at least in substantial part, at least the FR regions of the immunoglobulin V_H domain depicted in Figure 2 and wherein said variants comprise, at least in substantial part, at least the FR regions of the immunoglobulin V_H domain depicted in Figure 2 including at least one of amino acid residues 6, 23, 82a, 93 and 108 depicted in Figure 2, and differ from said parental ligand binding molecule in amino acid residues constituting part of at least one of the CDRs of said parental ligand binding molecule.

46. An immunoglobulin domain according to claim 45, wherein said variant comprises each of amino acid residues 6, 23, 82a, 93 and 108 depicted in Figure 2 subject only to

conservative substitutions which on the whole do not adversely affect the solubility properties of said variant.

47. An immunoglobulin domain according to claim 45, having a CDR3 that is 16 to 33 amino acids in length.

48. An immunoglobulin domain according to claim 47, having a CDR3 that is 18 to 28 amino acids in length.

49. An immunoglobulin domain according to claim 48, having a CDR3 that is 20 to 25 amino acids in length.

50. An immunoglobulin domain according to claim 49, having a CDR3 that is 23 amino acids in length.

51. An immunoglobulin domain according to claim 45, wherein said variants vary from said parental ligand binding molecule in amino acids constituting at least part of the CDR3.

52. An immunoglobulin domain according to claim 45, wherein said parental ligand binding molecule comprises an immunoglobulin VH binding fragment comprising, at least in substantial part, the CDR3 region of the immunoglobulin VH domain depicted in Figure 2.

53. An immunoglobulin domain according to claim 45, wherein said parental ligand binding molecule comprises an immunoglobulin VH binding fragment comprising, at least in substantial part, the CDR regions of the immunoglobulin VH domain depicted in Figure 2.

54. An immunoglobulin domain according to claim 45, having the same FR regions as said parental binding molecule.

55. An immunoglobulin domain according to claim 45, wherein said parental ligand binding molecule comprises the entire FR regions of the immunoglobulin VH domain depicted in Figures 2.

56. An immunoglobulin domain according to claim 45, wherein said parental ligand binding molecule comprises at least in substantial part the FR2 region of the immunoglobulin VH domain depicted in Figure 2, including residues 44, 45 and 47 depicted in Figure 2, and wherein the FR2 regions is at least partially randomized to generate variants having one or more hydrophilic amino acids at VH-VL interface.

57. An immunoglobulin domain according to claim 45, wherein said variants vary from said parental ligand binding molecule at amino acids which are proximal to the carboxy terminus of the CDR3.

58. An immunoglobulin domain according to claim 45, wherein said variants vary from said parental ligand binding molecule in amino acids which are immediately upstream of position 100o.

59. An immunoglobulin domain according to claim 45, wherein said variants vary from said parental ligand binding molecule in amino acids 100i to 100n identified Figure 2.

60. An immunoglobulin domain according to claim 45, wherein said parental ligand binding molecule is derived from a human VH domain identified in Figure 1 or is built on any framework which is at least 80% homologous to the framework and other conserved regions of said human VH domain.

61. An immunoglobulin domain as claimed in any one of claims 39-60, wherein said V_H is human V_H.

Figure 1

Structure of VH domain of human A6 antibody.

1	2	3	4	5	6	7	8	9	10	11	12	13	14
GAG	GTC	CAG	CTG	CAG	GAG	TCT	GGG	GGA	GGC	TTA	GTC	CAG	CCT
E	**V**	**Q**	**L**	**Q**	**E**	**S**	**G**	**G**	**G**	**L**	**V**	**Q**	**P**

15	16	17	18	19	20	21	22	23	24	25	26	27	28
GGG	GGG	TCC	CTG	AGA	CTC	TCC	TGT	TCA	GCC	TCT	GGA	TTC	ACC
G	**G**	**S**	**L**	**R**	**L**	**S**	**C**	**S**	**A**	**S**	**G**	**F**	**T**

29	30	31	32	33	34	35	36	37	38	39	40	41	42
TTC	AGT	AGC	TAT	GCT	ATG	CAC	TGG	GTC	CGC	CAG	GCT	CCA	GGG
F	**S**	**S**	**Y**	**A**	**M**	**H**	**W**	**V**	**R**	**Q**	**A**	**P**	**G**
		CDR1											

43	44	45	46	47	48	49	50	51	52	a	53	54	55
AAG	GGA	CTG	GAA	TAT	GTT	TCA	GCT	ATT	AGT	AGT	AAT	GGG	GGT
K	**G**	**L**	**E**	**Y**	**V**	**S**	**A**	**I**	**S**	**S**	**N**	**G**	**G**
									CDR2				

56	57	58	59	60	61	62	63	64	65	66	67	68	69
AGC	ACA	TAC	TAC	GCA	GAC	TCC	GTG	AAG	GGC	AGA	TTC	ACC	ATC
S	**T**	**Y**	**Y**	**A**	**D**	**S**	**V**	**K**	**G**	**R**	**F**	**T**	**I**

70	71	72	73	74	75	76	77	78	79	80	81	82	a
TCC	AGA	GAC	AAT	TCC	AAG	AAC	ACT	CTG	TAT	CTT	CAA	ATG	AGC
S	**R**	**D**	**N**	**S**	**K**	**N**	**T**	**L**	**Y**	**L**	**Q**	**M**	**S**

b	c	83	84	85	86	87	88	89	90	91	92	93	94
AGT	CTG	AGA	GCT	GAG	GAC	ACG	GCT	GTG	TAT	TAC	TGT	GTG	AAA
S	**L**	**R**	**A**	**E**	**D**	**T**	**A**	**V**	**Y**	**Y**	**C**	**V**	**K**

Figure 1 (continued)

95	96	97	98	99	100	a	b	c	d	e	f	g	h
GAC	AGG	TTA	AAA	GTG	GAG	TAC	TAT	GAT	AGT	AGT	GGT	TAT	TAC
D	**R**	**L**	**K**	**V**	**E**	**Y**	**Y**	**D**	**S**	**S**	**G**	**Y**	**Y**

CDR3

i	j	k	l	m	n	o	101	102	103	104	105	105	107
GTT	TCT	CGG	TTC	GGT	GCT	TTT	GAT	ATC	TGG	GGC	CAA	GGG	ACA
V	**S**	**R**	**F**	**G**	**A**	**F**	**D**	**I**	**W**	**G**	**Q**	**G**	**T**

108	109	110	111	112	113
ACG	GTC	ACC	GTC	TCA	TCA
T	**V**	**T**	**V**	**S**	**S**

Figure 2

Structure of VH domain of human A6 antibody.

1	2	3	4	5	6	7	8	9	10	11	12	13	14
GAG	GTC	CAG	CTG	CAG	**GCT**	TCT	GGG	GGA	GGC	TTA	GTC	CAG	CCT
E	**V**	**Q**	**L**	**Q**	**A**	**S**	**G**	**G**	**G**	**L**	**V**	**Q**	**P**

15	16	17	18	19	20	21	22	23	24	25	26	27	28
GGG	GGG	TCC	CTG	AGA	CTC	TCC	TGT	**GCT**	GCC	TCT	GGA	TTC	ACC
G	**G**	**S**	**L**	**R**	**L**	**S**	**C**	**A**	**A**	**S**	**G**	**F**	**T**

29	30	31	32	33	34	35	36	37	38	39	40	41	42
TTC	AGT	AGC	TAT	GCT	ATG	CAC	TGG	GTC	CGC	CAG	GCT	CCA	GGG
F	**S**	**S**	**Y**	**A**	**M**	**H**	**W**	**V**	**R**	**Q**	**A**	**P**	**G**
		CDR1											

43	44	45	46	47	48	49	50	51	52	a	53	54	55
AAG	GGA	CTG	GAA	TAT	GTT	TCA	GCT	ATT	AGT	AGT	AAT	GGG	GGT
K	**G**	**L**	**E**	**Y**	**V**	**S**	**A**	**I**	**S**	**S**	**N**	**G**	**G**
									CDR2				

56	57	58	59	60	61	62	63	64	65	66	67	68	69
AGC	ACA	TAC	TAC	GCA	GAC	TCC	GTG	AAG	GGC	AGA	TTC	ACC	ATC
S	**T**	**Y**	**Y**	**A**	**D**	**S**	**V**	**K**	**G**	**R**	**F**	**T**	**I**

70	71	72	73	74	75	76	77	78	79	80	81	82	a
TCC	AGA	GAC	AAT	TCC	AAG	AAC	ACT	CTG	TAT	CTT	CAA	ATG	**AAC**
S	**R**	**D**	**N**	**S**	**K**	**N**	**T**	**L**	**Y**	**L**	**Q**	**M**	**N**

b	c	83	84	85	86	87	88	89	90	91	92	93	94
AGT	CTG	AGA	GCT	GAG	GAC	ACG	GCT	GTG	TAT	TAC	TGT	**GCG**	AAA
S	**L**	**R**	**A**	**E**	**D**	**T**	**A**	**V**	**Y**	**Y**	**C**	**A**	**K**

Figure 2 (continued)

95	96	97	98	99	100	a	b	c	d	e	f	g	h
GAC	AGG	TTA	AAA	GTG	GAG	TAC	TAT	GAT	AGT	AGT	GGT	TAT	TAC
D	**R**	**L**	**K**	**V**	**E**	**Y**	**Y**	**D**	**S**	**S**	**G**	**Y**	**Y**

CDR3

i	j	k	l	m	n	o	101	102	103	104	105	105	107
GTT	TCT	CGG	TTC	GGT	GCT	TTT	GAT	ATC	TGG	GGC	CAA	GGG	ACA
V	**S**	**R**	**F**	**G**	**A**	**F**	**D**	**I**	**W**	**G**	**Q**	**G**	**T**

108	109	110	111	112	113
CAG	GTC	ACC	GTC	TCA	TCA
Q	**V**	**T**	**V**	**S**	**S**

Figure 3

Structure of VH domain of human A6 antibody.

1	2	3	4	5	6	7	8	9	10	11	12	13	14
GAG	GTC	CAG	CTG	CAG	**GCT**	TCT	GGG	GGA	GGC	TTA	GTC	CAG	CCT
E	**V**	**Q**	**L**	**Q**	**A**	**S**	**G**	**G**	**G**	**L**	**V**	**Q**	**P**

15	16	17	18	19	20	21	22	23	24	25	26	27	28
GGG	GGG	TCC	CTG	AGA	CTC	TCC	TGT	**GCT**	GCC	TCT	GGA	TTC	ACC
G	**G**	**S**	**L**	**R**	**L**	**S**	**C**	**A**	**A**	**S**	**G**	**F**	**T**

29	30	31	32	33	34	35	36	37	38	39	40	41	42
TTC	AGT	AGC	TAT	GCT	ATG	CAC	TGG	GTC	CGC	CAG	GCT	CCA	GGG
F	**S**	**S**	**Y**	**A**	**M**	**H**	**W**	**V**	**R**	**Q**	**A**	**P**	**G**
		CDR1											

43	44	45	46	47	48	49	50	51	52	a	53	54	55
AAG	GGA	CTG	GAA	TAT	GTT	TCA	GCT	ATT	AGT	AGT	AAT	GGG	GGT
K	**G**	**L**	**E**	**Y**	**V**	**S**	**A**	**I**	**S**	**S**	**N**	**G**	**G**
							CDR2						

56	57	58	59	60	61	62	63	64	65	66	67	68	69
AGC	ACA	TAC	TAC	GCA	GAC	TCC	GTG	AAG	GGC	AGA	TTC	ACC	ATC
S	**T**	**Y**	**Y**	**A**	**D**	**S**	**V**	**K**	**G**	**R**	**F**	**T**	**I**

70	71	72	73	74	75	76	77	78	79	80	81	82	a
TCC	AGA	GAC	AAT	**GCC**	AAG	AAC	ACT	CTG	TAT	CTT	CAA	ATG	**AAC**
S	**R**	**D**	**N**	**A**	**K**	**N**	**T**	**L**	**Y**	**L**	**Q**	**M**	**N**

b	c	83	84	85	86	87	88	89	90	91	92	93	94
AGT	CTG	**AAA**	**CCA**	GAG	GAC	ACG	GCT	GTG	TAT	TAC	TGT	**GCG**	AAA
S	**L**	**K**	**P**	**E**	**D**	**T**	**A**	**V**	**Y**	**Y**	**C**	**A**	**K**

Figure 3 (continued)

95	96	97	98	99	100	a	b	c	d	e	f	g	h
GAC	AGG	TTA	AAA	GTG	GAG	TAC	TAT	GAT	AGT	AGT	GGT	TAT	TAC
D	**R**	**L**	**K**	**V**	**E**	**Y**	**Y**	**D**	**S**	**S**	**G**	**Y**	**Y**

CDR3

i	j	k	l	m	n	o	101	102	103	104	105	105	107
GTT	TCT	CGG	TTC	GGT	GCT	TTT	GAT	ATC	TGG	GGC	CAA	GGG	ACA
V	**S**	**R**	**F**	**G**	**A**	**F**	**D**	**I**	**W**	**G**	**Q**	**G**	**T**

108	109	110	111	112	113
CAG	GTC	ACC	GTC	TCA	TCA
Q	**V**	**T**	**V**	**S**	**S**

Figure 4

Structure of VH domain of human A6 antibody. The mutated nucleotides spanning residues 7-48 to remove the recombination site are in bold and underlined.

1	2	3	4	5	6	7	8	9	10	11	12	13	14
GAG	GTC	CAA	TTA	CAG	GAA	AGT	GGT	GGC	GGA	CTG	GTG	CAA	CCA
E	V	Q	L	Q	E	S	G	G	G	L	V	Q	P

15	16	17	18	19	20	21	22	23	24	25	26	27	28
GGA	GGA	TCC	CTG	AGA	CTC	TCC	TGT	TCA	GCC	TCT	GGA	TTC	ACC
G	G	S	L	R	L	S	C	S	A	S	G	F	T

29	30	31	32	33	34	35	36	37	38	39	40	41	42
TTC	AGT	AGC	TAT	GCT	ATG	CAC	TGG	GTC	CGC	CAG	GCT	CCA	GGG
F	S	S	Y	A	M	H	W	V	R	Q	A	P	G

CDR1

43	44	45	46	47	48	49	50	51	52	a	53	54	55
AAG	GGA	CTG	GAA	TAT	GTT	TCA	GCT	ATT	AGT	AGT	AAT	GGG	GGT
K	G	L	E	Y	V	S	A	I	S	S	N	G	G

CDR2

56	57	58	59	60	61	62	63	64	65	66	67	68	69
AGC	ACA	TAC	TAC	GCA	GAC	TCC	GTG	AAG	GGC	AGA	TTC	ACC	ATC
S	T	Y	Y	A	D	S	V	K	G	R	F	T	I

70	71	72	73	74	75	76	77	78	79	80	81	82	a
TCC	AGA	GAC	AAT	TCC	AAG	AAC	ACT	CTG	TAT	CTT	CAA	ATG	AGC
S	R	D	N	S	K	N	T	L	Y	L	Q	M	S

b	c	83	84	85	86	87	88	89	90	91	92	93	94
AGT	CTG	AGA	GCT	GAG	GAC	ACG	GCT	GTG	TAT	TAC	TGT	GTG	AAA
S	L	R	A	E	D	T	A	V	Y	Y	C	V	K

Figure 4 (continued)

95	96	97	98	99	100	a	b	c	d	e	f	g	h
GAC	AGG	TTA	AAA	GTG	GAG	TAC	TAT	GAT	AGT	AGT	GGT	TAT	TAC
D	R	L	K	V	E	Y	Y	D	S	S	G	Y	Y

CDR3

i	j	k	l	m	n	o	101	102	103	104	105	105	107
GTT	TCT	CGG	TTC	GGT	GCT	TTT	GAT	ATC	TGG	GGC	CAA	GGG	ACA
V	S	R	F	G	A	F	D	I	W	G	Q	G	T

108	109	110	111	112	113
ACG	GTC	ACC	GTC	TCA	TCA
T	V	T	V	S	S

Figure 5

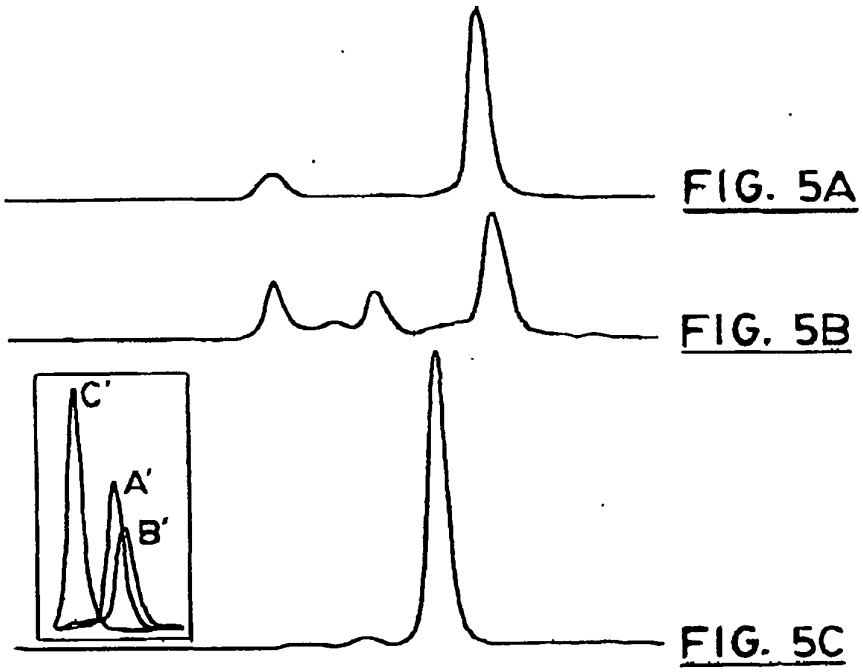


Figure 6

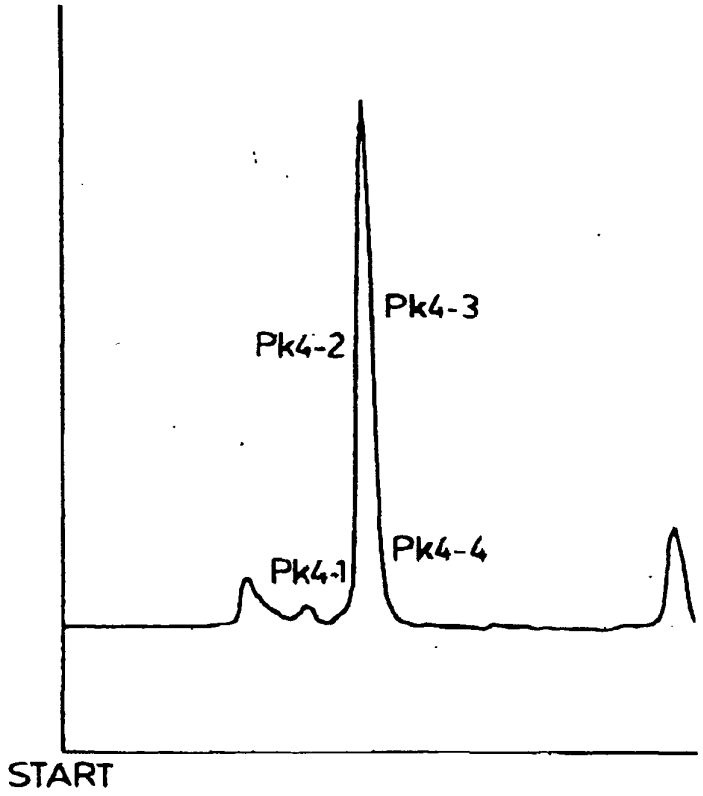
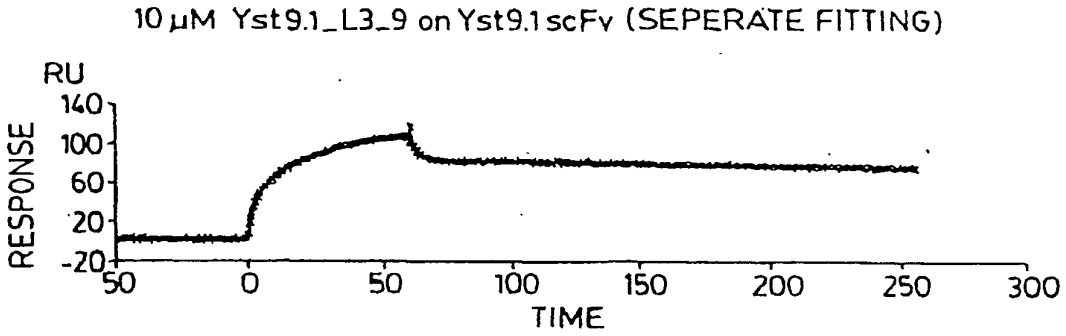


Figure 7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RU
RESPONSE
140
100
60
20
-20
50
0
50
100
150
200
250
300
TIME

Figure 8

Structure of modified VH domain of human A6 antibody showing substitutions at position 44, 45, 47, 93 and 94. The *Nhe*I site is underlined.

1	2	3	4	5	6	7	8	9	10	11	12	13	14
GAG	GTC	CAG	CTG	CAG	GAG	TCT	GGG	GGA	GGC	TTA	GTC	CAG	CCT
E	V	Q	L	Q	E	S	G	G	G	L	V	Q	P

15	16	17	18	19	20	21	22	23	24	25	26	27	28
GGG	GGG	TCC	CTG	AGA	CTC	TCC	TGT	TCA	GCC	TCT	GGA	TTC	ACC
G	**G**	**S**	**L**	**R**	**L**	**S**	**C**	**S**	**A**	**S**	**G**	**F**	**T**

29	30	31	32	33	34	35	36	37	38	39	40	41	42
TTC	AGT	AGC	TAT	GCT	ATG	CAC	TGG	GTC	CGC	CAG	GCT	CCA	GGG
F	**S**	**S**	**Y**	**A**	**M**	**H**	**W**	**V**	**R**	**Q**	**A**	**P**	**G**

CDR1

43	44	45	46	47	48	49	50	51	52	a	53	54	55
AAG	**GAA**	**CGT**	GAA	**GGT**	GTT	TCA	GCT	ATT	AGT	AGT	AAT	GGG	GGT
K	**E**	**R**	**E**	**G**	**V**	**S**	**A**	**I**	**S**	**S**	**N**	**G**	**G**

CDR2

56	57	58	59	60	61	62	63	64	65	66	67	68	69
AGC	ACA	TAC	TAC	GCA	GAC	TCC	GTG	AAG	GGC	AGA	TTC	ACC	ATC
S	**T**	**Y**	**Y**	**A**	**D**	**S**	**V**	**K**	**G**	**R**	**F**	**T**	**I**

70	71	72	73	74	75	76	77	78	79	80	81	82	a
TCC	AGA	GAC	AAT	TCC	AAG	AAC	ACT	CTG	TAT	CTT	CAA	ATG	AGC
S	R	D	N	S	K	N	T	L	Y	L	Q	M	S

b	c	83	84	85	86	87	88	89	90	91	92	93	94
AGT	CTG	AGA	GCT	GAG	GAC	ACG	GCT	GTG	TAT	TAC	TGT	**GCA**	**GCA**
S	L	R	A	E	D	T	A	V	Y	Y	C	**A**	**A**

Figure 8 (continued)

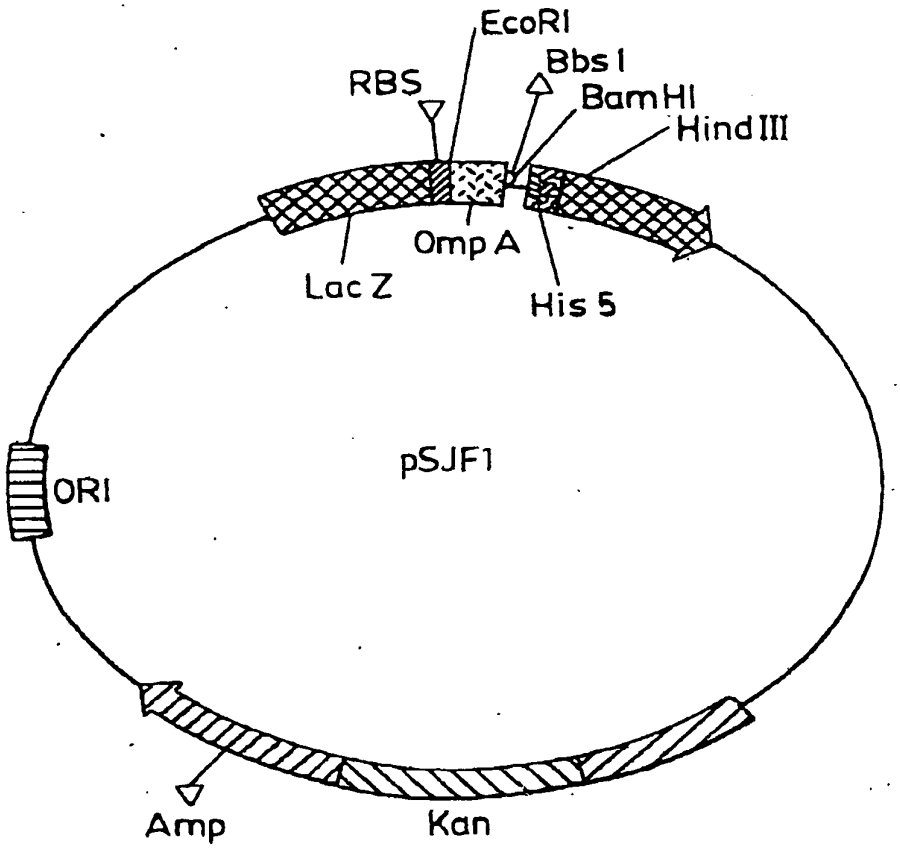
95	96	97	98	99	100	a	b	c	d	e	f	g	h
GAC	AGG	TTA	AAA	GTG	GAG	TAC	TAT	GAT	AGT	AGT	GGT	TAT	TAC
D	**R**	**L**	**K**	**V**	**E**	**Y**	**Y**	**D**	**S**	**S**	**G**	**Y**	**Y**

CDR3

i	j	k	l	m	n	o	101	102	103	104	105	105	107
GTT	TCT	CGG	TTC	GGT	GCT	TTT	GAT	ATC	TGG	GGC	CAA	GGG	ACA
V	**S**	**R**	**F**	**G**	**A**	**F**	**D**	**I**	**W**	**G**	**Q**	**G**	**T**

108	109	110	111	112	113
ACG	GTC	ACC	GTC	TCA	TCA
T	**V**	**T**	**V**	**S**	**S**

Figure 9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Bbs I
RBS
BamHI
Hind III
Omp A
Lac Z
His 5
pSJF1
ORI
Amp
Kan

Figure 10

A6VH sequence for the A6VH-L1 library

- 5 mutations (in bold)
- Randomization at 100i-n

GAG GTC CAA TTA CAA GCT AGT GGT GGC GGA CTG GTG CAA CCA GGA GGT TCC CTG
E V Q L Q A_6 S G G G L V Q P G G S L

AGA CTC TCC TGT GCT GCC TCT GGA TTC ACC TTC AGT AGC TAT GCT ATG CAC TGG GTC
R L S C A_{23} A S G F T F S S Y A M H W V

CGC CAG GCT CCA GGG AAG GGA CTG GAA TAT GTT TCA GCT ATT AGT AGT AAT GGG
R Q A P G K G L E Y V S A I S S N G

GGT AGC ACA TAC TAC GCA GAC TCC GTG AAG GGC AGA TTC ACC ATC TCC AGA GAC
G S T Y Y A D S V K G R F T I S R D

AAT TCC AAG AAC ACT CTG TAT CTT CAA ATG AAC AGT CTG AGA GCT GAG GAC ACG
N S_{74} K N T L Y L Q M N_{82a} S L R_{83} A_{84} E D T

GCT GTG TAT TAC TGT GCG AAA GAC AGG TTA AAA GTG GAG TAC TAT GAT AGT AGT
A V Y Y C A_{93} K D R L K V E Y Y D S S

GGT TAT TAC 6 [NNA/C] TTT GAT ATC TGG GGC CAA GGG ACA CAG GTC ACC GTC TCC
G Y Y 6 [N] F D I W G Q G T Q_{108} V T V S

TCA
S

Figure 11

A6VH sequence for the A6VH-L1a library

- 5 mutations (in bold)
- 100i-n deleted
- Randomization at 95-100h with 50% base doping at each position.

GAG GTC CAA TTA CAA GCT AGT GGT GGC GGA CTG GTG CAA CCA GGA GGT TCC CTG
E V Q L Q A_6 S G G G L V Q P G G S L

AGA CTC TCC TGT GCT GCC TCT GGA TTC ACC TTC AGT AGC TAT GCT ATG CAC TGG GTC
R L S C A_{23} A S G F T F S S Y A M H W V

CGC CAG GCT CCA GGG AAG GGA CTG GAA TAT GTT TCA GCT ATT AGT AGT AAT GGG
R Q A P G K G L E Y V S A I S S N G

GGT AGC ACA TAC TAC GCA GAC TCC GTG AAG GGC AGA TTC ACC ATC TCC AGA GAC
G S T Y Y A D S V K G R F T I S R D

AAT TCC AAG AAC ACT CTG TAT CTT CAA ATG AAC AGT CTG AGA GCT GAG GAC ACG
N S_{74} K N T L Y L Q M N_{82a} S L R_{83} A_{84} E D T

GCT GTG TAT TAC TGT GCG AAA 14 [50%NNA/C] TTT GAT ATC TGG GGC CAA GGG ACA
A V Y Y C A_{93} K 14 [N] F D I W G Q G T
CAG GTC ACC GTC TCC TCA
Q_{108} V T V S S

SEQUENCE LISTING

<110> Kaplan, Howard
Entwistle, Jocelyn
Tanha, Jamshid
Narang, Saran
Dan, Michael
Mackenzie, Colin R

<120> Phage Display Libraries of Human VH Fragments

<130> 33956-0043

<140> PCT/CA01/
<141> 2001-12-21

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1 5

<210> 2
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<400> 2
Ser Ser Met Tyr Gly Asn
1 5

<210> 3
<211> 6
<212> PRT
<213> Artificial Sequence

<220>
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<400> 3
Ile Lys Met Gln Gln Asn
1 5

<210> 4
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<212> PRT
<213> Artificial Sequence

<220>
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<400> 4
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1 5

<210> 5
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<400> 5
Val Ser Arg Phe Gly Ala
1 5

<210> 6
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<400> 6
Gly Leu Gly Ser Pro Lys
1 5

<210> 7
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<220>
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<400> 7
Ile Asp Ala Lys Trp Ala
1 5

<210> 8
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<212> PRT
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region

<400> 8
Val Ser Arg Phe Gly Ala
1 5

<210> 9
<211> 6
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<213> Artificial Sequence

<220>
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region

<400> 9
His Cys Leu Pro Asp Gly
1 5

<210> 10
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region

<400> 10
0 Arg Trp Arg Val Pro
1r r r a 5r

<210> 11
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<400> 11
Val Ser Arg Phe Gly Ala
1 5

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region

<400> 12
Leu Glu Cys Glu Gly Cys
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region

<400> 13
Arg Asn Val Gly Ala Leu
1 5

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region

<400> 14
Arg Arg Ser Asp Tyr Leu
1 5

<210> 15
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<220>
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region

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Cys Val Arg Gly Ala Glu
1 5

<210> 16
<211> 6
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region

<400> 16
Ser Pro Ser Leu Ala Ala
1 5

<210> 17
<211> 6
<212> PRT
<213> Artificial Sequence

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region

<400> 17
His Ala Ser Gly Arg Ser
1 5

<210> 18
<211> 6
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<220>
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region

<400> 18
Gly Tyr Met Cys Ser Leu
1 5

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region

<400> 19
His Asn Lys Asp Leu Ala
1 5

<210> 20
<211> 6
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:randomized
region

<400> 20
Leu Ala Asp Leu Tyr Met

1 5

<210> 21
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<213> Artificial Sequence

<220>
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<400> 21
Trp Arg Arg Ala His Glu
1 5

<210> 22
<211> 6
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Ser Asp Leu Phe Ala Arg
1 5

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<400> 23
Val Ser Arg Phe Gly Ala
1 5

<210> 24
<211> 6
<212> PRT
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<223> Description of Artificial Sequence:randomized region

<400> 24
Arg Tyr Arg His Ser Thr
1 5

<210> 25

<211> 6
<212> PRT
<213> Artificial Sequence

<220>
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region

<400> 25
Ala Arg Leu Ala Gly Pro
1 5

<210> 26
<211> 6
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<220>
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region

<400> 26
Ser Tyr Arg Pro Tyr Leu
1 5

<210> 27
<211> 6
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:randomized
region

<400> 27
Val Val Leu Gly Asn Ser
1 5

<210> 28
<211> 6
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:motif

<400> 28
Xaa Tyr Lys Xaa Xaa Asp
1 5

<210> 29
<211> 31
<212> PRT
<213> Artificial Sequence

<220>

<223> Description of Artificial Sequence:M-2 Binders

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1 5 10 15

Leu Phe Asp Ile Trp Gly Gln Gly Thr Gln Val Thr Val Ser Ser
20 25 30

<210> 30
<211> 43
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 30
Glu Val Gln Leu Gln Ala Ser Gly Gly Gly Leu Val Gln Pro Gly Tyr
1 5 10 15

Tyr Asp Ser Ser Gly Tyr Tyr Lys Asp Leu Asp Thr Arg Phe Asp Ile
20 25 30

Trp Gly Gln Gly Thr Gln Val Thr Val Ser Ser
35 40

<210> 31
<211> 53
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 31
Glu Val Gln Leu Gln Ala Ser Gly Gly Gly Leu Val Gln Pro Gly Gly
1 5 10 15

Ser Leu Arg Leu Ser Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Tyr
20 25 30

Tyr Gly Asp His Tyr Lys Trp Phe Asp Ile Trp Gly Gln Gly Thr Gln
35 40 45

Val Thr Val Ser Ser
50

<210> 32
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 32

Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Arg Asn
1 5 10 15

Glu Tyr Lys Glu Phe Asp Ile
20

<210> 33
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 33
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Val Asp
1 5 10 15

Glu Tyr Lys Ser Phe Asp Ile
20

<210> 34
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 34
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Ala Gly
1 5 10 15

Arg Tyr Lys Asp Phe Asp Ile
20

<210> 35
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 35
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Arg Ser
1 5 10 15

Asp Tyr Lys Arg Phe Asp Ile
20

<210> 36
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 36
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Ala Ser
1 5 10 15

His Tyr Lys Asp Phe Asp Ile
20

<210> 37
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 37
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Val Asp
1 5 10 15

Gly Tyr Lys Asp Phe Asp Ile
20

<210> 38
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 38
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Thr Ala
1 5 10 15

Asp Tyr Lys Met Phe Asp Ile
20

<210> 39
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 39
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Asp Met
1 5 10 15

Asp Tyr Lys Thr Phe Asp Ile
20

<210> 40

<211> 22
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 40
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Lys Ser
1 5 10 15

Tyr Lys Ser Phe Asp Ile
20

<210> 41
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 41
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Asp Tyr
1 5 10 15

Lys Ser Gln Asp Phe Asp Ile
20

<210> 42
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 42
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Asp Tyr
1 5 10 15

Lys Ser Gln Asp Phe Asp Ile
20

<210> 43
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 43
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Lys Asp
1 5 10 15

Trp Asp Ser Ser Phe Asp Ile

20

<210> 44
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:M-2 Binders

<400> 44
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Lys Asp
1 5 10 15

Gly Asp Ser Phe Phe Asp Ile
20

<210> 45
<211> 21
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences
H11 Binders

<400> 45
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Ser Phe Ser
1 5 10 15

Ser Pro Phe Asp Ile
20

<210> 46
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences
H11 Binders

<400> 46
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Tyr Asp
1 5 10 15

Phe Ser Ser Pro Phe Asp Ile
20

<210> 47
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences

H11 Binders

<400> 47
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Asn Leu
1 5 10 15

Phe Ser Ser Pro Phe Asp Ile
20

<210> 48
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences
H11 Binders

<400> 48
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Ser Glu
1 5 10 15

Phe Ser Ser Pro Phe Asp Ile
20

<210> 49
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences
H11 Binders

<400> 49
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Ser Asp
1 5 10 15

Phe Ser Ser Pro Phe Asp Ile
20

<210> 50
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences
H11 Binders

<400> 50
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Thr Asp
1 5 10 15

Met Ser Trp Glu Phe Asp Ile
20

<210> 51
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences
H11 Binders

<400> 51
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Asp Leu
1 5 10 15

Gly Ser Trp Glu Phe Asp Ile
20

<210> 52
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences
H11 Binders

<400> 52
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Asp Tyr
1 5 10 15

Val Ser Trp Glu Phe Asp Ile
20

<210> 53
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences
H11 Binders

<400> 53
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Asp Trp
1 5 10 15

Gly Ser Trp Thr Phe Asp Ile
20

<210> 54
<211> 22
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences
H11 Binders

<400> 54
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Asp Gly
1 5 10 15

Thr Trp Asp Phe Asp Ile
20

<210> 55
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences
H11 Binders

<400> 55
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Trp Glu
1 5 10 15

Gly Ser Gly Leu Phe Asp Ile
20

<210> 56
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences
H11 Binders

<400> 56
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Ile Trp
1 5 10 15

Tyr Ser Gly Leu Phe Asp Ile
20

<210> 57
<211> 23
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:CDR3 sequences
H11 Binders

<400> 57
Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr Ser Ser
1 5 10 15

Trp Ala Ser Ala Phe Asp Ile
20

<210> 58
<211> 6
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:dAb designated
Yst9.1-L3-9

<400> 58
Val Ser Arg Phe Gly Ala
1 5

<210> 59
<211> 54
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 59
caattacaag aaagtggtgg cggactggtg caaccaggag gttccctgag actc 54

<210> 60
<211> 30
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 60
actttcttgt aattggacct cggcctgcgc 30

<210> 61
<211> 21
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 61
ctctcctgtg ctgcctctgg a 21

<210> 62
<211> 21
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 62
tccagaggca gcacaggaga g 21

<210> 63
<211> 54
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 63
cgcacagtaa tacacagccg tgtcctcagc tctcagactg ttcatttgaa gata 54

<210> 64
<211> 24
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 64
gtgtattact gtgcgaaaga cagg 24

<210> 65
<211> 21
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 65
caattacaag ctagtggtgg c 21

<210> 66
<211> 21
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 66
gccaccacta gcttgtaatt g 21

<210> 67
<211> 39
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 67
tatggatcct gaggagacgg tgacctgtgt cccttggcc 39

<210> 68
<211> 39
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 68
catgaccaca gtgcacagga ggtccaatta caagctaga 39

<210> 69
<211> 54
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 69
cgattctgcg gccgctgagg agacggtgac ctgtgtccct tggccccaga tatc 54

<210> 70
<211> 24
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 70
gcggataaca atttcacaca ggaa 24

<210> 71
<211> 24
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 71
cgccagggtt ttcccagtca cgac 24

<210> 72
<211> 42
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 72
ccttggcccc agatatcaaa acnngtaata accactacta tc 42

<210> 73
<211> 38
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 73
catgaccaca gtgcacagga ggtccaatta caagctag 38

<210> 74
<211> 54
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 74
cgattctgcg gccgctgagg agacggtgac ctgtgtccct tggccccaga tatc 54

<210> 75
<211> 43
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 75
cccttggccc cagatatcaa aacnntttcg cacagtaata cac 43

<210> 76
<211> 36
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 76
catttgaaga tacagagtgt tcttggcatt gtctct 36

<210> 77
<211> 39
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 77
tatcttcaaa tgaacagtct gaaaccagag gacacggct 39

<210> 78
<211> 37
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:primer

<400> 78
gttgtccctt ggccccanac nntttcacac agtaata 37

<210> 79
<211> 396
<212> DNA
<213> Human

<400> 79
gaggtccagc tgcaggagtc tgggggaggc ttagtccagc ctgggggtc cctgagactc 60
tcctgttcag cctctggatt caccttcagt agctatgcta tgcactgggt ccgccaggct 120
ccagggaagg gactggaata tgtttcagct attagtagta atgggggtag cacatactac 180
gcagactccg tgaagggcag attcaccatc tccagagaca attccaagaa cactctgtat 240
cttcaaatga gcagtctgag agctgaggac acggctgtgt attactgtgt gaaagacagg 300
ttaaaagtgg agtactatga tagtagtggt tattacgttt ctcggttcgg tgcttttgat 360
atctggggcc aagggacaac ggtcaccgtc tcatca 396

<210> 80
<211> 396
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:human A6 with
modifications

<400> 80
gaggtccagc tgcaggcttc tgggggaggc ttagtccagc ctgggggtc cctgagactc 60
tcctgtgctg cctctggatt caccttcagt agctatgcta tgcactgggt ccgccaggct 120
ccagggaagg gactggaata tgtttcagct attagtagta atgggggtag cacatactac 180
gcagactccg tgaagggcag attcaccatc tccagagaca attccaagaa cactctgtat 240
cttcaaatga acagtctgag agctgaggac acggctgtgt attactgtgc gaaagacagg 300
ttaaaagtgg agtactatga tagtagtggt tattacgttt ctcggttcgg tgcttttgat 360
atctggggcc aagggacaca ggtcaccgtc tcatca 396

<210> 81
<211> 396
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:human A6 with
modifications

<400> 81
gaggtccagc tgcaggcttc tgggggaggc ttagtccagc ctgggggtc cctgagactc 60
tcctgtgctg cctctggatt caccttcagt agctatgcta tgcactgggt ccgccaggct 120

ccagggaagg gactggaata tgtttcagct attagtagta atgggggtag cacatactac 180
gcagactccg tgaagggcag attcaccatc tccagagaca atgccaagaa cactctgtat 240
cttcaaatga acagtctgaa accagaggac acggctgtgt attactgtgc gaaagacagg 300
ttaaaagtgg agtactatga tagtagtggt tattacgttt ctcggttcgg tgcttttgat 360
atctggggcc aagggacaca ggtcaccgtc tcatca 396

<210> 82
<211> 396
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:human A6 with
modifications

<400> 82
gaggtccaat tacaggaaag tggtggcgga ctggtgcaac caggaggatc cctgagactc 60
tcctgttcag cctctggatt caccttcagt agctatgcta tgcactgggt ccgccaggct 120
ccagggaagg gactggaata tgtttcagct attagtagta atgggggtag cacatactac 180
gcagactccg tgaagggcag attcaccatc tccagagaca attccaagaa cactctgtat 240
cttcaaatga gcagtctgag agctgaggac acggctgtgt attactgtgt gaaagacagg 300
ttaaaagtgg agtactatga tagtagtggt tattacgttt ctcggttcgg tgcttttgat 360
atctggggcc aagggacaac ggtcaccgtc tcatca 396

<210> 83
<211> 396
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:human A6 with
modifications

<400> 83
gaggtccagc tgcaggagtc tgggggaggc ttagtccagc ctgggggtc cctgagactc 60
tcctgttcag cctctggatt caccttcagt agctatgcta tgcactgggt ccgccaggct 120
ccagggaagg aacgtgaagg tgtttcagct attagtagta atgggggtag cacatactac 180
gcagactccg tgaagggcag attcaccatc tccagagaca attccaagaa cactctgtat 240
cttcaaatga gcagtctgag agctgaggac acggctgtgt attactgtgc agcagacagg 300
ttaaaagtgg agtactatga tagtagtggt tattacgttt ctcggttcgg tgcttttgat 360
atctggggcc aagggacaac ggtcaccgtc tcatca 396

<210> 84
<211> 396
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:human A6 with
modifications

<400> 84
gaggtccaat tacaagctag tggtggcgga ctggtgcaac caggaggttc cctgagactc 60
tcctgtgctg cctctggatt caccttcagt agctatgcta tgcactgggt ccgccaggct 120
ccagggaagg gactggaata tgtttcagct attagtagta atgggggtag cacatactac 180
gcagactccg tgaagggcag attcaccatc tccagagaca attccaagaa cactctgtat 240
cttcaaatga acagtctgag agctgaggac acggctgtgt attactgtgc gaaagacagg 300

ttaaaagtgg agtactatga tagtagtggt tattacnnmn nmnnmnnmnn mnnmtttgat 360
atctggggcc aagggacaca ggtcaccgtc tcctca 396

<210> 85
<211> 378
<212> DNA
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:human A6 with
modifications

<400> 85
gaggtccaat tacaagctag tggtggcgga ctggtgcaac caggaccttc cctgagactc 60
tcctgtgctg cctctggatt caccttcagt agctatgcta tgcactgggt ccgccaggct 120
ccagggaagg gactggaata tgtttcagct attagtagta atgggggtag cacatactac 180
gcagactccg tgaagggcag attcaccatc tccagagaca attccaagaa cactctgtat 240
cttcaaatga acagtctgag agctgaggac acggctgtgt attactgtgg gaaannmnnm 300
nnmnnmnnmn nmnnmnnmnn mnnmnnmnnm nnmnnmtttg atatctgggg ccaagggaca 360
caggtcaccg tctcctca 378

<210> 86
<211> 132
<212> PRT
<213> Human

<400> 86
Glu Val Gln Leu Gln Glu Ser Gly Gly Gly Leu Val Gln Pro Gly Gly
1 5 10 15

Ser Leu Arg Leu Ser Cys Ser Ala Ser Gly Phe Thr Phe Ser Ser Tyr
20 25 30

Ala Met His Trp Val Arg Gln Ala Pro Gly Lys Gly Leu Glu Tyr Val
35 40 45

Ser Ala Ile Ser Ser Asn Gly Gly Ser Thr Tyr Tyr Ala Asp Ser Val
50 55 60

Lys Gly Arg Phe Thr Ile Ser Arg Asp Asn Ser Lys Asn Thr Leu Tyr
65 70 75 80

Leu Gln Met Ser Ser Leu Arg Ala Glu Asp Thr Ala Val Tyr Tyr Cys
85 90 95

Val Lys Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr
100 105 110

Val Ser Arg Phe Gly Ala Phe Asp Ile Trp Gly Gln Gly Thr Thr Val
115 120 125

Thr Val Ser Ser
130

<210> 87
<211> 132
<212> PRT

<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:human A6 with modifications

<400> 87
Glu Val Gln Leu Gln Ala Ser Gly Gly Gly Leu Val Gln Pro Gly Gly
1 5 10 15

Ser Leu Arg Leu Ser Cys Ala Ala Ser Gly Phe Thr Phe Ser Ser Tyr
20 25 30

Ala Met His Trp Val Arg Gln Ala Pro Gly Lys Gly Leu Glu Tyr Val
35 40 45

Ser Ala Ile Ser Ser Asn Gly Gly Ser Thr Tyr Tyr Ala Asp Ser Val
50 55 60

Lys Gly Arg Phe Thr Ile Ser Arg Asp Asn Ser Lys Asn Thr Leu Tyr
65 70 75 80

Leu Gln Met Asn Ser Leu Arg Ala Glu Asp Thr Ala Val Tyr Tyr Cys
85 90 95

Ala Lys Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr
100 105 110

Val Ser Arg Phe Gly Ala Phe Asp Ile Trp Gly Gln Gly Thr Gln Val
115 120 125

Thr Val Ser Ser
130

<210> 88
<211> 132
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:human A6 with modifications

<400> 88
Glu Val Gln Leu Gln Ala Ser Gly Gly Gly Leu Val Gln Pro Gly Gly
1 5 10 15

Ser Leu Arg Leu Ser Cys Ala Ala Ser Gly Phe Thr Phe Ser Ser Tyr
20 25 30

Ala Met His Trp Val Arg Gln Ala Pro Gly Lys Gly Leu Glu Tyr Val
35 40 45

Ser Ala Ile Ser Ser Asn Gly Gly Ser Thr Tyr Tyr Ala Asp Ser Val
50 55 60

Lys Gly Arg Phe Thr Ile Ser Arg Asp Asn Ala Lys Asn Thr Leu Tyr
65 70 75 80

Leu Gln Met Asn Ser Leu Lys Pro Glu Asp Thr Ala Val Tyr Tyr Cys
85 90 95

Ala Lys Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr
100 105 110

Val Ser Arg Phe Gly Ala Phe Asp Ile Trp Gly Gln Gly Thr Gln Val
115 120 125

Thr Val Ser Ser
130

<210> 89
<211> 132
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:human A6 with modifications

<400> 89
Glu Val Gln Leu Gln Glu Ser Gly Gly Gly Leu Val Gln Pro Gly Gly
1 5 10 15

Ser Leu Arg Leu Ser Cys Ser Ala Ser Gly Phe Thr Phe Ser Ser Tyr
20 25 30

Ala Met His Trp Val Arg Gln Ala Pro Gly Lys Gly Leu Glu Tyr Val
35 40 45

Ser Ala Ile Ser Ser Asn Gly Gly Ser Thr Tyr Tyr Ala Asp Ser Val
50 55 60

Lys Gly Arg Phe Thr Ile Ser Arg Asp Asn Ser Lys Asn Thr Leu Tyr
65 70 75 80

Leu Gln Met Ser Ser Leu Arg Ala Glu Asp Thr Ala Val Tyr Tyr Cys
85 90 95

Val Lys Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr
100 105 110

Val Ser Arg Phe Gly Ala Phe Asp Ile Trp Gly Gln Gly Thr Thr Val
115 120 125

Thr Val Ser Ser
130

<210> 90
<211> 132
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:human A6 with modifications

<400> 90
Glu Val Gln Leu Gln Glu Ser Gly Gly Gly Leu Val Gln Pro Gly Gly
1 5 10 15

Ser Leu Arg Leu Ser Cys Ser Ala Ser Gly Phe Thr Phe Ser Ser Tyr
20 25 30

Ala Met His Trp Val Arg Gln Ala Pro Gly Lys Glu Arg Glu Gly Val
35 40 45

Ser Ala Ile Ser Ser Asn Gly Gly Ser Thr Tyr Tyr Ala Asp Ser Val
50 55 60

Lys Gly Arg Phe Thr Ile Ser Arg Asp Asn Ser Lys Asn Thr Leu Tyr
65 70 75 80

Leu Gln Met Ser Ser Leu Arg Ala Glu Asp Thr Ala Val Tyr Tyr Cys
85 90 95

Ala Ala Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr
100 105 110

Val Ser Arg Phe Gly Ala Phe Asp Ile Trp Gly Gln Gly Thr Thr Val
115 120 125

Thr Val Ser Ser
130

<210> 91
<211> 132
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:human A6 with modifications

<400> 91
Glu Val Gln Leu Gln Ala Ser Gly Gly Gly Leu Val Gln Pro Gly Gly
1 5 10 15

Ser Leu Arg Leu Ser Cys Ala Ala Ser Gly Phe Thr Phe Ser Ser Tyr
20 25 30

Ala Met His Trp Val Arg Gln Ala Pro Gly Lys Gly Leu Glu Tyr Val
35 40 45

Ser Ala Ile Ser Ser Asn Gly Gly Ser Thr Tyr Tyr Ala Asp Ser Val
50 55 60

Lys Gly Arg Phe Thr Ile Ser Arg Asp Asn Ser Lys Asn Thr Leu Tyr
65 70 75 80

Leu Gln Met Asn Ser Leu Arg Ala Glu Asp Thr Ala Val Tyr Tyr Cys
85 90 95

Ala Lys Asp Arg Leu Lys Val Glu Tyr Tyr Asp Ser Ser Gly Tyr Tyr
100 105 110

Asn Asn Asn Asn Asn Asn Phe Asp Ile Trp Gly Gln Gly Thr Gln Val
115 120 125

Thr Val Ser Ser
130

<210> 92
<211> 126
<212> PRT
<213> Artificial Sequence

<220>
<223> Description of Artificial Sequence:human A6 with modifications

<400> 92
Glu Val Gln Leu Gln Ala Ser Gly Gly Gly Leu Val Gln Pro Gly Gly
1 5 10 15

Ser Leu Arg Leu Ser Cys Ala Ala Ser Gly Phe Thr Phe Ser Ser Tyr
20 25 30

Ala Met His Trp Val Arg Gln Ala Pro Gly Lys Gly Leu Glu Tyr Val
35 40 45

Ser Ala Ile Ser Ser Asn Gly Gly Ser Thr Tyr Tyr Ala Asp Ser Val
50 55 60

Lys Gly Arg Phe Thr Ile Ser Arg Asp Asn Ser Lys Asn Thr Leu Tyr
65 70 75 80

Leu Gln Met Asn Ser Leu Arg Ala Glu Asp Thr Ala Val Tyr Tyr Cys
85 90 95

Ala Lys Asn Asn Asn Asn Asn Asn Asn Asn Asn Asn Asn Asn Asn Asn
100 105 110

Phe Asp Ile Trp Gly Gln Gly Thr Gln Val Thr Val Ser Ser
115 120 125

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(71) Applicants and
(72) Inventors: **ENTWISTLE, Jocelyn** [CA/CA]; 380 Lindenwood Drive East, Winnipeg, Manitoba R3P 2H1 (CA). **TANHA, Jamshid** [CA/CA]; 1014-2850 Cedarwood Dr., Ottawa, Ontario K1V 8Y4 (CA). **NARANG, Saran** [CA/CA]; 30 Higgins Road, Ottawa, Ontario K2G 0R5 (CA). **DAN, Michael** [CA/CA]; 63 Gordon Road, North York, Ontario M2P 1E3 (CA). **MACKENZIE, Colin, R.** [CA/CA]; 2195 Hamelin Cres., Ottawa, Ontario K1J 6K9 (CA).

(74) Agent: **HELLER, David, J.**; Ridout & Maybee LLP, One Queen Street East, Suite 2400, Toronto, Ontario M5C 3B1 (CA).

(81) Designated States *(national)*: AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EC, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NO, NZ, PH, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TR, TT, TZ, UA, UG, US, UZ, VN, YU, ZA, ZW.

(84) Designated States *(regional)*: ARIPO patent (GH, GM, KE, LS, MW, MZ, SD, SL, SZ, TZ, UG, ZM, ZW), Eurasian patent (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European patent (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE, TR), OAPI patent (BF, BJ, CF, CG, CI, CM, GA, GN, GQ, GW, ML, MR, NE, SN, TD, TG).

Published:
— *with international search report*
— *before the expiration of the time limit for amending the claims and to be republished in the event of receipt of amendments*

(88) Date of publication of the international search report:
24 April 2003

For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbreviations" appearing at the beginning of each regular issue of the PCT Gazette.

WO 02/051870 A3

(54) Title: PHAGE DISPLAY LIBRARIES OF HUMAN V_H FRAGMENTS

(57) Abstract: Phage display libraries are taught in which the recombinant phage population displays a plurality of potential binding fragments having preferred characteristics of solubility and/or intermolecular interaction. Also taught are methods of biasing display libraries to produce variants which more closely approximate the preferred characteristics of the parental binding fragment.

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INTERNATIONAL SEARCH REPORT

International Application No
PCT/GB 01/01845

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 C07K16/00 C12N15/10

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 C07K

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, PAJ, MEDLINE, BIOSIS

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	ARBABI GHAHROUDI M ET AL: "Selection and identification of single domain antibody fragments from camel heavy-chain antibodies" FEBS LETTERS, ELSEVIER SCIENCE PUBLISHERS, AMSTERDAM, NL, vol. 414, no. 3, 15 September 1997 (1997-09-15), pages 521-526, XP002105421 ISSN: 0014-5793 abstract figure 1 page 525, right-hand column, line 1-42 --- -/--	1-5, 7-11, 14-21, 23-27, 30,33, 37, 39-43, 45-51, 54,57

[X] Further documents are listed in the continuation of box C.

[X] Patent family members are listed in annex.

° Special categories of cited documents :

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"E" earlier document but published on or after the international filing date

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"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

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"&" document member of the same patent family

Date of the actual completion of the international search	Date of mailing of the international search report
5 February 2003	12/02/2003

Name and mailing address of the ISA	Authorized officer
European Patent Office, P.B. 5818 Patentlaan 2 NL - 2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	COVONE-VAN HEES, M

Form PCT/ISA/210 (second sheet) (July 1992)

INTERNATIONAL SEARCH REPORT

Intern[illegible] Application No
PCT/[illegible] 01/01845

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 C07K16/00 C12N15/10

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 C07K

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, PAJ, MEDLINE, BIOSIS

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	ARBABI GHAHROUDI M ET AL: "Selection and identification of single domain antibody fragments from camel heavy-chain antibodies" FEBS LETTERS, ELSEVIER SCIENCE PUBLISHERS, AMSTERDAM, NL, vol. 414, no. 3, 15 September 1997 (1997-09-15), pages 521-526, XP002105421 ISSN: 0014-5793 abstract figure 1 page 525, right-hand column, line 1-42 --- -/--	1-5, 7-11, 14-21, 23-27, 30,33, 37, 39-43, 45-51, 54,57

[X] Further documents are listed in the continuation of box C.

[X] Patent family members are listed in annex.

° Special categories of cited documents :

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"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search	Date of mailing of the international search report
5 February 2003	12/02/2003

Name and mailing address of the ISA	Authorized officer
European Patent Office, P.B. 5818 Patentlaan 2 NL - 2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	COVONE-VAN HEES, M

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	RIECHMANN L ET AL: "Single domain antibodies: comparison of camel VH and camelised human VH domains" JOURNAL OF IMMUNOLOGICAL METHODS, ELSEVIER SCIENCE PUBLISHERS B.V.,AMSTERDAM, NL, vol. 231, no. 1-2, 10 December 1999 (1999-12-10), pages 25-38, XP004187632 ISSN: 0022-1759 the whole document ---	1-61
X	DAVIES J ET AL: "SINGLE ANTIBODY DOMAINS AS SMALL RECOGNITION UNITS: DESIGN AND IN VITRO ANTIGEN SELECTION OF CAMELIZED, HUMAN VH DOMAINS WITH IMPROVED PROTEIN STABILITY" PROTEIN ENGINEERING, OXFORD UNIVERSITY PRESS, SURREY, GB, vol. 9, no. 6, 1996, pages 531-537, XP000971767 ISSN: 0269-2139 page 532, right-hand column, line 20-28 figure 1 page 535, left-hand column, line 11-15 see Discussion ---	1,3-5, 7-11,14, 18, 37-39, 41-44
A	WO 00 29004 A (PEPTOR LTD ;PLAKSIN DANIEL (IL)) 25 May 2000 (2000-05-25) page 5, line 1-8 claims ---	1-61
P,A	WO 01 18058 A (NOVOPHARM BIOTECH INC ;DAN MICHAEL (CA); KAPLAN HOWARD (CA); TANHA) 15 March 2001 (2001-03-15) page 4, paragraph 2 -page 9, paragraph 3 -----	1-61

Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:

2. ☒ Claims Nos.: 1-61 (partially)
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
see FURTHER INFORMATION sheet PCT/ISA/210

3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this International application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.

2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.

3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:

4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

☐ The additional search fees were accompanied by the applicant's protest.

☐ No protest accompanied the payment of additional search fees.

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

Continuation of Box I.2

Claims Nos.: 1-61 (partially)

Present claims 1-61 relate to a library for expression of immunoglobulin heavy chains defined as disclosed in claims 1,8,11,19,38 and related methods and products. This definition covers an extremely large number of possible products and methods. Support within the meaning of Article 6 PCT and/or disclosure within the meaning of Article 5 PCT is to be found, however, for only a very small proportion of the products and methods claimed. In the present case, the claims so lack support, and the application so lacks disclosure, that a meaningful search over the whole of the claimed scope is impossible. Consequently, the search has been carried out for those parts of the claims which appear to be supported and disclosed, namely those parts relating to a library, comprising a repertoire of nucleic acid sequences each encoding a polypeptide comprising a VH which is derived from the human monoclonal antibody BT32/A6 (see pg 5 lines 9-21), comprising all 5 amino acids (aa) substitutions set forth in claim 1 and optionally comprising also all 3 aa substitutions as referred to in claim 2. Furthermore, the search has been restricted to the repertoire of polypeptides comprising VHs differing in the CDR3 (not in a CDR) randomized at positions 100i-100n (see pg 32 line 10) or, in alternative, CDR3 collectively at least 80% homologous to the CDR3 depicted in Fig.2. The search has been extended to a repertoire of polypeptides, wherein the framework (FR) of present VH are collectively at least 90% homologous to the FR depicted in Fig. 2 (as referred to in claim 12). Search for the related methods for generating the VH expression library, method of identifying a polypeptide comprising a VH which binds to a target ligand, polypeptides and immunoglobulins has been restricted accordingly.

The applicant's attention is drawn to the fact that claims, or parts of claims, relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure.

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No
PCT/CA 01/01845

Patent document cited in search report		Publication date	Patent family member(s)			Publication date
WO 0029004	A	25-05-2000	AU	6486999	A	05-06-2000
			EP	1131079	A1	12-09-2001
			WO	0029004	A1	25-05-2000
			US	2002012909	A1	31-01-2002
WO 0118058	A	15-03-2001	AU	7262700	A	10-04-2001
			WO	0118058	A2	15-03-2001
			EP	1214352	A2	19-06-2002

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San Diego, CA 92130

In re Application of	:	
GRAD, Carole, Legal Representative of	:	
Howard Kaplan *et al*	:	
U.S. Application No.: 10/451,585	:	**DECISION ON**
PCT No.: PCT/CA01/01845	:	**PETITION**
Int. Filing Date: 21 December 2001	:	**UNDER 37 CFR 1.47(a)**
Priority Date: 22 December 2000	:	
Attorney Docket No.: RM/TF-104.P.2	:	
For: PHAGE DISPLAY LIBRARIES OF	:	
HUMAN V_H FRAGMENTS	:	

This is a decision on applicants' "Response to Notification of Missing Requirements" which has been treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 20 October 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 surcharge fee of $65.00 must be provided. Applicants were given two months to respond with extensions of time available.

On 23 December 2003, applicants submitted the instant petition which was accompanied by, *inter alia*, the $65.00 surcharge fee; a declaration signed by four of the five joint inventors; a statement by Carole Grad, legal representative of the deceased joint inventor, Howard Kaplan; and authorization to charge any required fees to Deposit Account No. 50-1321.

[illegible]/2004 MKAYPAGH 00000169 501321 10451585
[illegible]1460 130.00 DA

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 or cannot be found or reached after diligent effort; (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 charged to Deposit

Account No. 50-1321 as authorized.

With regard to item (3), applicants satisfy this requirement by listing the last known address of the legal representative of deceased co-inventor, Mr. Howard Kaplan, on the declaration as:

18 Hillhouse Road
Winnipeg, Manitoba
R2V 2VP
Canada

Concerning item (2), the 37 CFR 1.47(a) applicant claims that Carol Grad, legal representative of deceased co-inventor, Howard Kaplan, refuses to execute the declaration. A signed statement that declares that "I, CAROLE GRAD, refuse to execute the Declaration and Power of Attorney, attached hereto" was included with the instant petition. This is not sufficient to meet the requirements of item (2).

Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> 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.

There is no evidence that Ms. Grad was presented with a complete copy of the application, including specification, claims and drawings as required. As stated above,

a refusal without showing that Ms. Grad received a complete copy of the above-captioned application will not be accepted. Moreover, the 37 CFR 1.47(a) applicant must also submit a statement of facts along with copies of relevant documentary evidence with the renewed petition as required by the MPEP.

Regarding item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by four of the five joint inventors on behalf of the nonsigning joint inventor. However, not all the inventors' names, residences, post office addresses and citizenship are typed on this declaration as required by section 409.03(a) of the MPEP. There is no information on the deceased co-inventor. In addition, the citizenship of the legal representative of the deceased co-inventor was not recorded on the declaration as required by 37 CFR 1.497(b)(2). Therefore, item (4) of 37 CFR 1.47(a) is also not satisfied.

Accordingly, it is not appropriate to accept this application 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) 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
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Tel.: (703) 308-6457

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04 JUN 2004

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San Diego, CA 92130

In re Application of GRAD, Carole, Legal Representative of Howard Kaplan *et al* U.S. Application No.: 10/451,585 PCT No.: PCT/CA01/01845 Int. Filing Date: 21 December 2001 Priority Date: 22 December 2000 Attorney Docket No.: RM/TF-104.P.2 For: PHAGE DISPLAY LIBRARIES OF HUMAN V_H FRAGMENTS	:	**DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)**

This is a decision on the "Renewed Petition Under 37 CFR §1.47(a)" and other papers filed 15 March 2004.

BACKGROUND

On 16 January 2004, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed for failing to meet all of the requirements.

On ~~30 January 2003,~~ 15 MARCH 2004 applicants filed the instant renewed petition which was accompanied by, *inter alia*, a declaration signed by four of the five joint inventors, and Exhibits A - D.

DISCUSSION

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the nonsigning inventor refuses to execute the application; (3) a statement of the last known address of the nonsigning 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. Items (1) and (3) have been completed.

Concerning item (2), the 37 CFR 1.47(a) failed to satisfy this requirement because there was no evidence that the legal representative of the deceased joint inventor was presented with a complete copy of the application, as required. The 37 CFR 1.47(a) applicant was also requested to submit a statement of facts along with copies of relevant documentary evidence.

In this renewed petition, applicants claim that "copies of the application, along

with instructions . . . , were sent via certified courier to her last known address for signature, but were never returned. The silence and lack of action on the part of Ms. Carol Grad on multiple occasions can only be interpreted as a refusal to execute the application." Ren.Pet. at ¶ 2.

The 37 CFR 1.47(a) applicant included in exhibit 2 a copy of a letter dated 01 March 2004 sent to Ms. Grad at 37 Jessica Gardens, Thornhill, Ontario L4J3G1 requesting a signature along with a copy of the FedEx Air Waybill No. 8387 3239 5270 showing a delivery of 02 March 2004. A review of the 01 March 2004 letter shows that it refers to the fact that a complete copy of the application was included. In addition, Exhibit C contained a "Statement of Facts" signed by Mr. David J. Heller on 15 March 2004 which states that "Ms. Carole Grad has failed to respond to the request for signature" in paragraph 5.

This response in conjunction with the signed statement is sufficient to satisfy item (2) of 37 CFR 1.47(a).

Concerning item (4) of 37 CFR 1.47(a), applicants submitted one complete declaration and a portion of another declaration. The declaration submitted contains only one of pages 1, 2 and 5, but two of pages 3 and 4. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. By providing only a partial declaration, it is not clear what inventive entity was listed on the declaration signed by each co-inventor. Applicants must submit the complete declaration signed by each co-inventor.

In addition, the declaration does not meet the requirements of 37 CFR 1.497(a) and (b). 37 CFR 1.497(a)(3) requires that the citizenship of each inventor must be listed on the declaration including any deceased joint inventor. 37 CFR 1.497(b)(2) states that the citizenship, residence, and mailing address of the legal representative must also be recorded on the declaration. A review of the declaration submitted shows that citizenship, residence and mailing address information are listed for the legal representative, but there is no information on the deceased joint inventor. This information is required for both, and must be clearly identified as such <u>on the declaration</u>.

For these reasons, item (4) of 37 CFR 1.47(a) is not satisfied.

<u>CONCLUSION</u>

Applicants' renewed petition under 37 CFR 1.47(a) is **<u>DISMISSED</u>** 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)." Extensions of time may be obtained under 37 CFR 1.136(a).

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.

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30 MAR 2005

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In re Application of GRAD, Carole, Legal Representative of Howard Kaplan *et al* U.S. Application No.: 10/451,585 PCT No.: PCT/CA01/01845 Int. Filing Date: 21 December 2001 Priority Date: 22 December 2000 Attorney Docket No.: RM/TF-104.P.2 For: PHAGE DISPLAY LIBRARIES OF HUMAN V_H FRAGMENTS	**DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)**

This is a decision on the "Second Renewed Petition Under 37 CFR §1.47(a)" filed 03 January 2005.

BACKGROUND

On 04 June 2004, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to satisfy item (4) of 37 CFR 1.47(a). Applicants were given two months to respond with extensions of time available.

On 03 January 2005, applicants filed the subject renewed petition which was accompanied by, *inter alia*, a declaration executed by five of the six named inventors and a five-month extension and a $1,080.00 extension fee.

DISCUSSION

As previously noted, 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 cannot be located or refuses to cooperate; (3) a statement of the last known address of the non-signing joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the non-signing joint inventor. Items (1), (3) and (2) of 37 CFR 1.47(a) were previously completed.

Item (4) of 37 CFR 1.47(a) was not satisfied because applicants submitted only a partial declaration for one of the joint inventors and the declaration did not comply with 37 CFR 1.497(a) and (b).

In the second renewed petition, the 37 CFR 1.47(a) applicants included a newly executed declaration signed by five of the six joint inventors on behalf of the legal representative of the deceased sixth joint inventor. The declaration contains the citizenship, residence, and mailing address of each inventor (including the deceased joint inventor) and the legal representative of the deceased joint inventor. This declaration complies with 37 CFR 1.497(a) and (b) and section 409.03(a) of the MPEP. As such, item (4) of 37 CFR 1.47(a) is now satisfied.

All the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 21 December 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 03 January 2005.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

30 MAR 2005

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In re Application of
GRAD, Carole, Legal Representative of
Howard Kaplan *et al*
U.S. Application No.: 10/451,585
PCT No.: PCT/CA01/01845
Int. Filing Date: 21 December 2001
Priority Date: 22 December 2000
Attorney Docket No.: RM/TF-104.P.2
For: PHAGE DISPLAY LIBRARIES OF HUMAN V_H FRAGMENTS

Dear Ms. Grad:

You are named as legal representative of an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Thomas D. Foster
DAVID R. PRESTON & ASSOCIATES, A.P.C.
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San Diego, CA 92130

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SAN DIEGO CA 92130

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JUN 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
TANHA, et al.	:	
Application No. 10/451,585	:	DECISION ON PETITION
Filed: January 3, 2005	:	TO WITHDRAW
Attorney Docket No. **6063.007-05**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 19, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on January 18, 2007.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAVID HELLER**
RIDOUT & MAYBEE LLP
ONE QUEEN ST EAST, SUITE 2400
TORONTO, ONTARIO M5C 3B1
CANADA

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225 KING STREET WEST
10TH FLOOR
TORONTO ON M5V 3M2 CA
CANADA

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In re Application of	:	
Tanha et al.	:	
Application No. 10/451,585	:	DECISION ON PETITION
Filed: January 3, 2005	:	
Attorney Docket No. 36361-0046	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 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 October 9, 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 three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the date of abandonment of this application is April 10, 2008. A Notice of Abandonment was mailed April 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Further, since the address given on the petition differs from the address of record a courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

The file is now being forwarded to Technology Center 1639 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: David J. Heller
One Queen Street East – Suite 2400
Toronto, Ontario Canada M5C 3B1

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ALEXANDRIA, VA 22314

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of :
Soichi Kato :
Application No. 10/451,597 : ON PETITION
Filed: June 24, 2003 :
Attorney Docket No. R0302T :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed August 18, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 19, 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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

The Change of Correspondence Address has been accepted and recorded.

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

This application file is being forwarded to the Publishing Division for further processing.

Retta Williams

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

01 JUN 2004

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Robert C. Colwell
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

In re Application of	:	
SOGA, Tasao et al.	:	
Application No.: 10/451,610	:	DECISION ON
PCT No.: PCT/JP01/11152	:	
Int. Filing Date: 19 December 2001	:	REQUEST
Priority Date: 21 December 2000	:	
Attorney's Docket No.: 16869S-000000US	:	UNDER 37 CFR 1.42
For: SOLDER FOIL AND SEMICONDUCTOR	:	
DEVICE AND ELECTRONIC DEVICE	:	

This is a decision on applicants' second submission of items filed 31 March 2004, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 19 December 2001, applicants filed international application PCT/JP01/11152, claiming a priority date of 21 December 2000. A Demand electing the United States was filed on 25 February 2002, within nineteen months of the priority date. The deadline for submitting the basic national fee expired at midnight of 23 June 2003 (21 June 2003 was a Saturday).

On 20 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 02 October 2003, the office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors and the surcharge for late filing of the oath or declaration were required.

On 31 March 2004, applicants filed a declaration containing an indication that a joint inventor was deceased.

DISCUSSION

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

The declaration provided does not state that the heir, Kanko Ishida is the sole heir of Toshiharu Ishida. If a legal representative has been or is required to be appointed under applicable law, such person must sign the declaration and indicate the relationship, e.g., "legal representative of inventor Toshiharu Ishida." Otherwise, all heirs of Toshiharu Ishida must sign the declaration and indicate the relationship, *e.g.*, "sole heir of Toshiharu Ishida," or "legal representative of Toshiharu Ishida." The indication that Kanko Ishida is an heir leaves open the possibility that there are other non-signing joint heirs.

CONCLUSION

For the above reasons, the request for status under 37 C.F.R. 1.42 is **REFUSED**.

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

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

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

26 APR 2005

#6

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Robert C. Colwell
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

In re Application of	:	
SOGA, Tasao et al.	:	
Application No.: 10/451,610	:	DECISION ON
PCT No.: PCT/JP01/11152	:	
Int. Filing Date: 19 December 2001	:	REQUEST
Priority Date: 21 December 2000	:	
Attorney's Docket No.: 16869S-000000US	:	UNDER 37 CFR 1.42
For: SOLDER FOIL AND SEMICONDUCTOR	:	
DEVICE AND ELECTRONIC DEVICE	:	

This decision responds to applicants' submission of items filed 05 August 2004. It was treated as a renewed request under 37 CFR 1.42.

BACKGROUND

On 19 December 2001, applicants filed international application PCT/JP01/11152, claiming a priority date of 21 December 2000. A Demand electing the United States was filed on 25 February 2002, within nineteen months of the priority date. The deadline for submitting the basic national fee expired at midnight of 23 June 2003 (21 June 2003 was a Saturday).

On 20 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 02 October 2003, the office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors and the surcharge for late filing of the oath or declaration were required.

On 31 March 2004, applicants filed a declaration containing an indication that a joint inventor was deceased.

On 01 June 2004, the Office mailed Decision On Request Under 37 CFR 1,42m refusing applicants' request.

On 05 August 2004, applicants submitted the instant submission.

DISCUSSION

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

The indication in the 31 March 2004 declaration that Kanko Ishida was an heir left open the possibility that there were other non-signing joint heirs. On 05 August 2004, applicants submitted a supplemental declaration from Kanko Ishida stating that he was the sole heir of the deceased inventor. This submission is construed as an indication that a legal representative has not been appointed nor is one required to be appointed by applicable law, and thus, the heir is signing as the legal representative of the estate. See MPEP 409.01(d). If this interpretation is incorrect, applicants are required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to the decision.

CONCLUSION

For the above reasons, the request for status under 37 C.F.R. 1.42 is **GRANTED**.

The application has an international filing date of 19 December 2001 under 35 U.S.C. §363 and a date of 31 March 2004 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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OFFICE OF PETITIONS

In re Application of :
SKAMIRA, et al. :
Application No. 10/451,615 :
Filed: December 18, 2003 :
Attorney Docket No. **4020-030990** :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 19, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 17, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the date of abandonment of this application is January 18, 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, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) An adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 1652 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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QUINN LAW GROUP, PLLC
39555 ORCHARD HILL PLACE
SUITE # 520
NOVI MI 48375

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OFFICE OF PETITIONS

NOTICE

In re Patent No. 6,868,864 :
Issue Date: March 22, 2005 :
Application No. 10/451,619 :
Filed: June 20, 2003 :
Attorney Docket No. WAH0105PUS :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

19 APR 2005

#5

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Douglas P. Mueller
MERCHANT & GOULD
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of	:	
HYOUDOU et al	:	DECISION ON
Application No.: 10/451,621	:	
PCT No.: PCT/JP01/11321	:	
Int. Filing Date: 25 December 2001	:	PETITION UNDER
Priority Date: 22 December 2000	:	
Attorney Docket No.: 10873.1248USWO	:	
For: EXAMINATION MANAGEMENT DEVICE	:	37 CFR 1.181

This decision is in response to the "REQUEST TO WITHDRAW HOLDING OF ABANDONMENT" received 22 October 2004, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 20 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application. Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter.

On 23 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 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 the 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 the items above must be submitted within two (2) months from the date of this notice or 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 13 October 2004, the DO/EO/US erroneously mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that applicants had failed to respond to the "NOTIFICATION OF MISSING REQUIREMENTS (PCT/DO/EO/905), mailed 10/23/2003 within the time period set therein. Accordingly the application was abandoned.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 13 October 2004, applicants submitted on 22 October 2004 the instant petition requesting withdrawal of the Notice of Abandonment. In support of the request, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of 22 September 2003.

DISCUSSION

A review of the file reveals that applicant's originally filed papers(executed declaration) was received in the USPTO on 22 September 2003, placed in US application 10/451,621 and was a complete response to the Notice of Missing Requirements.

Consequently, since the original declaration filed on 22 September 2003 was placed in the application file, the petition filed on 22 October 2004 is **MOOT**.

DECISION

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

Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is **GRANTED s**ince the reply filed on September 22, 2003 to the Notification of Missing Requirements mailed on 23 October 2003 was timely.

The "NOTIFICATION OF MISSING REQUIREMENTS" mailed on 23 October 2003, is **VACATED** with the mailing of this decision since it was mailed after the reply had been received.

The NOTIFICATION OF ABANDONMENT, mailed 13 October 2004 has been **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 of **22 September 2003**.

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

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15 SEP 2006

John C. Altmiller
Kenyon & Kenyon
1500 K Street, N.W., Suite 700
Washington DC 20005

In re Application of OHTO et al. Application No.: 10/451,643 PCT No.: PCT/JP01/11214 Int. Filing Date: 20 December 2001 Priority Date: 28 December 2000 Attorney's Docket No.: 10235/15 For: METHODS OF PRODUCING PRENYL ALCOHOLS	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicant's 26 June 2006 petition entitled "Petition under 37 CFR 1.181 to Withdraw Erroneous Notification of Defective Response", requesting acceptance of Substitute Sequence Listing, Statement to Support Filing and Submission of the Substitute Sequence Listing documents originally filed on 12 May 2006. No petition fee is required.

BACKGROUND

On 24 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) along with, *inter alia*, the basic national fee, sequence listing and diskette. The diskette was determined to be technically flawed.

Thereafter, on 10 April 2006, a Notification to Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) was mailed to applicants indicating, *inter alia*, that the nucleotide and/or amino acid sequence disclosure did not comply with the requirements set forth in 37 CFR 1.821-1.825. Applicant was advised that an initial or substitute computer readable form (CFR) of the 'Sequence Listing' and paper copy or compact disc of the Sequence Listing was required.

On 12 May 2006, applicant responded to the Notification with nucleotide and/or amino acid sequence submission.

On 15 June 2006, a Notification of Defective Response was mailed to applicant, indicating that applicant's response filed on 12 May 2006 was acknowledged; however, the requirements set forth in the Notification of Missing Requirements had not been completed. Specifically, a paper copy of the Sequence Listing as required by 37 CFR 1.821(c), and an amendment specifically directing its entry into the application along with a copy of the Sequence Listing in computer readable format.

On 26 June 2006, applicant, in response to the Notification of Defective Response, filed the instant petition along with a copy of the 12 May 2006 filing.

DISCUSSION

A review of the application file reveals that the applicant's 12 May 2006 submission is contained therein including a sequence listing and diskette for this application, received in the USPTO on 12 May 2006. The communication filed 26 June 2006 includes a copy of these items. Accordingly, it is inappropriate to accept the copy of the sequence listing and diskette as a replacement for the original sequence listing and diskette with a deposit date of 12 May 2006. The 15 June 2006 Notification of Defective Response is hereby vacated.

The sequence listing and diskette submitted on 12 May 2006 have been reviewed and are acceptable. The Computer Readable Form of the Sequence Listing is acceptable.

CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.181 is **GRANTED**. The 15 June 2006 Notification of Defective Response is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

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OFFICE OF PETITIONS

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of	:	
Fritz Kotting et al	:	
Application No. 10/451,648	:	ON PETITION
Filed: September 2, 2003	:	
Attorney Docket No. P/1568-65	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 and publication fee in a timely manner in reply to the Notice of Allowance mailed October 26, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 27, 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

31 OCT 2003

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#4

INCYTE CORPORATION
3160 PORTER DRIVE
PALO ALTO CA 94304

In re Application of	:	
BAUGHN et al.	:	
Application No.: 10/451,649	:	
PCT No.: PCT/US01/49212	:	DECISION ON PETITION
Int. Filing Date: 18 December 2001	:	
Priority Date: 19 December 2000	:	
Attorney Docket No.: PI-0331 USN	:	
For: ADENYLYL AND GUANYLYLCLYCLASES	:	

This is a decision on applicants' "STATEMENT REGARDING NAME CHANGE" filed 19 June 2003, which has been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 18 December 2001, applicant filed international application PCT/US01/49212, which claimed a priority date of 19 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 01 August 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 June 2003.

On 19 June 2003, applicants filed, *inter alia*, the Basic National Fee and the instant "STATEMENT REGARDING NAME CHANGE", which has been treated as a petition under 37 CFR 1.182.

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

With regard to item (1), the $130 petition fee has been charged to Deposit Account 09-0108.

With regard to item (2), the "STATEMENT REGARDING NAME CHANGE"

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is an affidavit of Narinda K. Chawla signed with both names and setting forth the procedure whereby the change of name was effected. The affidavit by Narinda K. Chawla submitted 19 June 2003 is accepted.

Note that there is no PCT/IB/306 from WIPO in the application file indicating a recordation of a name change by the International Bureau. Nor has applicant provided a copy of a PCT/IB/306 indicating a name change. Accordingly, the application has been treated as though the name change was not recorded by the IB.

The declarations of inventors submitted 19 June 2003 are in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.182 is **GRANTED**.

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

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

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In re Application of PERRET, et al. Application No.: 10/451,667 PUT No.: PCT/FR01/03987 Int. Filing Date: 14 December 2001 Priority Date: 28 December 2002 Attorney Docket No.: 4590-190 For: INTERCONNECTING MODULE FOR BASE OF ELECTRONIC DEVICE CASING	DECISION ON PETITION UNDER 37 CFR 1.42

The above-identified application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 14 December 2001, applicants filed the international application, which claimed a priority date of 28 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 July 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, 28 June 2003.

On 25 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; a translation of the International Application into English; an assignment document for recording and a declaration executed by joint inventors Francois Perret, Gerard Nemoz and Joel Sabourin. Additionally, the declaration was executed by Jeanine Cognard, Elodie Gabriel and Fabien Cognard as legal representatives to the estate of deceased inventor Alain Cognard.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or

declaration, and apply for and obtain a patent."

The declaration filed 25 June 2003 is executed by Jeanine Cognard, Elodie Gabriel and Fabien Cognard as legal representatives to the estate of deceased inventor Alain Cognard. It appears that Jeanine Cognard, Elodie Gabriel and Fabien Cognard are in fact heirs to the estate rather than legal representatives. However, neither the declaration nor the transmittal letter declares that they are all the heirs of the deceased. Thus, there may be other heirs who are required to sign the declaration. As such, the declaration can not be accepted at this time. Applicants are required to file a statement either from the heirs themselves or applicant's counsel setting forth that the individuals listed above represent all of the heirs of the deceased inventor, Alain Cognard. In addition, said statement should set forth that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. In addition, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration does not appear to set forth the residence, post office address and country of citizenship of Alain Cognard as required under 37 CFR 1.497(b). The information must be provided for both the deceased joint inventor, Alain Cognard and the surviving heirs. Lastly, by listing Jeanine Cognard, Elodie Gabriel and Fabien Cognard as third, fourth and fifth joint inventor, the declaration leaves the impression that the individuals are inventors whereas they are not listed as such on the published international application.

CONCLUSION

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

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

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

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02 APR 2004

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A8

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In re Application of PERRET, et al. Application No.: 10/451,667 PUT No.: PCT/FR01/03987 Int. Filing Date: 14 December 2001 Priority Date: 28 December 2002 Attorney Docket No.: 4590-190 For: INTERCONNECTING MODULE FOR BASE OF ELECTRONIC DEVICE CASING	DECISION ON RENEWED PETITION UNDER 37 CFR 1.42

This decision is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.42" filed 08 January 2004.

BACKGROUND

On 31 October 2003, applicant was mailed a decision dismissing applicant's request for status under 37 CFR 1.42 as to the deceased joint inventor, Alain Cognard. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 08 January 2004, applicant filed the present response accompanied by authorization to charge a one-month extension of time fee. With the payment of the one-month extension of time fee, applicant's renewed petition is considered timely filed.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

Applicant's originally filed declaration filed was held not to be in compliance with 37 CFR 1.497 (a)-(b) in that the declaration did not set forth the residence, post office address and country of citizenship of both Alain Cognard and all of his heirs as required under 37 CFR

1.497(b). In addition, neither the declaration nor the transmittal letter declared that the heirs were all the heirs of the deceased.

Regarding applicant's present filing. Counsel has attested that Jeanine Cognard, Elodie Gabriel and Fabien Cognard are in fact all of the heirs to the estate of Alain Cognard and that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. However, applicant has not submitted a declaration which identifies the residence, post office address and country of citizenship of both Alain Cognard and all of his heirs as required under 37 CFR 1.497(b). Applicant has provided a document purporting to show this information. Applicant has not provided an English translation of the document and it appears to be a court record and not an executed declaration as required under 37 CFR 1.497(b).

CONCLUSION

Applicant's renewed 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.

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01 SEP 2004

#10

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In re Application of	:	
PERRET, et al.	:	
Application No.: 10/451,667	:	
PCT No.: PCT/FR01/03987	:	DECISION ON RENEWED
Int. Filing Date: 14 December 2001	:	
Priority Date: 28 December 2000	:	PETITION UNDER
Attorney Docket No.: 4590-190	:	
For: INTERCONNECTING MODULE FOR	:	37 CFR 1.42
BASE OF ELECTRONIC DEVICE	:	
CASING	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 C.F.R. § 1.42" filed 30 August 2004.

BACKGROUND

On 02 April 2004, applicant was mailed a decision dismissing applicant's renewed request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 30 August 2004, applicant filed the present response accompanied by a petition for a three-month extension of time and payment of the extension fee. As such, applicant's renewed petition is considered timely.

DISCUSSION

As detailed in the decision mailed 04 November 2003, 37 CFR 1.42 states:

> "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."

A review of the filed declaration finds that it is in compliance with 37 CFR 1.497 (a)-(b). It has been executed by all of the inventors and all of the heirs of the deceased joint inventor. In addition, the filed declaration contains the required residence, post office and citizenship information for both the deceased joint inventor and his heirs.

It is noted that in the published international application the second listed inventor is identified as Gerard Memoz whereas the filed declaration identifies the inventor as Gerard Nemoz. Counsel has attested through the filed petition that the inventor's name is in fact Gerard Nemoz, as such the discrepancy will be treated as a transliteration or typographical error in the published international application and the declaration is accepted.

CONCLUSION

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

This application will be given an international application filing date of 14 December 2001 and a date of **30 August 2004** under 35 U.S.C. 371.

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

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In re Application of:	:	
Angelo GUERRERA et al.	:	
Application No.: 10/451,671	:	DECISION ON
PCT Application No.: PCT/AU01/01653	:	
Int. Filing Date: 12 December 2001	:	PETITION UNDER
Atty. Docket No.:17480P026	:	
Priority Date: 22 December 2000	:	37 CFR 1.47(b)
For: DISPENSING APPARATUS	:	

This is a decision in response to applicant's petition under 37 CFR 1.47(b) filed on 19 April 2004.

BACKGROUND

On 12 December 2001, applicants filed international application PCT/AU01/01653, which designated the U.S. and claimed the priority of an application filed on 22 December 2000. A demand electing the U.S. was filed on 22 July 2002. Accordingly the 30-month deadline for entry into the U.S. national stage expired at midnight on 23 June 2003 (22 June 2003 was a Sunday).

On 20 June 2003, applicant filed in the United States Patent and Trademark Office (USPTO) a transmittal letter for entry into the national stage in the United States. This transmittal letter was accompanied by the requisite U.S. Basic national fee and a copy of the published international application. Non oath or declaration of the inventors was filed.

On 16 October 2003, a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form DO/EO/905) was mailed. The Form 905 required an "Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and the international filing date" and a $130.00 Surcharge for providing the oath or declaration later than 30 months from the priority date.

On 19 April 2004 applicants filed the instant petition under 37 CFR 1.47(b).

DISCUSSION

37 CFR 1.47(b) reads as follows:

> (b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(h), and the last known address of all the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

A petition pursuant to 37 CFR 1.47(b) to accept the application without the signature of any of the inventors must be accompanied by the fee required by 37 CFR 1.17(h) and must meet the following requirements:

A) The requisite petition fee must be included.

B) The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.497(a) – (c).

C) The application must be accompanied by proof that the inventor (1) cannot be found or reached after diligent effort or (2) refuses to execute the application papers. See MPEP § 409.03(d).

D) The last known address of the inventor must be stated. See MPEP § 409.03(e).

E) The 37 CFR 1.47(b) applicant must make out a *prima facie* case (1) that the invention has been assigned to him or her or (2) that the inventor has agreed in writing to assign the invention to him or her or (3) otherwise demonstrate a proprietary interest in the subject matter of the application. See MPEP § 409.03(f).

F) The 37 CFR 1.47(b) applicant must show that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

<u>In regard to element A)</u>

The petition was accompanied by the requisite fee of $130.00. The fee requirements have been satisfied.

In regard to element B)

The 37 CFR 1.47(b) applicant is Selleys Pty Limited. The declaration under 37 CFR 1.497 which accompanies this petition was not made by Selleys Pty Limited. The declaration identifies the three inventors as applicants and lists Martin Benedict Ward as a fourth applicant. The only signature on the declaration is that of Martin Benedict Ward.

In order to satisfy element A) above, this declaration must be made by Selleys Pty Limited, that is, Selleys Pty Limited must appear as a named applicant in the declaration and indicate the relationship to the remaining nonsigning inventors.. Martin Benedict Ward might sign on behalf of applicant Selleys Pty Limited, but he may not be named as an "applicant" because the 37 CFR 1.47(b) applicant is Selleys Pty Limited.

In order for Mr. Ward's signature to be accepted on behalf of the 37 CFR 1.47(b) applicant, his name and the capacity (title) in which he signs must be indicated on the declaration or in papers accompanying the declaration.

Proof of Mr. Ward's authority to sign on behalf of applicant Selleys Pty Limited may be required if his title does not indicate that he possesses apparent authority to sign on behalf of the applicant. An officer (President, Vice-President, Secretary, Treasurer, Chief Executive Officer, Chief Operating Officer, or Chief Financial Officer) of an organization is presumed to have authority to sign on behalf of that organization. The signature of the chairman of the board is also acceptable, but not the signature of an individual director.

In general, a person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the organization is not presumed to be an officer or to have the authority to sign on behalf of the organization. However, an exception is made with respect to foreign juristic applicants.

The declaration is signed by Martin Benedict Ward whose title is given as "Company Director." The title "Company Director" is not a title that confers apparent authority to sign on behalf of a legal entity. Because Selleys Pty Limited is a foreign juristic applicant, it is assumed that Mr. Ward's title of "Company Director" is a title of apparent authority for the Corporation Selleys Pty Limited and that Mr. Ward is authorized to sign this application on behalf of Selleys Pty Limited. If this is not the case, applicants are required to so notify the Office in any response to this decision. In this matter, applicants' attention is directed to MPEP 409.03(b), MPEP 324 and MPEP 1820 regarding appropriate signatures for a legal entity.

The declaration under 37 CFR 1.497 submitted with the petition does **not** satisfy element B).

In regard to element C)

The Mynard declaration states that on 7 November 2003 Mr. Mynard, "faxed to each of the named inventors, a copy of what I informed (sic) as the patent application prepared for filing in the United States, including the claims and drawings, as well as a Declaration and Power of Attorney, for filing in the Patent and Trademark Office."

Mr. Mynard further avers that on 14 November 2003 he contacted each of the inventors by telephone, and requested that they review the documents and sign and date the declaration and return the executed documents to him. The Mynard declaration states "As a result of my telephone conversation with the three above-named inventors, I confirmed that they had in fact received all of the documentation which was sent to them by facsimile and was further informed that they refused to sign the Declaration and Power of Attorney."

It is clear from the Mynard declaration that an application for patent was sent to the inventors and that they refused to execute the application; however, it is not clear exactly what was sent to the inventors in November 2003. The Mynard declaration does not make it clear that the application faxed to the inventors in November of 2003 was, in fact, the instant application.

The petition does **not** satisfy element C)

In regard to element D)

The petition states that the last known address of the inventors is given in the declaration accompanying the petition.

The petition does satisfy element D)

In regard to element E)

The petition does state that the 37 CFR 1.47 applicant "has sufficient proprietary interest in the matter to justify the action taken." However, this statement is not proof that the invention has been assigned to Selleys Pty Limited, nor is it proof that the inventors had agreed in writing to assign the invention.

The petition also does not prove that the 37 CFR 1.47 applicant has sufficient proprietary interest in the subject matter to justify the filing of this application. Mere statements are not proof. Applicant's attention is directed to MPEP 409.03(f).

The petition does **not** satisfy element E)

In regard to element F)

The petition does state that "the action requested by this Petition is necessary to preserve the rights of Sellys (sic) Pty Limited and to prevent irreparable damage to Sellys (sic) Pty Limited."

The petition does satisfy element F)

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to provide a renewed petition satisfying all requirements under 37 CFR 1.47(b). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

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

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#2

26 SEP 2005

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In re Application of:	
Angelo GUERRERA et al.	
Application No.: 10/451,671	DECISION ON
PCT No.: PCT/AU01/01653	
Int. Filing Date: 12 December 2001	RENEWED PETITION UNDER
Priority Date: 22 December 2000	
Attorney's Docket No.: 17480P026	37 CFR 1.47(b)
For: DISPENSING APPARATUS	

This is a decision in response to applicant's RENEWED PETITION UNDER 37 CFR 1.47(b) filed on 31 JANUARY 2005.

BACKGROUND

On 12 December 2001, applicants filed international application PCT/AU01/01653, which designated the United States of America (US) and claimed the priority of an application filed on 22 December 2000. A demand electing the US was filed on 22 July 2002. Accordingly, the 30-month deadline for entry into the US national stage expired at midnight on 23 June 2003 (22 June 2003 was a Sunday).

On 20 June 2003, applicants filed in the United States Patent and Trademark Office (USPTO) a transmittal letter for entry into the US national stage. This transmittal letter was accompanied by the requisite basic national fee and a copy of the published international application. No oath or declaration of the inventors was filed.

On 16 October 2003, a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form DO/EO/905) was mailed. The Form 905 required an "Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and the international filing date" and a $130.00 Surcharge for providing the oath or declaration later than 30 months from the priority date.

On 19 April 2004 applicants filed a petition under 37 CFR 1.47(b). This petition was dismissed, without prejudice, by decision dated 23 November 2004. This decision set a two-month time limit for response. On 24 January 2005, applicants filed this renewed petition under the provisions of 37 CFR 1.8. The renewed petition was received in the USPTO on 31 January 2005 but is considered timely because it was filed under 37 CFR 1.8.

DISCUSSION

A petition pursuant to 37 CFR 1.47(b) to accept an application without the signature of any of the inventors must meet the following requirements:

A) The requisite petition fee must be included.

B) The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.497(a) – (c).

C) The application must be accompanied by proof that the inventor (1) cannot be found or reached after diligent effort or (2) refuses to execute the application papers. See MPEP § 409.03(d).

D) The last known address of the inventor must be stated. See MPEP § 409.03(e).

E) The 37 CFR 1.47(b) applicant must make out a *prima facie* case (1) that the invention has been assigned to him or her or (2) that the inventor has agreed in writing to assign the invention to him or her or (3) otherwise demonstrate a proprietary interest in the subject matter of the application. See MPEP § 409.03(f).

F) The 37 CFR 1.47(b) applicant must show that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The 19 April 2004 petition under 37 CFR 1.47(b) was dismissed because the applicants had failed to satisfy the above-mentioned elements (B), (C) and (E).

<u>In regard to element (B)</u>

In order to satisfy element (B) above, the oath/declaration which accompanied the petition under 37 CFR 1.47(b) must be <u>made</u> by Selleys Pty Limited, that is, Selleys Pty Limited must appear as a named applicant in the oath/declaration. This was not the case for the declaration which accompanied the 19 April 2004 petition.

The renewed petition is accompanied by a declaration which identifies the three non-signing inventors by name and lists their residence, mailing address and citizenship. In addition,

the declaration identifies Selleys Pty Limited as an applicant and is executed by Martin Benedict Ward as a "Company Director" of Selleys Pty Limited. Statements by applicants' counsel, Mr. Eric S. Hyman, in the letter accompanying the renewed petition verify that Mr. Ward is authorized to sign the declaration on behalf of Selleys Pty Limited.

What the declaration accompanying the renewed petition does not do is to identify the relationship of the three nonsigning inventors to the 37 CFR 1.47(b) applicant, Selleys Pty Limited. This is required by 37 CFR 1.497(b)(2). This information is obviously available, since it is given elsewhere in the documents accompanying the renewed petition.

The declaration furnished with the renewed petition does **not** satisfy element (B) above.

In regard to element (C)

The 19 April 2004 petition was not accompanied by sufficient proof that the inventor(s) refused to execute the application papers.

A "DECLARATION IN SUPPORT OF RULE 1.47(B) PEITITON" , accompanied the 19 April 2004 petition. This declaration was signed by David Mynard (hereinafter the "Mynard declaration") and indicated that Angelo Guerrera and Robert Gale were previously employees of Selleys Pty Limited and that Mahmoud Chemait was previously contracted to assist in the development of the invention.

The Mynard declaration further stated that on 7 November 2003 Mr. Mynard, "faxed to each of the named inventors, a copy of what I informed (sic) as the patent application prepared for filing in the United States, including the claims and drawings, as well as a Declaration and Power of Attorney, for filing in the Patent and Trademark Office."

It was further stated that on 14 November 2003 Mr. Mynard contacted each of the inventors by telephone, and requested that they review the documents and sign and date the declaration and return the executed documents to him. The Mynard declaration stated "As a result of my telephone conversation with the three above-named inventors, I confirmed that they had in fact received all of the documentation which was sent to them by facsimile and was further informed that they refused to sign the Declaration and Power of Attorney."

The Mynard declaration was not satisfactory because it was not clear that the patent application which Mr. Mynard faxed to the inventors on 7 November 2003 was indeed the instant patent application.

MPEP 409.03(d) sets forth the requirements for the statement of facts in a situation where it is alleged that the inventors have refused to join in the application. This section of the MPEP reads, in part, as follows:

> "Where a refusal of the inventor to sign the application 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."

The renewed petition is accompanied by a DECLARATION IN SUPPORT OF RULE 1.47(b) PETITION executed by Sharon Richards (hereinafter the "Richards declaration"). The Richards declaration states that "I am an employee of Orica Limited, of which Selleys Pty Limited is a subsidiary." The Richards declaration states that the patent application sent by Mr. Mynard to the inventors on 07 November 2003 was, in fact, the instant patent application.

This statements in the Richards declaration do not remedy the above-noted defect in the Mynard declaration because it is not clear that Sharon Richards was ". . . the person who presented the inventor with the application papers and/or to whom the refusal was made." Indeed, it appears from the information presented that it was Mr. Mynard who was ". . . the person who presented the inventor with the application papers and/or to whom the refusal was made." Further it is not clear that Sharon Richards was present when the oral refusal to sign was made. MPEP 409(03)(d) clearly states that "Statements by a party not present when an oral refusal is made will not be accepted."

The Richards declaration does not remedy the above-noted defect in the Mynard declaration and the renewed petition does **not** satisfy element (C) above.

In regard to element E)

The 37 CFR 1.47(b) applicant must make out a *prima facie* case (1) that the invention has been assigned to him or her or (2) that the inventor has agreed in writing to assign the invention to him or her or (3) otherwise demonstrate a proprietary interest in the subject matter of the application. Note the provisions of MPEP § 409.03(f).

The 19 April 2004 petition did not establish proof that the invention had been assigned to Selleys Pty Limited, nor did it provide proof that the inventors had agreed in writing to assign the invention.

The renewed petition is accompanied by a copy of an agreement between Mahmoud Chemait, Selleys Pty Limited and Aley Pty Limited (hereinafter the Selleys-Aley agreement) stating that Mr. Chemait will be named as co-author of Australian Provisional Application No PR2487 for a "Dispensing Device" and that Selleys Pty Limited is to be the owner of this patent application. It is noted that Australian Provisional Application No PR2487 is the priority application for PCT/AU01/01653 and for the instant national stage application.

The Selleys-Aley agreement does establish that inventor Mahmoud Chemait has assigned his rights in the invention covered by Australian Provisional Application No PR2487. It does not establish that Mr. Chemait has assigned his rights to Selleys Pty Limited for the invention covered by PCT/AU01/01653. It is noted that the disclosure of PCT/AU01/01653 is not identical to the disclosure in Australian Provisional Application No. PR2487. Note, for

example, the description in PCT/AU01/01653 at the last two lines of page 1 and at lines 14-15 of page 2 which disclosure is not present in Australian Provisional Application No. PR2487.

Accordingly, it is **not** clear from the Selleys-Aley agreement that Mahmoud Chemait has assigned his rights in the invention covered by PCT/AU01/01653 to Selleys Pty Limited.

The renewed petition is also accompanied by an assignment document executed by inventors Angelo Guerrera and Robert Gale assigning their rights in Application No 29/145350 for a "Dispenser assembly, tube, cap and plunger" to applicant Selleys Pty Limited. However, the relationship of application 29/145350 to the instant application is not specified.

Accordingly, it is **not** clear from the above-noted assignment document that inventors Guerrera and Gale have assigned their rights in the invention covered by PCT/AU01/01653 to Selleys Pty Limited.

The applicants' attention is once again directed to MPEP 409.03(f). As noted above, the 37 CFR 1.47(b) applicant must make out a *prima facie* case (1) that the invention has been assigned to him or her or (2) that the inventor has agreed in writing to assign the invention to him or her or (3) otherwise demonstrate a proprietary interest in the subject matter of the application.

The invention in question in the instant application is the invention disclosed and claimed by PCT/AU01/01653, not the invention disclosed and/or claimed in Application No 29/145350. Since the disclosure of PCT/AU01/01653 and Australian Provisional Application No. PR2487 are not identical (as noted above) the invention in question is not the invention disclosed and/or claimed in Australian Provisional Application No. PR2487.

If such a document is not available, applicant Selleys Pty Limited could satisfy this element with a copy of an agreement in writing signed by inventors Angelo Guerrera and Robert Gale to assign the invention to applicant Selleys Pty Limited. Such an document might take the form of an employment agreement executed by the inventors where they agree to assign all inventions made during their employment by applicant Selleys Pty Limited.

It is noted that when an agreement such as the above-mentioned employment agreement is relied upon, 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. Such a statement has not been presented in this application.

The Mynard declaration in element 2. states that:

"I am informed that Angelo Guerrera and Robert Gale were previously employees of Selleys Pty Limited and Mahmoud Chemait was previously contracted to assist in development of the invention. In their capacities as employees and contractor, they invented the subject matter disclosed in the above-captioned application corresponding to International Application No. PCT/AU01/01653."

This language raises questions as to whether or not Mr. Mynard is "a person having first-hand knowledge of the facts." It is not clear how or what information Mr. Mynard relies on to make the above-mentioned statement.

It is noted that the Richards declaration does state that inventors Angelo Guerrera and Robert Gale were employees of Selleys Pty Limited and that they invented the subject matter corresponding to International Application PCT/AU01/01653, "in their capacities as employees. . . ." This declaration does not remedy the above-mentioned defects of the Mynard declaration because it is not clear that Sharon Richards was a person having firsthand knowledge of the facts.

Element (E) is **not** satisfied by the renewed petition.

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to provide a second renewed petition satisfying all requirements under 37 CFR 1.47(b). Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

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

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21 JUN 2006

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In re Application of:	:	
Angelo GUERRERA et al.	:	
Application No.: 10/451,671	:	DECISION ON
PCT Application No.: PCT/AU01/01653	:	
Int. Filing Date: 12 December 2001	:	RENEWED PETITION UNDER
Atty. Docket No.:17480P026	:	
Priority Date: 22 December 2000	:	37 CFR 1.47(b)
For: DISPENSING APPARATUS	:	

This is a decision in response to applicant's renewed petition under 37 CFR 1.47(b) filed on 30 November 2005.

BACKGROUND

On 12 December 2001, applicants filed international application PCT/AU01/01653, which designated the U.S. and claimed the priority of Australian provisional application PR 2487, filed on 22 December 2000. A demand electing the U.S. was filed on 22 July 2002. Accordingly, the 30-month deadline for entry into the U.S. national stage expired at midnight on 23 June 2003 (22 June 2003 was a Sunday).

On 20 June 2003, applicant filed in the United States Patent and Trademark Office (USPTO) a transmittal letter for entry into the national stage in the United States. This transmittal letter was accompanied by the requisite U.S. Basic national fee and a copy of the published international application. No oath or declaration of the inventors was filed.

On 16 October 2003, a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form DO/EO/905) was mailed. The Form 905 required an "Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and the international filing date" and a $130.00 Surcharge for providing the oath or declaration later than 30 months from the priority date.

On 19 April 2004 applicants filed the instant petition under 37 CFR 1.47(b). This petition was dismissed, without prejudice, by the decision dated 23 November 2004. This decision set a two-month time for response. On 24 January 2005, applicants filed a renewed petition under the

provisions of 37 CFR 1.8. The renewed petition was received in the USPTO on 31 January 2005, and was considered timely. The petition of 31 January 2005 was dismissed, without prejudice, by the decision dated 26 September 2005. This decision set a two-month time for response. On 28 November 2005, applicants filed a renewed petition under the provisions of 37 CFR 1.8. The renewed petition was received in the USPTO on 30 November 2005, and was considered timely because 26 November 2005 fell on a Saturday.

DISCUSSION

37 CFR 1.47(b) reads as follows:

> (b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(h), and the last known address of all the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

A petition pursuant to 37 CFR 1.47(b) to accept the application without the signature of any of the inventors must be accompanied by the fee required by 37 CFR 1.17(h) and must meet the following requirements:

A) The requisite petition fee must be included.

B) The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.497(a) – (c).

C) The application must be accompanied by proof that the inventor (1) cannot be found or reached after diligent effort or (2) refuses to execute the application papers. See MPEP § 409.03(d).

D) The last known address of the inventor must be stated. See MPEP § 409.03(e).

E) The 37 CFR 1.47(b) applicant must make out a *prima facie* case (1) that the invention has been assigned to him or her or (2) that the inventor has agreed in writing to assign the invention to him or her or (3) otherwise demonstrate a proprietary interest in the subject matter of the application. See MPEP § 409.03(f).

F) The 37 CFR 1.47(b) applicant must show that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

In regard to element A)

The petition of 19 April 2004 was accompanied by the requisite fee of $130.00. The fee requirements have been satisfied.

In regard to element B)

The 37 CFR 1.47(b) applicant is Selleys Pty Limited. In order to satisfy element B) above, this declaration must be made by Selleys Pty Limited, that is, Selleys Pty Limited must appear as a named applicant in the declaration and indicate the relationship to the remaining nonsigning inventors. The declaration under 37 CFR 1.63, filed 19 April 2004, identifies, along with the 3 non-signing applicants, Martin Benedict Ward as a fourth applicant. The only signature on the declaration is that of Martin Benedict Ward.

The declaration is signed by Martin Benedict Ward whose title is given as "Company Director." Statements by applicants' counsel, Mr. Eric S. Hyman, in the letter accompanying the petition filed 31 January 2005, verify that Mr. Ward is authorized to sign the declaration on behalf of Selleys Pty Limited.

The declaration of David Mynard, presented with the renewed petition of 30 November 2005, identifies as having first hand knowledge of the relationship of the three non-signing inventors to the 37 CFR 1.47(b) applicant, Selleys Pty Limited, of which Martin Benedict Ward is the Company Director of Selleys Pty Limited. Thus, the declaration of David Mynard, presented with the renewed petition of 30 November 2005, complies with 37 CFR 1.497(b)(2).

Thus, the declaration filed 19 April 2004, furnished with the renewed petition of 30 November 2005, satisfies element B) above.

In regard to element C)

A "DECLARATION IN SUPPORT OF RULE 1.47(B) PETITION" is accompanied with the 30 November 2005 petition.

The Mynard declaration of 30 November 2005 states that Mynard had first hand knowledge that Angelo Guerrera and Robert Gale were previous employees of Selleys Pty Limited and that Mahmoud Chemait was previously contracted to assist in the development of the invention.

The Mynard declaration further states that on 7 November 2003 Mr. Mynard, "faxed to each of the above-named inventors, a copy of the instant patent application prepared for filing in

the United States, including the claims and drawings, as well as a Declaration and Power of Attorney, for filing in the Patent and Trademark Office".

Mr. Mynard further avers that on 14 November 2003 he contacted each of the inventors by telephone, and requested that they review the documents and sign and date the declaration and return the executed documents to him. The Mynard declaration states "As a result of my telephone conversation with the three above-named inventors, I confirmed that they had in fact received all of the documentation which was sent to them by facsimile and was further informed that they refused to sign the Declaration and Power of Attorney."

It is clear from the Mynard declaration that an application for patent was sent to the inventors and that they refused to execute the instant application.

The petition satisfies element C)

In regard to element D)

The petition, filed 19 April 2004, states that the last known address of the inventors is given in the declaration under 37 CFR 1.63, filed 19 April 2004, accompanying the petition.

The petition satisfies element D)

In regard to element E)

The petition filed 31 January 2005 includes a copy of an assignment between Angelo Guerrera and Robert Gale and Selleys Pty Limited for the Australian application 29/145350 and a copy of the agreement between Mahmoud Chemait and Selleys Pty Limited for the Australian provisional patent application No. PR2487. The Australian provisional patent application is the priority application for international application PCT/AU01/01653 and for the present national stage application. It is re-iterated that the disclosure of PCT/AU01/01653 is not identical to the disclosure in the Australian provisional patent application No. PR2487. See the decision mailed 26 September 2005.

From MPEP 409.03(f):

> **409.03(f) Proof of Proprietary Interest**
>
> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
>
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
>
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

MPEP 409.03(f) also states (in part):

> "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."

The Mynard declaration of 30 November 2005 does not prove that the 37 CFR 1.47 applicant has sufficient proprietary interest in the subject matter to justify the filing of this application. As stated in the 26 September 2005 decision, the Selleys-Aley agreement does not establish that inventor Mahmoud Chemait has assigned his rights to Selleys Pty Limited in the invention covered by PCT/AU01/01653. Further, the assignment document between Angelo Guerrera and Robert Gale and Selleys Pty Limited for the Australian application 29/145350 does not have any relationship to the international application PCT/AU01/01653.

Paragraphs 3 and 4 of the Mynard declaration state that Mynard had first hand knowledge of employment agreements between Selleys Pty Limited and Angelo Guerrera and Robert Gale to assign all inventions made during their employment to Selleys Pty Limited. A review of the record does not show any employment agreements for the above two inventors as having been submitted. As such the 30 November 2005 declaration of Mynard does not establish a *prima facie* case (1) that the invention has been assigned to him or her or (2) that the inventor has agreed in writing to assign the invention to him or her or (3) otherwise demonstrate a proprietary interest in the subject matter of the application.

According to MPEP 409.03(f) (in part):

> "A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record."

If the employment agreements for Angelo Guerrera and Robert Gale between Selleys Pty Limited cannot be provided, a legal memorandum satisfying the above conditions of MPEP 409.03(f) can be provided in lieu of the employment agreements. This would also remedy the discrepancy between the contractual agreement of Mahmoud Chemait and Selleys Pty Limited.

The petition does **not** satisfy element E)

In regard to element F)

The petition filed 19 April 2004 does state "the action requested by this Petition is necessary to preserve the rights of Selleys (sic) Pty Limited and to prevent irreparable damage to Selleys (sic) Pty Limited."

The petition does satisfy element F)

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to provide a renewed petition satisfying all requirements under 37 CFR 1.47(b). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

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

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#11

07 AUG 2007

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In re Application of	:	
GUERRERA et al	:	
Application No.: 10/451,671	:	
PCT No.: PCT/AU01/01653	:	
Int. Filing Date: 21 December 2001	:	DECISION
Priority Date: 22 December 2000	:	
Atty. Docket No.: 17480P026	:	
For: DISPENSING APPARATUS	:	

This is a decision on applicants' " RENEWED PETITION UNDER 37 CFR 1.47(b)" filed in the U.S. Patent and Trademark Office (PTO) on 24 August 2006, which requests that the application be accepted without the signatures of missing joint inventors Angelo Guerrera, Robert Gale, and Mahmoud Chemait. The petition is **GRANTED** as discussed below.

On 21 June 2006, this Office mailed a decision on applicants' petition. The petition was dismissed on the grounds that applicants had not submitted an acceptable showing of proprietary interest.

A review of the application file reveals that the present renewed petition was accompanied by, *inter alia*, a legal memorandum establishing the proprietary interest of the 37 CFR 1.47(b) applicant with respect to inventors Guerrera and Gale, and an assignment executed by inventor Chemait. Therefore the requirements of 37 CFR 1.47(b) have now been satisfied.

A further review of the application file reveals that the requirements for entry into the national stage in the U.S. under 35 U.S.C. 371 have also now been satisfied.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventors at the last known address of record as set forth in the papers filed 19 April 2004, and a notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette. Additionally, in that the last known address given for inventors Guerrera and Gale is that of the 37 CFR 1.47(b) applicant, additional notices are being sent to the addresses for inventors Guerrera and Gale set forth in the assignment document filed with the 31 January 2005 renewed petition.

The application has an international filing date of 21 December 2001, under 35 U.S.C. 363 and a date of **19 April 2004**, under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

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27 OCT 2003

#3

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In re Application of NAKANO et al	:	
U.S. Application No.: 10/451,678	:	
PCT Application No.: PCT/JP01/11457	:	DECISION
Int. Filing Date: 26 December 2001	:	
Priority Date Claimed: 26 December 2000	:	
Attorney Docket No.: Q76257	:	
For: COMPOSITIONS FOR ORAL USE	:	

This is in response to the declaration filed 25 June 2003, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 26 December 2001, applicant filed international application PCT/JP01/11457, which claimed priority of an earlier Japan application filed 26 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 04 July 2002. The thirty-month period for paying the basic national fee in the United States expired on 26 June 2003.

On 25 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) and an executed declaration.

DISCUSSION

The declaration states that inventor Toshihiko Koga is deceased.

37 CFR 1.42 provides, "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 is not acceptable because there is no indication that Keiko Koga is the sole heir of the deceased inventor Toshihiko Koga. That is, there may be other heirs who are also required to sign the declaration.

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

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42". No petition fee is required.

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

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20 FEB 2004

#5

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In re Application of NAKANO et al	:	
U.S. Application No.: 10/451,678	:	
PCT Application No.: PCT/JP01/11457	:	DECISION
Int. Filing Date: 26 December 2001	:	
Priority Date Claimed: 26 December 2000	:	
Attorney Docket No.: Q76257	:	
For: COMPOSITIONS FOR ORAL USE	:	

This is in response to the declaration filed 28 January 2004, which is being treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

On 26 December 2001, applicant filed international application PCT/JP01/11457, which claimed priority of an earlier Japan application filed 26 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 04 July 2002. The thirty-month period for paying the basic national fee in the United States expired on 26 June 2003.

On 25 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), an executed declaration, and a request for status under 37 CFR 1.42.

On 27 October 2003, this Office mailed a decision dismissing the 25 June 2003 request for status.

On 28 January 2004, applicant filed the present renewed request for status including a newly executed declaration.

DISCUSSION

The declaration states that inventor Toshihiko Koga is deceased.

37 CFR 1.42 provides, "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."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

In addition, 37 CFR 1.497(a)(3) provides that the declaration must identify each inventor and the country of citizenship of each inventor.

The declaration filed 28 January 2004 is insufficient because it either does not identify the country of citizenship of the legal representative as required by 37 CFR 1.497(b)(2) or does not identify the country of citizenship of the deceased inventor as required by 37 CFR 1.497(a)(3). The single indication of "Citizenship Japanese" on the declaration cannot be used for both the inventor and the legal representative.

CONCLUSION

For the reasons above, the renewed request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42". No petition fee is required.

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

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25 MAY 2004

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In re Application of NAKANO et al	:	
U.S. Application No.: 10/451,678	:	
PCT Application No.: PCT/JP01/11457	:	DECISION
Int. Filing Date: 26 December 2001	:	
Priority Date Claimed: 26 December 2000	:	
Attorney Docket No.: Q76257	:	
For: COMPOSITIONS FOR ORAL USE	:	

This is in response to the declaration filed 06 May 2004, which is being treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

On 26 December 2001, applicant filed international application PCT/JP01/11457, which claimed priority of an earlier Japan application filed 26 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 04 July 2002. The thirty-month period for paying the basic national fee in the United States expired on 26 June 2003.

On 25 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), an executed declaration, and a request for status under 37 CFR 1.42.

On 27 October 2003, this Office mailed a decision dismissing the 25 June 2003 request for status.

On 28 January 2004, applicant filed a renewed request for status including a newly executed declaration.

On 20 February 2004, this Office mailed a decision dismissing the 28 January 2004 request for status.

On 06 May 2004, applicant filed the present renewed request for status including a newly executed declaration.

DISCUSSION

The declaration states that inventor Toshihiko Koga is deceased.

37 CFR 1.42 provides, "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."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 06 May 2004 is in compliance with 37 CFR 1.42 and 37 CFR 1.497.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 26 December 2001, and a date under 35 U.S.C. 371(c) of 06 May 2004.

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

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30 SEP 20

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In re Application of Hiratsuka et al. US Application No.: 10/451,685 PCT Application No.: PCT/CA01/00969 International Filing Date: 28 June 2001 Priority Date: 28 June 2000 Attorney's Docket No.: 2449 US For: HELICOBACTER DD-HEPTOSYLTRANSFERASE	DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b), filed on 25 June 2003 in the above-captioned application, is hereby **GRANTED** as follows.

BACKGROUND

On 28 June 2001, Applicants filed international application PCT/CA01/00969, which claimed priority of an earlier application filed on 28 June 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 03 January 2002. A demand for international preliminary examination, in which the United States was elected, was filed on 18 January 2002, prior to 28 January 2002, the end of the 19th month from the 28 June 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 28 December 2002.

The basic national fee was not paid on or before 30 December 2002 (Monday). The international application became abandoned as to the United States on 29 December 2002.

DISCUSSION

The instant petition is accompanied by, *inter alia*:

(1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, 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 a credit card;

(2) An authorization to charge the $1,300 petition fee to the above credit card;

(3) A statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

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

CONCLUSION

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

Also enclosed with the petition is a declaration that complies with 37 CFR 1.497(a) and (b). Applicants have met the requirements of 37 CFR 1.495 for acceptance into the national stage under 35 U.S.C. 371(c). The application has an international filing date of 28 June 2001, and a 35 U.S.C. 371 date of 25 June 2003.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Richard Cole
PCT Legal Examiner
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14 JAN 2004
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George A. Seaby
603-880 Wellington Street
Ottawa, ON K1R 6K7
CANADA

In re Application of	:	
Hiratsuka et al.	:	
Application No. 10/451,686	:	DECISION ON
PCT No.: PCT/CA01/00970	:	
Int. Filing Date: 28 June 2001	:	PETITION UNDER
Priority Date: 28 June 2000	:	
Atty. Docket No.: 2448 US	:	37 CFR 1.137(b)
For: Helicobacter Pylori Heptosyl	:	
Transferase Polypeptides	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 25 June 2003.

BACKGROUND

This international application was filed on 28 June 2001, claimed an earliest priority date of 28 June 2000, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 03 January 2002. A Demand appears to have been filed prior to 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 28 December 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 basic national fee accompanied the petition.

Regarding requirement (2), the petition fee accompanied the petition

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.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED** as to the national stage in the United States.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring payment of the $130.00 surcharge under 37 CFR 1.492(e).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
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25 MAY 2004

#7

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3773 Corporate Parkway
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Center Valley, PA 18034

In re Application of		
DYSON et al.	:	
U.S. Application no. 10/451,692	:	
PCT No.: PCT/US01/48832	:	DECISION ON PETITION
Int. Filing Date: 28 December 2001	:	
Priority Date: 05 January 2001	:	
Attorney Docket No.: 076490-9057	:	
For: COOLING AIR INLET ARRANGEMENT	:	

This decision is in response to applicant's "Resubmission of Response to Notification of Missing Requirements" filed 14 May 2004. This communication is being treated as a petition to withdraw the holding of abandonment. No petition fee is required.

BACKGROUND

On 28 December 2001, applicant filed international application PCT/US01/48832, which claimed a priority date of 05 January 2001. A 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, 05 July 2003.

On 24 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; and an unexecuted declaration.

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 14 May 2004, applicant filed the present petition urging that applicant had deposited an oath/declaration with the U.S. Postal Service on 07 November 2003 using the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS). The mailing label was addressed to the "Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450" and shows a "Date In" of "11/07/03."

DISCUSSION

The above-identified application was abandoned on 08 December 2003 for failure to respond to the Notification of Missing Requirements mailed 07 October 2003. Applicant states in the present petition that an oath/declaration was mailed to the United States Patent and Trademark Office on 07 November 2003 pursuant to 37 CFR 1.10. A review of the application file reveals that the oath/declaration allegedly filed 07 November 2003 is not located therein.

37 CFR 1.10 (e) states:

> Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;"
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence, and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence and original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Applicant's have satisfied items (1), (2) and (3) above.

Applicant's petition fails to satisfy item (4) above. In this regard, it is noted that the petition is not accompanied by a statement that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence and original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS. Thus, the evidence presented has been carefully considered, but is

not persuasive. (See Manual of Patent Examining Procedure §513)

Since applicant has failed to offer the proof required that the oath/declaration was filed on 07 November 2003, it is inappropriate for this Office to acknowledge receipt of the oath/declaration on 07 November 2003.

CONCLUSION

For the reasons discussed above, applicant's request that the office accord a date of deposit of 07 November 2003 to the oath/declaration is **DISMISSED** without prejudice and the application remains abandoned.

If reconsideration on the merits of this decision 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 1.10(e)." 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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27 JUL 2004

#9

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In re Application of
DYSON et al. :
U.S. Application no. 10/451,692 :
PCT No.: PCT/US01/49832 : DECISION ON PETITION
Int. Filing Date: 28 December 2001 :
Priority Date: 05 January 2001 :
Attorney Docket No.: 076490-9057 :
For: COOLING AIR INLET ARRANGEMENT :

This decision is in response to applicant's "Resubmittal of Petition to Withdraw Holding of Abandonment" filed 23 July 2004. No petition fee is required.

BACKGROUND

On 28 December 2001, applicant filed international application PCT/US01/49832, which claimed a priority date of 05 January 2001. A 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, 05 July 2003.

On 24 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; and an unexecuted declaration.

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 14 May 2004, applicant filed a petition urging that applicant had deposited an oath/declaration with the U.S. Postal Service on 07 November 2003. In a decision dated 25 May 2004, applicant's petition was dismissed without prejudice.

On 23 July 2004, applicant filed the present petition.

DISCUSSION

The above-identified application was abandoned on 08 December 2003 for failure to respond to the Notification of Missing Requirements mailed 07 October 2003. Applicant states in the present petition that an oath/declaration was mailed to the United States Patent and Trademark Office on 07 November 2003 pursuant to 37 CFR 1.10. A review of the application file reveals that the oath/declaration allegedly filed 07 November 2003 is not located therein.

37 CFR 1.10 (e) states:

> Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;"
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence, and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence and original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Applicant has satisfied Items (1) through (4). The evidence of record is sufficient to establish with reasonable certainty that the oath/declaration was deposited with the United States Postal Service as an "Express Mail" Mailing on 07 November 2003. Applicant's petition to withdraw the holding of abandonment is granted.

CONCLUSION

As construed above, applicant's petition to withdraw the holding of abandonment is **GRANTED**.

The application has an international filing date of 28 December 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **07 November 2004**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing.

Anthony Smith
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24 AUG 2004

#10

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In re Application of		
DYSON et al.	:	
U.S. Application no. 10/451,692	:	(AMENDED)
PCT No.: PCT/US01/49832	:	DECISION ON PETITION
Int. Filing Date: 28 December 2001	:	
Priority Date: 05 January 2001	:	
Attorney Docket No.: 076490-9057	:	
For: COOLING AIR INLET ARRANGEMENT	:	

This amended[1] decision is in response to applicant's "Resubmittal of Petition to Withdraw Holding of Abandonment" filed 23 July 2004. No petition fee is required.

BACKGROUND

On 28 December 2001, applicant filed international application PCT/US01/49832, which claimed a priority date of 05 January 2001. A 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, 05 July 2003.

On 24 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; and an unexecuted declaration.

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 14 May 2004, applicant filed a petition urging that applicant had deposited an oath/declaration with the U.S. Postal Service on 07 November 2003. In a decision dated 25 May 2004, applicant's petition was dismissed without prejudice.

---

[1]The "Decision on Petition" mailed 27 July 2004 incorrectly identified the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date as 07 November 2004. The correct 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date is **07 November 2003**, as indicated on page 3 of the amended Decision on Petition.

On 23 July 2004, applicant filed the present petition.

DISCUSSION

The above-identified application was abandoned on 08 December 2003 for failure to respond to the Notification of Missing Requirements mailed 07 October 2003. Applicant states in the present petition that an oath/declaration was mailed to the United States Patent and Trademark Office on 07 November 2003 pursuant to 37 CFR 1.10. A review of the application file reveals that the oath/declaration allegedly filed 07 November 2003 is not located therein.

37 CFR 1.10 (e) states:

> Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;"
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence, and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence and original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Applicant has satisfied Items (1) through (4). The evidence of record is sufficient to establish with reasonable certainty that the oath/declaration was deposited with the United States Postal Service as an "Express Mail" Mailing on 07 November 2003. Applicant's petition to withdraw the holding of abandonment is granted.

CONCLUSION

As construed above, applicant's petition to withdraw the holding of abandonment is **GRANTED**.

The application has an international filing date of 28 December 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **07 November 2003**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing.

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JUL 10 2006
OFFICE OF PETITIONS

In re Patent No. 6,913,638	:	
Issue Date: 5 July, 2005	:	
Application No. 10/451,698	:	ON PETITION
Filed: 25 June, 2003	:	
Attorney Docket No.: 10921.179USWO	:	

This is a decision on the petition filed on 30 September, 2005, requesting issuance of duplicate Letters Patent for the above-identified patent/application under 37 C.F.R. §1.182.[1]

The petition is **GRANTED**.

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of duplicate Letters Patent.

The file is being released to the Files Repository.

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[1] The regulations at 37 C.F.R. §1.182 provide:
§ 1.182 Questions not specifically provided for.
All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h). [47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

Any questions regarding the issuance of the duplicate Letters Patent should be directed to Ms. Krystal Paige, OPPD, South Tower 8C32, Phone (703) 308-9250, ext 139; FAX (571) 270-9937.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

cc: Ms. Krystal Paige, ST/8C32 FAX: (571) 270-9937

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Paper No. None

Eric B. Meyertons, Esq
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin TX 78767-0398

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
In-Sik Jung et al.	:	
Application No. 10/451,710	:	DECISION ON PETITION
Filed: October 27, 2003	:	UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number: 5333-04600	:	
Title: FLAME RETARDANT POLYPROPYLENE RESIN COMPOSITION	:	

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on August 29, 2005.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 25, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for

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.

transmitting issue fees or publication fees[2]. Accordingly, the above-identified application became abandoned on July 26, 2005.

With the present petition, Petitioner has submitted the petition fee, the publication fee, the issue fee, and the proper statement of unintentional delay.

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

The phone number for the Office of Patent Publication is (571) 272-4200. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

2 See MPEP §710.02(e).

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BOX 401
TORONTO ON M5H 3Y2 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Harry R. Major et al	:	
Application No. 10/451,715	:	DECISION GRANTING PETITION
Filed: June 20, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 13210-64/KL	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 30, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 1, 2008 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2141 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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AUSTRALIA

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OFFICE OF PETITIONS

In re Application of :
Silverbrook et al. :
Application Number: 10/451722 :
Filing Date: 06/23/2003 : ON PETITION
Attorney Docket Number: :
AP31NPUS :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on March 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 10, 2008, for failure to timely submit a proper reply to the final Office action mailed on July 9, 2008, which set a three (3)-month shortened statutory period for reply. On August 24, 2008, an amendment after final rejection was filed. On February 13, 2009, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on August 24, 2008 fails to place this application in condition for allowance. On February 17, 2009, Notice of Abandonment was mailed.

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

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

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

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

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

On January 9, 2009, the subject petition was filed, along with the petition fee. A Request for Continued Examination (RCE) was filed as the required reply, stating that the previously filed amendment after final rejection was the reply required under 37 CFR 1.114.

The application is referred to Technology Center Art Unit 3739 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

14 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRCH STEWART KOLASCH & BIRCH
PO Box 747
Falls Church, VA 22040-0747

In re Application of:	:	
PETERSON, Paul, Michael	:	DECISION
U.S. Application No.: 10/451,724	:	
PCT No.: PCT/DK01/00866	:	
Int'l Filing Date: 21 December 2001	:	
Priority Date: 28 December 2000	:	
Attorney's Docket No.: 0459-0743P	:	
For: AN OPTICAL SYSTEM HAVING A HOLOGRAPHIC OPTICAL ELEMENT	:	

This decision is issued in response to applicants' "Letter Submitting Corrected International Preliminary Examination Report" filed 21 May 2004 and the "Response To Notification Of Missing Requirements" filed 12 January 2004. These submissions are treated together as a petition under 37 CFR 181 seeking to vacate that portion of the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 12 November 2003 that refers to the non-entry of the annexes to the International Preliminary Examination Report (IPER) and the preliminary amendment filed 25 June 2003, and that requires submission of additional claims fees. No petition fee is required.

BACKGROUND

On 21 December 2001, applicant filed international application PCT/DK01/00866 which claimed a priority date of 28 December 2000 and which designated the United States. On 11 July 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 submission of the basic national fee was thirty months from the priority date, i.e., 28 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 small entity basic national fee and a preliminary amendment.

On 12 November 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed declaration acceptable under 37 CFR 1.497 was required. The Notification also stated that the annexes to the IPER were not considered entered because the 25 claims in the annexes cannot replace the originally filed 26 claims.[1] The Notification goes on to state that the preliminary

[1] The Notification notes that the IPER expressly states that original claim number 26 is still part of the application.

amendment filed 25 June 2003 (which seeks to replace the 25 claims contained in the IPER annexes) cannot be entered because it fails to address claim number 26. Finally, the Notification states that additional claims fees of $262 are required, based on the claims as originally filed in the international application.

On 12 January 2004, applicant filed a response to the Notification Of Missing Requirements, considered herein. The response included an executed declaration in compliance with 37 CFR 1.497. The response also argues that the refusal to enter the annexes to the IPER and the preliminary amendment is improper. Applicant asserts that the annexes and preliminary amendment should be entered and that, based on these amended claims, the requirement of additional claim fees set forth in the Notification Of Missing Requirements should be withdrawn. The submission includes a copy of the amendment submitted by applicant during Chapter II of the international phase.

On 21 May 2004, applicant filed the "Letter Submitting Corrected International Preliminary Examination Report" considered herein. The submission includes a revised IPER issued by the EPO on 28 April 2004, replacing the earlier IPER, which is expressly "cancelled and replaced." The revised IPER states that the application consists of the 25 amended claims attached in the annexes. The revised annex does not state that original claim number 26 remains part of the application, as the earlier version stated.

DISCUSSION

Based on applicant's statements and the revised IPER included with the 21 May 2004 submission, it is concluded that original claim number 26 is no longer part of the present application. Accordingly, the objections set forth in the Notification Of Missing Requirements mailed 12 November 2003 with respect to entry of the IPER annexes and the preliminary amendment, based as they were on the belief that original claim number 26 was still of-record in this application, are appropriately withdrawn. Similarly, the requirement set forth in the Notification Of Missing Requirements that applicant submit an additional $262 in claims fees, based as it was on the refusal to enter the amended claims, is also appropriately withdrawn.

Applicant's 12 January 2004 submission of an executed declaration in compliance with 37 CFR 1.497 satisfied the remaining requirement in the Notification Of Missing Requirements.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**. With respect to the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 12 November 2003: (1) the statements as to the refusal to enter the IPER annexes and the preliminary amendment filed 25 June 2003 are **WITHDRAWN;** (2) the requirement that applicant submit $262 in additional claims fees is **WITHDRAWN**.

Based on the above, the lone remaining requirement in the Notification Of Missing Requirements is the submission of an oath or declaration in compliance with 37 CFR 1.497. The declaration filed by applicant on 12 January 2004 satisfied this requirement.

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. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 12 January 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUL 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Wagner, Georg	:	
Application No. 10/451,737	:	DECISION ON PETITION
Filed: December 22, 2003	:	
Attorney Docket No. MUTZBAUER	:	

This is a decision on the petition, filed December 5, 2005, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed April 7, 2005, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 17, 2005.

Petitioner asserts that the Office action dated April 7, 2005, 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 non-received 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 satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 1712 for re-mailing the Office action of April 7, 2005. The period for reply will run from the mailing date of the Office action.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 1 0 2007
OFFICE OF PETITIONS

In re Application of	:	
Lubocki	:	
Application No. 10/451,746	:	DECISION
Filed: 24 June, 2003	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 17 June, 2007, to revive an application under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

The petition as considered under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES:

Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision.

Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

Thereafter, there will be no further reconsideration of this matter.[2]

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[1] NOTE: **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. 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.**

2 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a non-final Office action mailed on 7 September, 2006 (copy enclosed), with reply due absent extension of time on or before 7 December, 2006;
- the application went abandoned by operation of law after midnight 7 December, 2006;
- on 30 April and 3 May, 2007, Petitioner filed a letter (which appears not to be dated), acknowledging receipt of correspondence from the Office, including receipt of the Office action in question;
- the Office mailed the Notice of Abandonment on 15 May, 2007;
- on 17 June, 2007, Petitioner submitted the instant petition under 37 C.F.R. §1.137(a), and averred as his statement of unavoidable delay that he had been ill and unable to reply—accompanying that statement is a document that indicates that it is by an attending physician and sets forth a statement as to Petitioner's health "[d]uring the last year," but is not specific as to dates, and does nothing to address why Petitioner had not timely sought assistance and/or support from a practitioner in order that Petitioner might reply timely to the Office action, and further Petitioner appears not to have included a reply to the Office action with the instant petition.

Thus, Petitioner has failed to satisfy all of the regulatory requirements of the petition under 37 C.F.R. §1.137(a) alleging unavoidable delay, to wit: petition, fee, reply, showing of unavoidable delay.

Petitioner clearly failed to provide a reply, and the showing is insufficient to satisfy the Pratt requirement.[2]

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,

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of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

[2] *Ex Parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also: *In re Mattullath*, 38 App. D.C. 497, 514-15 (1912); *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.

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 should note that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

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).[6]

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

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[4] 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) 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]

clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.

Delays in responding properly raise the question whether delays are unavoidable.[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]

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 Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a proper reply, a showing of unavoidable delay, and–where appropriate—a terminal disclaimer and fee.

Petitioner does not appear to have satisfied the "reply" and "showing" requirements under the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

If Petitioner is unable to make a showing of unavoidable delay, Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein that "the

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[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).

[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.

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").

Petitioner may wish to refer to the guidance (as to revival of abandoned applications) found at the Office website at http://www.uspto.gov/web/offices/pac/dapp/petitionspractice.html#lapse and/or review the guidance at http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

Further correspondence with respect to this matter should be addressed as follows: [9]

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

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[10] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/451,746	06/24/2003	Iser Lubocki		4269

7590 09/07/2006

Iser Lubocki
5 Hai Taib St
Ramat Gan, 52272
ISRAEL

EXAMINER
BRADLEY, CHRISTINA

ART UNIT	PAPER NUMBER
1654	

DATE MAILED: 09/07/2006

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

Office Action Summary	Application No.	Applicant(s)
	10/451,746	LUBOCKI, ISER
	Examiner	Art Unit
	Christina Bradley	1654

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) *1-6 and 18* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *7-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group II, claims 7-17, in the reply filed on 1/17/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). In the reply filed on 8/20/2005, Applicant did not make an election but stated that the claims have unity of invention because of a shared technical feature that represents a contribution over the prior art. This is not found persuasive because the shared technical feature, a surface enhanced Raman spectrophotometer system for measuring biomarkers in tissue, is know in the art (see Vo-Dinh, USPN 5,864,397). Therefore unity of invention is lacking *a posteriori*.

2. The requirement is still deemed proper and is therefore made FINAL.

3. This application contains claims 1-6 and 18 drawn to an invention nonelected on 1/17/2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Priority

4. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Israel on 12/24/2000 and 12/25/2000. It is noted, however, that applicant has not filed a certified copy of either application (IL 140501 or IL 140502) as required by 35 U.S.C. 119(b).

Claim Interpretation Under 35 USC § 112, 6th paragraph

The following is a quotation of the sixth paragraph of 35 U.S.C. 112:

> An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

5. A claim limitation will be interpreted to invoke 35 U.S.C. 112, sixth paragraph, if it meets the following 3-prong analysis: (A) the claim limitations must use the phrase "means for " or "step for; " (B) the "means for " or "step for " must be modified by functional language; and (C) the phrase "means for " or "step for " must not be modified by sufficient structure, material or acts for achieving the specified function (MPEP § 2181). Five separate limitations in claim 7 meet the 3-prong test for interpretation under 35 U.S.C. 112, sixth paragraph: an enhancing means, a transmitting means, a measuring means, a comparing means and a quantitative means. In claim 16, the limitation for a compiling and displaying means meets the 3-prong test.

6. 35 U.S.C. 112, sixth paragraph states that a claim limitation expressed in means-plus-function language "shall be construed to cover the corresponding structure...described in the specification and equivalents thereof." "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112." In re Donaldson Co., 16 F.3d 1189, 1195, 29 USPQ2d 1845, 1850 (Fed. Cir. 1994) (in banc). See MPEP § 2181.

7. In the situation in which the written description only implicitly or inherently sets forth the structure, materials, or acts corresponding to a means- (or step-) plus-function, and the examiner concludes that one skilled in the art would recognize what structure, materials, or acts perform the function recited in a means- (or step-) plus-function, the examiner should either: (A) have the applicant clarify the record by amending the written description such that it expressly recites

what structure, materials, or acts perform the function recited in the claim element; or (B) state on the record what structure, materials, or acts perform the function recited in the means- (or step-) plus-function limitation. Even if the disclosure implicitly sets forth the structure, materials, or acts corresponding to a means- (or step-) plus-function claim element in compliance with 35 U.S.C. 112, first and second paragraphs, the USPTO may still require the applicant to amend the specification pursuant to 37 CFR 1.75(d) and MPEP § 608.01(o) to explicitly state, with reference to the terms and phrases of the claim element, what structure, materials, or acts perform the function recited in the claim element. See MPEP § 2181.

8. In the instant case, the specification does not adequately identify the structure corresponding to all of the claim limitations expressed in means-plus-function language. To comply with 35 U.S.C. 112, sixth paragraph the specification must include the language "means for" when detailing the structure associated with the limitation. In paragraphs 0070-0071, the enhancing substrate and transfer kit would be recognized by one of ordinary skill in the art as being a means for enhancing. In order to further clarify the record and to link the functional limitation in claim 7 to a structure in the disclosure, the specification should be amended to include the language "means for." Likewise, the radio waves, the Internet, fiber optics and wireless device described in paragraph 0084 would be recognized as a means for transmitting, and the spectrometer, monochromater or an interferometer mentioned in paragraph 0073 would be recognized as a measuring means. In order to further clarify the record and to link the functional limitations in claim 7 to a structure in the disclosure, the specification should be amended to include the language "means for" in each of these cases. For the purposes of

examination, the Examiner will consider the aforementioned limitations as invoking 35 U.S.C. 112, sixth paragraph

9. The foreign compound with a known Raman spectrum in paragraph 0081 would be recognized as a comparing means. However, claim 14 recites a comparing means such as a computer and claim 15 recites a quantitating means that is a foreign compound. Therefore, although both a quantitating and comparing means may be understood by one of ordinary skill in the art as implicit in the specification, an attempt appears to have been made to limit the structures associated with these functional limitations. Applicant should clarify the record by amending the written description such that it expressly recites what structure, materials, or acts perform the function recited in the claim element. The amendment should be limited to structures that are implicit or inherent in the specification so as to avoid the introduction of new matter. Likewise, the compiling and displaying means in claim 16 are not described in the specification in any structural detail but would be implicit to one of ordinary skill in the art. Applicant should clarify the record by amending the written description such that it expressly recites what structure, materials, or acts perform the function recited in the claim element but do so in a way that would avoid introducing new matter.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

11. Claims 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described

in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not disclose a hand-held device. The specification fails to detail the structural parameters of a hand-held device and to describe how the disclosed invention can be successfully miniaturized and transformed to a portable device. Given the absence of structural detail both in the specification and in the drawings, there is a reasonable expectation that Applicant was not in possession of the invention modified to be a hand-held device at the time the application was filed.

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 7-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The period following the phrase "chromophore enhancement" in claim 7 renders the claim indefinite. Should this period be a semicolon or are limitations following the period a separate device from the diagnostic tool recited in the preamble? Note that claims must be a single sentence.

14. Claims 7-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The semicolon following the phrase "biological sample that has the same biomarker" renders this claim indefinite. Is the following phrase "in order to..." a limitation of just the comparing means or of the diagnostic tool in general?

15. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "preferably" renders the claim indefinite. Is the transparent kit a structural limitation or not?

16. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "special stone" is not defined in the specification in structural terms and therefore renders the claim indefinite.

17. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "such as" renders the claim indefinite. Is the computer a structural limitation or not?

Claim Rejections - 35 USC § 102

18. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Vo-Dinh, USPN 5,864,397. Vo-Dinh teaches a surface enhanced Raman medical probe for diagnostic applications and monitoring biomarkers in biological tissues comprising a means for surface enhancement (column 2, lines 43-44), a laser beam irradiation device (column 4, line 9), a transmitting means (column 4, lines 33-37), and a comparing and quantitative means in the form of a personal

computer (column 5, line 37). The enhancing means limitations of claims 7 and 11 are anticipated because Vo-Dinh teaches the use of alumina, silver, gold, nickel, copper or cadmium as a surface-enhancer (column 2, lines 48-50) and the close proximity of said enhancer to the biological sample (column 2, line 43). The transmission means limitations of claims 7 and 12 are anticipated because Vo-Dinh teaches a probe optical fiber for transporting spectral data from the biological sample (column 4, line 34). The measuring means of claims 7 and 13 are anticipated because Vo-Dinh teaches that the device can include a monochromater (column 4, line 42). The comparing, compiling, displaying and delivering means of claims 7, 14 and 16 are anticipated because Vo-Dinh teaches a personal computer that collects, processes and displays the image data (column 5, lines 36-39). Regarding claims 9 and 10, Vo-Dinh teaches that the laser can be a gas ion laser such as argon ion with 514 nm excitation or a krypton ion laser with 647 nm excitation (column 4, lines 9-11). Regarding the quantitating means of claims 7 and 15, Vo-Dinh teaches a foreign compound with a known Raman spectra and concentration which is used as a comparison baseline, that of cholesterol, glucose, insulin and lactic acid (column 8, lines 12-24). Vo-Dinh describe these compounds in the context of using the device for biomedical screening, diagnosis and treatment of conditions such as diabetes (column 8, line 20). The concentration of these compounds is not reported by Vo-Dinh but it is inherent that a sample containing these compounds would have a concentration. Regarding claim 8, Vo-Dinh teaches that the surface enhanced Raman medical probe could be inserted into a needle or disposable tip or sleeve all of which are collecting and transporting devices.

19. Regarding the enhancement means, Vo-Dinh does not explicitly teach resonant and off-resonant enhancement. Because the chemical structure of the surface-enhancing element taught

by Vo-Dinh is identical to the claimed invention, there is a reasonable expectation that the species would meet this additional functional limitation. The discovery and characterization of properties of a known material do not make it novel (see MPEP § 2112). Furthermore, there is no requirement that a person of ordinary skill in the art would have recognized the inherent disclosure at the time of invention, but only that the subject matter is in fact inherent in the prior art reference (see MPEP § 2112).

20. If the composition is physically the same, it must have the same functional properties. "Products of identical chemical composition can not have mutually exclusive properties." A chemical composition and its properties are inseparable. Therefore, if the prior art teaches the identical chemical structure, the properties applicant discloses and/or claims are necessarily present. In re Spada, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990) See MPEP § 2112.01. Examiner cannot however determine whether or not surface-enhancing element inherently possesses properties which anticipate or render obvious the claimed invention but has basis for shifting the burden of proof to applicant as in In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980). See MPEP § 2112.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

22. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vo-Dinh, USPN 5,864,397 in view of Tarcha *et al.* USPN 5,567,628. Vo-Dinh teaches a surface enhanced

Raman medical probe for diagnostic applications comprising a means for surface enhancement (column 2, lines 43-44), a laser beam irradiation device (column 4, line 9), a transmitting means (column 4, lines 33-37), and a comparing and quantitative means in the form of a personal computer (column 5, line 37). Vo-Dinh also teaches a foreign compound with a known Raman spectra and concentration which is used as a comparison baseline, that of cholesterol, glucose, insulin and lactic acid (column 8, lines 12-24). Vo-Dinh does not disclose the concentration of the compounds. Tarcha *et al.* teach the use of an immunoassay involving surface enhanced Raman spectroscopy to measure a standard assay curve (signal versus concentration) of the biomarker human chorionic gonadotropin in serum (see example 21 and figure 9). It would have been obvious to one of ordinary skill in the art to use the device taught by Vo-Dinh to measure a standard activity curve of a biomarker as taught by Tarcha *et al.* and to use the curve to determine the concentration of biomarkers in biological samples. The skilled artisan would have been motivated to do so given that human chorionic gonadotropin is an indicator of pregnancy. There would have been a reasonable expectation of success given that Tarcha *et al.* show that that standard activity curves can be measured using surface enhanced Raman spectroscopy. Thus, the invention as a whole was clearly *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

23. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vo-Dinh, USPN 5,864,397 in view of Cullum *et al.* (*Rev. Sci. Inst.*, **2000**, *71*, 1602). Vo-Dinh teaches a surface enhanced Raman medical probe for diagnostic applications comprising a means for surface enhancement (column 2, lines 43-44), a laser beam irradiation device (column 4, line 9), a transmitting means (column 4, lines 33-37), and a comparing and quantitative means in the

form of a personal computer (column 5, line 37). Vo-Dinh does not teach that the device can be adapted for hand-held use. Cullum *et al.* teach a compact hand-held Raman instrument comprising a helium neon laser for excitation, a tunable filter for wavelength discrimination, an avalanche diode for detection, software for controlling the signal acquisition, and a laptop computer (see page 1603). It would have been obvious to one of ordinary skill in the art to adapt the device taught by Vo-Dinh to the hand-held format taught by Cullum *et al.* The skilled artisan would have been motivated to do so based on the suggestion by Khalil (*Clin. Chem.*, **1999**, *45*, 165) that there is an interest in developing handheld, noninvasive methods of monitoring glucose that can be performed by patients and that Raman spectroscopy has potential for such an application. There would have been a reasonable expectation of success based on the work of Cullum *et al.* Thus, the invention as a whole was clearly *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

Conclusion

24. No claims are allowed.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Bradley whose telephone number is (571) 272-9044. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M.

26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on (571) 272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

27. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

cmb

Cecilia J. Tsang
Supervisory Patent Examiner
Technology Center 1600

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In re Application of	:	
Lubocki	:	
Application No. 10/451,746	:	DECISION
Filed: 24 June, 2003	:	
Attorney Docket No. (None)	:	

This is a decision on the petition 31 December, 2007, and resubmitted on 9 January, 2008, seeking to revive the application under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.137(a) is **GRANTED**.

As to Allegations of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to a non-final Office action mailed on 7 September, 2006, with reply due absent extension of time on or before 7 December, 2006.

The application went abandoned by operation of law after midnight 7 December, 2006.

On 30 April and 3 May, 2007, Petitioner filed a letter (which appears not to be dated), acknowledging receipt of correspondence from the Office, including receipt of the Office action in question.

The Office mailed the Notice of Abandonment on 15 May, 2007;

On 17 June, 2007, Petitioner submitted the original petition under 37 C.F.R. §1.137(a), and averred as his statement of unavoidable delay that he had been ill and unable to reply—accompanying that statement is a document that indicates that it is by an attending physician and sets forth a statement as to Petitioner's health, however, it lacked specificity, but more importantly (and fatal to the petition), Petitioner failed to include a reply to the Office action. The petition was dismissed on 10 December, 2007, because Petitioner failed to satisfy a regulatory requirement (reply). (Thus, contrary to Petitioner's newest complaint that the Office ignored his age and condition set forth in his petition, the fact that Petitioner chose not to comply with the rules was the reason he did not prevail in his original petition.)

Petitioner filed the instant petition on 31 December, 2007, and 9 January, 2008, with a reply in the form of an amendment, and further definition of Petitioner's condition from his physician in support of the averment of unavoidable delay—Petitioner is cautioned not include financial information (social security numbers)

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office have a duty to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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.

The statutes, the rules of practice and the guidance set forth in the Commentary of the Manual of Patent Examining Procedure (MPEP) provide many avenues for action and methods of protection for applicants, patentees, assignees, practitioners and others to accomplish tasks before the Office. (*See*, for example: MPEP §711.03(c).) However, persons who fail to utilize those statutes and rules fail to succeed in their tasks or obtain those protections.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

As to Allegations of
Unavoidable Delay

Petitioner appears to have satisfied the requirements under the rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **granted**.

The instant application is released to Technology Center/AU 1654 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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AUG 0 4 2008

In re Application of	:	
KAYO SUMIDA	:	DECISION ON APPLICATION
Application No. 10/451,768	:	FOR
Filed: June 24, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 600630-6US (560170)	:	

This is a decision on the "REQUEST UNDER 37 C.F.R. §1.705(b) FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed April 24, 2008. Applicant requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from 476 days to 730 days.

The application for 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 **603 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 25, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date is 476 days. In response, applicant timely[1] filed the instant request for reconsideration of the patent term

[1] Office records indicate that the issue fee payment was received on April 24, 2008.

adjustment. Applicant states that the patent issuing from the application is not subject to a terminal disclaimer.

Applicant disputes the reduction of 216 days of patent term adjustment pursuant to 37 CFR 1.704(b) for the filing of a reply on May 3, 2007. Additionally, applicant asserts that the term of the patent should be adjusted by 801 days pursuant to 37 CFR 1.703(a)(1) counting the period beginning on the day after the date that is fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371 and ending on the re-mailing date of the Office action under 35 U.S.C. 132.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 476 days is incorrect. The Office mailed a nonfinal Office action on June 29, 2006, 14 months and 674 days after the fulfillment of the requirements of 35 U.S.C. 371. See 37 CFR 1.703(a)(1). The record supports that the nonfinal Office action of June 29, 2006, was mailed to the correct correspondence address of record; however, it was returned by the United States Postal Service to the USPTO. Thereafter, a letter restarting the period for reply (and re-mailing the Office action) was mailed on November 3, 2006. Under the circumstances, it is appropriate to use the re-mailing date of the Office action on November 3, 2006, for purposes of calculating any reduction of patent term adjustment under 37 CFR 1.704(b).

On May 3, 2007, applicant filed a reply to the nonfinal Office action. However, applicant's response was not received in the USPTO within three months of the date of the re-mailing of the Office action on November 3, 2006. In accordance with 37 CFR 1.704(b), the period of adjustment of the term of the patent should have been reduced by 89 days (not 216 days), the number of days in the period beginning on the day after the date that is three months after the date of the re-mailing of the Office action, February 4, 2007, and ending on the date the reply was filed, May 3, 2007.

The record does not support a conclusion that there was any error on the part of the Office in mailing the Office action to applicant. Accordingly, there is no Office delay associated with the re-mailing of the Office action. Thus, no further

adjustment of the patent term under 37 CFR 1.703(a)(1) beyond 674 days will be entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **603 days**.

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

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.

Telephone inquiries specific to 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
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

PALM INTRANET

Day : Friday
Date: 8/1/2008
Time: 13:46:55

PTA Calculations for Application: 10/451768

Application Filing Date:	06/24/2003	PTO Delay (PTO):	692
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	216
Post-Issue Petitions:	0	Total PTA (days):	603
PTO Delay Adjustment:	127		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
53	08/01/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	127		
41	01/25/2008	MAIL NOTICE OF ALLOWANCE	18		33
40	01/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
39	01/18/2008	ISSUE REVISION COMPLETED			
38	01/18/2008	DOCUMENT VERIFICATION			
37	01/14/2008	NOTICE OF ALLOWABILITY			
34	09/12/2007	DATE FORWARDED TO EXAMINER			
33	09/07/2007	AMENDMENT AFTER FINAL REJECTION			
32	08/20/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
31	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
30	07/13/2007	MAIL FINAL REJECTION (PTOL - 326)			
29	07/09/2007	FINAL REJECTION			
28	05/07/2007	DATE FORWARDED TO EXAMINER			
27	05/03/2007	RESPONSE AFTER NON-FINAL ACTION		216	21
26	05/03/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	11/03/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
24	11/02/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
23	11/03/2006	RESTART RESPONSE OF ACTION			
22	09/12/2006	MISCELLANEOUS INCOMING LETTER			
21	06/29/2006	MAIL NON-FINAL REJECTION	674		-1
20	06/26/2006	NON-FINAL REJECTION			
19	06/24/2003	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
18	08/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	08/02/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	12/24/2003	MISCELLANEOUS INCOMING LETTER			
15	06/24/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14.7	06/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	06/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/24/2003	PRELIMINARY AMENDMENT			
12	03/05/2004	CLEARED BY OIPE CSR			
11	06/24/2003	371 COMPLETION DATE			
10	02/17/2004	APPLICATION DISPATCHED FROM OIPE			
9	02/17/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
8	12/24/2003	ADDITIONAL APPLICATION FILING FEES			
7	12/24/2003	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
6	12/24/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
5	02/06/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
4	10/20/2003	SEQUENCE DISCLOSURE PROBLEMS			
3	06/24/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
2	07/16/2003	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
1	06/24/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of	:	
Ilan et al.	:	
Application No. 10/451811	:	DECISION ON PETITION
Filed: 12/16/2003	:	
For: EDUCATED NKT CELLS AND THEIR USES IN THE TREATMENT OF IMMUNE-RELATED DISORDERS	:	

This is a decision on the petition filed on 30 March, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 9 October, 2006, for failure to timely file a response to the Office action requiring restriction/election mailed on 8 September, 2006, which set a one (1) month shortened statutory period for reply. The filing of

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

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

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

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

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

the present petition precedes the mailing of Notice of Abandonment.

Petitioners have filed a response to the restriction requirement.

Although the petition requests that correspondence be directed to the address contained within, the petition does not contain a valid change of correspondence address because the person signing the petition is not listed as an attorney of record.[2] A courtesy copy of this decision will be mailed to the address listed in the petition. All future correspondence, however, will be mailed solely to the address of record.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[3] The three-month extension request filed on 30 March, 2007, was submitted more than six (6) months after the end of the period for reply to the Office communication mailed on 8 September, 2006, and therefore is unnecessary. The extension of time fee paid on 30 March, 2007, will be credited to counsel's deposit account, as authorized.

This application is being referred to Technology Center Art Unit 1644 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: ROBERT M. SCHULMAN
INTELLECTUAL PROPERTY DEPARTMENT
HUNTON & WILLIAMS LLP
1900 K STREET, NW, SUITE 1200
WASHINGTON DC 20006-1109

---

[2] 37 CFR 1.33(a); See MPEP 601.03.

[3] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

24 NOV 2003

#3

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George J. Primak
13480 Huntington
Montreal, Quebec
Canada H8Z 1G2

In re Application of	:	
PAGEAU, Daniel *et al*	:	
U.S. Application No.: 10/451,815	:	
PCT No.: PCT/CA02/00061	:	
Int. Filing Date: 18 January 2002	:	**DECISION**
Priority Date: 19 January 2001	:	
Attorney Docket No.: 511-PCT/USA	:	
For: PAINT STRIPPING COMPOSITION	:	
AND METHOD OF USING THE SAME	:	

This is a decision on the "Petition Under 37 CFR 1.47 for Accepting Declaration Without Signature of One of the Inventors" filed 25 June 2003.

BACKGROUND

On 25 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*, the instant petition; a petition fee of $130.00; and a declaration signed by two of the three joint inventors.

DISCUSSION

Applicants claim that co-inventor, Elizabeth Marcu, has not responded to several attempts to contact her regarding the above-captioned application. Accordingly, applicants filed the instant petition under 37 CFR 1.47(a) with the national stage papers.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located, or refuses to cooperate; (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.

Concerning item (1), the $130.00 petition fee has been paid.

With regard to item (3), the 37 CFR 1.47(a) applicant states that the last known address of the nonsigning joint inventor, Ms. Elizabeth Marcu is:

3270 Ellendale Ave., #303

Montreal, Quebec
Canada H3S 1W5

This information satisfies item (3).

Regarding item (4), the 37 CFR 1.47(a) applicant has submitted a declaration signed by two of the three listed joint inventors on behalf of the nonsigning co-inventor. The nonsigning inventor's name, residence, post office address and citizenship are typed on this declaration as required by section 409.03(a) of the Manual of Patent Examining Procedure (MPEP). The declaration is also in compliance with 37 CFR 1.497(a) & (b).

For this reason, item (4) is satisfied.

Concerning item (2), the 37 CFR 1.47(a) applicant claims that Ms. Marcu has not responded to several attempts to contact her by the other joint inventors using the telephone. Then, the nonsigning joint inventor did not respond to a request sent to her last known address using the postal service. A careful review of the facts presented do not indicate that Ms. Marcu has refused to cooperate in the above-captioned application. There is no proof that Ms. Marcu knows about the above-identified national stage application. Accordingly, the 37 CFR 1.47(a) applicant must demonstrate that a diligent effort was made to locate the nonsigning joint inventor.

Applicants' burden in proving that an inventor cannot be located is explained in section 409.03(d) of the MPEP which states, in part:

> Where inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, an affidavit or declaration of the facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. . . .
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

In this case, the 37 CFR 1.47(a) has not met the requirements of proving a diligent effort was made to contact the nonsigning co-inventor.

First, there is no evidence presented that the 37 CFR 1.47(a) applicant

attempted to verify the address of Ms. Marcu to ensure that she still lived there. After receiving no response from telephone call and mail, the 37 CFR 1.47(a) applicant should confirm that the address was proper. Most applicants satisfy this requirement by using the internet. Copies of this search must be provided with the renewed petition.

Second, there is also no evidence demonstrating that the telephone number used is listed for Ms. Marcu. A check of the telephone number should be performed since no response was received after several attempts. Copies of any telephone number search must also be submitted with the renewed petition.

Finally, the 37 CFR 1.47(a) applicant must provide documentary evidence to confirm the facts described in the petition. For example, copies of the postal receipts purportedly mailed to Ms. Marcu at her last known address are required.

The efforts listed above are not extraordinary and should be attempted to demonstrate that a diligent effort was made to locate Ms. Marcu. Absent such a showing, item (2) of 37 CFR 1.47(a) is not 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

20 JAN 2004

#5

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George J. Primak
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Montreal, Quebec
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In re Application of :
PAGEAU, Daniel *et al* :
U.S. Application No.: 10/451,815 :
PCT No.: PCT/CA02/00061 :
Int. Filing Date: 18 January 2002 : **DECISION**
Priority Date: 19 January 2001 :
Attorney Docket No.: 511-PCT/USA :
For: PAINT STRIPPING COMPOSITION :
AND METHOD OF USING THE SAME :

This decision is in response to applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed 24 December 2003.

BACKGROUND

On 24 November 2003, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants failed to satisfy item (2) of 37 CFR 1.47(a). Applicants were given two months to respond with extensions of time available.

On 24 December 2003, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a declaration of George J. Primak ("Decl."); a copy of a letter in the French language dated 12 March 2003; a copy of an e-mail in French dated 23 April 2003; a copy of an e-mail in French dated 14 May 2003; a copy of an internet search for a telephone number; a copy of a letter in French dated 26 May 2003; a copy of a postal receipt dated 26 May 2003; a copy of an e-mail in French dated 26 May 2003; a copy of a letter in French dated 28 May 2003; a copy of a postal receipt stamped 28 May 2003; and a copy of a letter in French dated 28 May 2003.

DISCUSSION

The 37 CFR 1.47(a) applicant failed to satisfy item (2) of 37 CFR 1.47(a) with the papers filed 25 June 2003. The petitioner did not show that a diligent effort was made to locate the nonsigning co-inventor, Ms. Elizabeth Marcu and was requested to verify the address of Ms. Marcu, attempt to contact her via the telephone and provide documentary evidence to confirm the facts in the petition with the decision dated 24 November 2003.

In the renewed petition, the 37 CFR 1.47(a) applicant included a declaration by Mr. Primak who stated that a search of the internet was performed for the telephone

number of the nonsigning joint inventor, to no avail. Decl. at ¶ 9. Mr. Primak declares that he obtained a new address for Ms. Marcu and sent her a letter on 28 May 2003, but it was returned as undeliverable. Id. at ¶¶13, 16. A copy of the internet search in the English language was included with the renewed petition.

The 37 CFR 1.47(a) applicant also submitted documentary evidence in the form of e-mails and letters with the renewed petition. However, the copies of e-mails and letters are in French without an accompanying English translation. Mr. Primak declares that these letters were in French "because French is the official language in Quebec." Id. at ¶ 5. Regardless, this evidence will not be considered. The Office will accept and record non-English language documents only if accompanied by an English translation signed by the individual making the translation. *See* 37 CFR 3.26.

Therefore, the 37 CFR 1.47(a) applicant has not yet met the requirements of section 409.03(d) of the MPEP. Thus, item (2) of 37 CFR 1.47(a) is still not satisfied.

CONCLUSION

Accordingly, applicants' renewed petition 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 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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

08 MAR 2004

#7

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George J. Primak
13480 Huntington
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In re Application of	:	
PAGEAU, Daniel *et al*	:	
U.S. Application No.: 10/451,815	:	
PCT No.: PCT/CA02/00061	:	
Int. Filing Date: 18 January 2002	:	**DECISION**
Priority Date: 19 January 2001	:	
Attorney Docket No.: 511-PCT/USA	:	
For: PAINT STRIPPING COMPOSITION	:	
AND METHOD OF USING THE SAME	:	

This decision is in response to applicants' "Response to Decision Dated January 20, 2004" filed 25 February 2004.

BACKGROUND

On 20 January 2004, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to satisfy item (2) of 37 CFR 1.47(a). Applicants were given two months to respond with extensions of time available.

On 25 February 2004, applicants filed the instant response which was accompanied by, *inter alia*, English translations of appendices 3-5, 7, 9, 10 and 12.

DISCUSSION

In the prior petition filed 24 December 2003, the 37 CFR 1.47(a) applicant failed to provide English translations of documentary evidence submitted that would verify that a diligent effort was made to locate the nonsigning joint inventor, Ms. Marcu. Hence, item (2) of 37 CFR 1.47(a) was not satisfied.

Here, the 37 CFR 1.47(a) applicant has provided the requisite English translations for the emails and letters listed as appendices 3-5, 7, 9, 10 and 12. A review of these documents corroborate the assertions made by Mr. Primak in his declaration filed 24 December 2003. This evidence shows that a diligent effort was made to locate, Ms. Marcu. As such, item (2) of 37 CFR 1.47(a) is now complete.

All the requirements of a grantable petition under 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 January 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 25 February 2004.

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

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

0 3 MAR 2004

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Elizabeth Marcu
32370 Ellendale Ave., #303
Montreal, Quebec
Canada H3S 1W5

In re Application of
PAGEAU, Daniel *et al*
U.S. Application No.: 10/451,815
PCT No.: PCT/CA02/00061
Int. Filing Date: 18 January 2002
Priority Date: 19 January 2001
Attorney Docket No.: 511-PCT/USA
For: PAINT STRIPPING COMPOSITION
AND METHOD OF USING THE SAME

Ms. Marcu:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

George J. Primak
13480 Huntington
Montreal, Quebec
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ALEXANDRIA VA 22313-1404

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APR 0 4 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Lafon et al.	:
Application Number: 10/451879	:
Filing Date: 12/02/2003	:
Attorney Docket Number: 004900-244	:

This is a decision on the petition to withdraw the holding of abandonment filed on March 6, 2008.

The application was held abandoned for failure to timely respond to the final Office action mailed on June 22, 2007. Notice of Abandonment was mailed on February 8, 2008.

Petitioner asserts that the final Office action mailed on June 22, 2007, was not received. In support, petitioner has provided a statement by counsel's Docketing Manager stating that the final Office action was never received, as well as a copy of counsel's docket report.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have

been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the USPTO mailed the final Office action to the correct correspondence address; however, it was inexplicably returned to the USPTO on June 22, 2007. For this reason, the practitioner did not receive the final Office action of June 22, 2007.

The showing of record is that the final Office action was not received as it was returned as undeliverable. Accordingly, there was no abandonment in fact.

As such, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The petition is **GRANTED.**

The application file is being referred to Technology Center Art Unit 1793 technical support staff for remailing of the final Office action mailed on June 22, 2007. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

27 APR 2004

#5

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Brinks Hofer Gilson & Lione
Po Box 10395
Chicago IL 60610

In re Application of MARC ARQUES Serial No.: 10/451,943 PCT No.: PCT/FR01/04215 Int. Filing Date: 27 December 2001 Priority Date: 28 December 2000 Attorney's Docket No.: 9905/12 For: METHOD AND APPLIANCES FOR ANALOG PROCESSING OF A SIGNAL EMITTED BY A PARTICLE DETECTOR	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) originally filed on 23 October 2003 and refiled via facsimile on 17 March 2004 in the United States Patent and Trademark Office in the above-captioned application is hereby **GRANTED** as follows:

On 26 June 2003, applicant requested entry into the U.S. national stage without paying the basic national fee. On 10 October 2003, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to provide the basic national fee by the 30 month period. On 23 October 2003, applicant filed a petition to revive along with a check in the amount of the petition fee of $1330. The original petition is not found in the application file.

On 17 March 2004, applicant refiled a copy of the petition to revive including a copy of the transmittal letter and the check stub.

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).

A review of the application file reveals that the basic national fee of $920 will be charged to applicant's deposit account per his authorization. The required petition fee of $1330 has 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 that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467

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BRINKS HOFER
GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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SEP 2 4 2007

OFFICE OF PETITIONS

In re Patent No. 7,183,550	:	
Issue Date: February 27, 2007	:	
Application No. 10/451,943	:	ON PETITION
Filed: July 6, 2004	:	
Patentee(s): Marc Arques	:	

This is a decision on the petition filed April 23, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 27 2006

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Tomoyuki Tahara	:
Serial No.: 10/451,947	: PETITION DECISION
Filed: June 27, 2003	:
Attorney Docket No.: 081356-0191	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed June 27, 2003, and refiled November 2, 2006. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable. The amendment to the specification should not be presented as part of the petition, but should be presented in a separate paper and applicant is requested to do so in the next communication with the Office.

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, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

John LeGuyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Tomoyuki Tahara	: DECISION ON REQUEST FOR
Patent Number	: 7592005	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/451,947	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **539** 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.

17 NOV 2005

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Richard P. Krinsky
Barnes & Thornburg, LLP
Suite 900
750 17th Street, N.W.
Washington, DC 20006-4607

In re Application of	:	
HERMEIER, et al.	:	
Application No.: 10/451,949	:	
PCT No.: PCT/EP01/12196	:	DECISION ON PETITION
Int. Filing Date: 23 October 2001	:	
Priority Date: 27 December 2000	:	
Attorney Docket No.: 32606/40712	:	
For: SOLID BOWL SCREW CENTRIFUGE	:	

This decision is in response to applicant's "Petition to Withdraw Abandonment" identifying serial number 10/451,949 filed in the United States Patent and Trademark Office (USPTO) on 02 August 2005. For the reasons discussed below, the petition is being treated as a petition under 37 CFR 1.182. The $400 petition fee under 37 CFR 1.17 has been charged to Deposit Account no. 02-1010 as authorized.

BACKGROUND

On 23 October 2001, applicant filed international application PCT/EP01/12196 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 from the International Bureau on 04 July 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, 27 June 2003.

On 27 June 2003, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; an English translation of the international application and a preliminary amendment.

On 07 October 2003, was mailed a "Notification of Missing Requirements under 35 U.S.C. 371" (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventors and the $130.00 surcharge for filing after the thirty-month period were required. The notification set a TWO MONTH period for response.

On 24 May 2005, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) indicating that the present application was abandoned as to the United States of America for failure to respond to the Form PCT/DO/EO/905 within the time period provided.

On 02 August 2005, applicant filed the present petition which was accompanied by a substitute declaration and a post card receipt dated 14 October 2003 .

DISCUSSION

As noted in applicant's present petition, applicant's response of 14 October 2003 was submitted in application 10/451,015. In addition, payment of the $13.00 surcharge for submitting a declaration later than 30 months was charged to application no. 10/451,015. A review of the fee record for application 10/451,015 shows that this amount has been refunded to applicant.

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant and attorney docket number. The receipt itemizes, inter alia: "Submission of Missing Req of Appln; executed Dec/POA, copy of notification." The receipt is stamped "OIPE JC174 Patent & Trademark Office 14 OCT 2003" across its face. Thus, it is clear that applicant filed the executed declaration and power of attorney with the USPTO on 14 October 2003; albeit in the wrong application. Accordingly, the present petition has been treated as a petition under 37 CFR 1.182 to correct the application number identified on applicant's 12 OCT 2004 submission to the proper application number, that is, 10/451,949.

A review of the papers filed 14 OCT 2003 reveals that the declaration included sufficient information to permit identification of the application to which it was intended to be directed, i.e., national stage application no. 10/451,949.

Applicant is advised that a review of the filed declaration and power of attorney finds a discrepancy regarding the name of the first named inventor. The published international application identifies the inventor as Jurgen Hermeier whereas the filed declaration lists the inventor as Jurgen Hermeler. Applicant is directed to § 201.03 of the Manual of Patent Examining Procedure (MPEP) which provides the procedures where a typographical or transliteration error in the spelling of an inventor's name is discovered. As discussed in that section, in such an instance a petition is not required: "Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration." As such, in order for National stage processing to continue, applicant is required to provide a statement providing the actual name of the first inventor and confirming that the mistake is a simple typographical or transliteration error.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is <u>GRANTED</u>.

As the prior payment of $130.00 for the surcharge was refunded to applicant, this

amount will be charged to deposit account no.: 02-1010 as authorized.

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed 24 May 2005 is hereby VACATED.

Applicant is afforded **TWO (2) MONTHS** from the mail date of this decision to file a proper response as discussed above.

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

28 NOV 2005

Richard P. Krinsky
Barnes & Thornburg, LLP
Suite 900
750 17th Street, N.W.
Washington, DC 20006-4607

In re Application of HERMEIER, et al. Application No.: 10/451,949 PCT No.: PCT/EP01/12196 Int. Filing Date: 23 October 2001 Priority Date: 27 December 2000 Attorney Docket No.: 32606/40712 For: SOLID BOWL SCREW CENTRIFUGE	COMMUNICATION

This Communication is in response to applicant's "Notification of Typographical Error in The First-Named Inventor's Name" filed in the United States Patent and Trademark Office (USPTO) on 22 November 2005.

BACKGROUND

On 17 November 2005, applicant was mailed a decision granting applicant's petition under 37 CFR 1.182. Applicant was informed that a review of the filed declaration revealed a discrepancy regarding the name of the first named inventor. Applicant was afforded two months to file an explanation.

On 22 November 2005, applicant filed the present response.

DISCUSSION

As detailed above, the previous decision pointed out a discrepancy between the filed declaration and the published international application regarding the name of the first named inventor. Applicant has presently submitted a statement from counsel addressing this concern.

Section 201.03 of the Manual of Patent Examining Procedure (MPEP) provides the procedures where a typographical or transliteration error in the spelling of an inventor's name is discovered. As discussed in that section, in such an instance a petition is not required: "Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration." Applicant's present filing contains such a statement identifying the correct name of the first inventor as Jurgen Hermeler. This is the name which appears on the filed declaration and counsel has explained that there was a typographical error in the

published international application. As such, the declaration filed 14 October 2003 is acceptable.

CONCLUSION

This application will be given an international application filing date of 23 October 2001 and a date of 14 October 2003 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

24 JUN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of BOSISIO et al. Application No.: 10/451,952 PCT No.: PCT/EP01/15409 Int. Filing Date: 14 December 2001 Priority Date: 03 January 2001 Attorney Docket No.: 05788.0270 For: SUBMARINE OPTICAL CABLE WITH WATER-BLOCKING FILLING COMPOSITION	DECISION ON REQUEST FOR CORRECTED FILING RECEIPT

This is a decision on applicant's "Request for Corrected Official Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 08 March 2004. The request is **GRANTED** for the following reasons.

On 10 February 2004, the United States Designated/Elected Office (DO/EO/US) mailed an official filing receipt which incorrectly indicated the name of the city of the first inventor as "Brembata" and also incorrectly stated the first name of the second inventor as "Massimillano" Pavan.

On 08 March 2004, applicant filed a request to correct the filing receipt including a marked-up copy of the official filing receipt indicating a correction of the city of the first named inventor to "Bremate" and first name of the second inventor to "Massimiliano".

A review of the published international application indicates that the name of the city of the first named inventor is "Brembate". Likewise, the first name of the second named inventor is "Massimiliano". The filing receipt issued on 10 February 2004 listed these items incorrectly.

CONCLUSION

Applicant's request for the issuance of a corrected filing receipt indicating the name of the first inventor's city as "Brembate" and the first name of the second inventor as "Massimiliano" Pavan is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the preparation and mailing of a corrected Filing Receipt in accordance with this decision.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

#4

28 OCT 2003

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

Rolf Fasth
Fasth Law Offices
629 E. Boca Raton
Phoenix, Arizona 85022

In re Application of	:	
NILSSON et al.	:	
Application No.: 10/451,962	:	
PCT No.: PCT/SE02/02195	:	DECISION ON REQUEST
Int. Filing Date: 28 November 2002	:	UNDER 37 CFR 1.42
Priority Date: 11 December 2001	:	
Attorney Docket No.: 355.821USN	:	
For: ULTRASONIC TRANSDUCER SYSTEM	:	

This is a response to the declaration filed 27 June 2003 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 28 November 2002, applicants filed international application PCT/SE02/02195, which claimed a priority date of 11 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 July 2003. A proper Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire on 11 June 2004.

On 27 June 2003, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment, and an executed declaration. The declaration was executed by Hakan Dahlberg as an inventor and Asa Kristin Schroder Annersten; Anja Kristin Hardin; and Ylva Kristin Lubeck as legal representative for the deceased inventor, Bo Nilsson.

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 27 June 2003 is executed by: Asa Kristin Schroder Annersten; Anja Kristin Hardin; and Ylva Kristin Lubeck as legal representative for the deceased inventor, Bo Nilsson. The declaration fulfills the requirements of 37 CFR 1.42 and

Application No.: 09/980,912

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 27 June 2003.

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

The application has an international filing date of 28 November 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of 27 June 2003.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

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Joseph S Tripoli
Thomson Multimedia Licensing Inc
P O Box 5312
Princeton NJ 08543-5312

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JUL 27 2006
OFFICE OF PETITIONS

In re Application of
Nortrup
Application No. 10/451,967
Filed: June 27, 2003
Attorney Docket No. PU000186
For: ON SCREEN DISPLAY AS DIAGNOSTIC AID

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2006 (certificate of mailing date May 11, 2006), to revive the above-identified application. The petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

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

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on December 27, 2004, which set an extendable three month period for reply. The Office has no record of receiving an extension of time or a reply to the December 27, 2004 non-final Office action in application no.10/451,967. Therefore, the Office considered the application abandoned on March 28, 2005. A Notice of Abandonment was mailed on October 13, 2005.

Petitioner asserts that a proper response in the form of an amendment was timely received in the Office on April 25, 2005. In support of this assertion, petitioner has provided a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing April 25, 2005 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included an after rejection amendment.

The return postcard constitutes *prima facie* evidence that the item listed thereon, an after rejection amendment, was received in the Office on April 25, 2005. MPEP 503.

Petitioner has provided a copy of the April 25, 2005 (certificate of mailing date April 21, 2005) correspondence. A review of the correspondence reveals that the application number is listed as the US National Phase of PCT/US01/46536. Therefore, the amendment was not associated with application no. 10/451,967's file.

Even though petitioners cited the wrong application number on the amendment, under MPEP 502, " A minor error in the identification of the application can be corrected by the group provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number." The undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the April 25, 2005 correspondence with this application file. A cross-referencing of any of the accurate identifiers found on the amendment with Office databases would have revealed applicant's error in listing the PCT application number.

The April 25, 2005 amendment was timely filed. Accordingly, the petition is **granted**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

The Rule 137(b) petition is dismissed as moot and the $1,500.00 Rule 137(b) petition fee will be credited to deposit account no. 07-0832.

The application file will be forwarded to the Technology Center AU 2622 for consideration of the amendment filed on April 25, 2005 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

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

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10 WEST SECOND STREET
DAYTON, OH 45402-1758

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JUL 28 2005

OFFICE OF PETITIONS

In re Application of :
Brian A. Brunswick et al :
Application No. 10/451,982 : DECISION GRANTING PETITION
Filed: September 24, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 006593-1870-C2 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1723 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).*

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

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NOV 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Andreas DANGBERG	:	
Application No. 10/451,986	:	DECISION ON PETITION
Filed: December 1, 2003	:	TO WITHDRAW
Attorney Docket No. 449122059800	:	FROM RECORD
	:	

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on October 29, 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 Diane Goodwyn at 571-272-6735.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BELL, BOYD & LLOYD, LLP
PO BOX 1135
CHICAGO, IL 60690

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

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OFFICE OF PETITIONS

In re Application of	:	
Bjorn Winther-Jensen et al.	:	
Application No. 10/451,999	:	DECISION ON PETITION
Filed: 12/04/2003	:	TO WITHDRAW
Attorney Docket No. 08845.0011	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed July 9, 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 Bryan C. Diner on behalf of all attorneys of record and associated with customer number 22852. All attorneys/agents of record and associated with customer number 22852 have been withdrawn.

A restriction requirement was mailed on June 15, 2007. Failure to timely respond will result in the abandonment of this application.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision is being mailed to the address noted on the request for withdrawal as attorney. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

cc: Bjorn Winther-Jensen
Fuglsang Alle 126
DK-2700
Bronshoj, DENMARK

cc: Ms. Beth Arnold
Foley Hoag LLP
155 Seaport Boulevard
Boston, MA 02210-2600

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/451,999	12/04/2003	Bjorn Winther-Jensen	08845.0011

CONFIRMATION NO. 5932

OC000000025578604

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Date Mailed: 08/28/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/09/2007.

- 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.

K. Drabenet

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

FORMER ATTORNEY/AGENT COPY

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225 FRANKLIN STREET
BOSTON, MA 02110

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of	:
Michael F. Holick et al	:
Application No. 10/452,004	: DECISION GRANTING PETITION
Filed: May 30, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 13227-005003	:

This is a decision on the petition, filed March 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

Frances Hicks

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

---

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

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OFFICE OF PETITIONS

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of	:	
Raya **LEVIN**, et al.	:	
Application No. 10/452,026	:	DECISION ON PETITION
Filed: 10/452,026	:	TO WITHDRAW
Attorney Docket No. May 30, 2003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 2006.

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

A review of the file record indicates that the power of attorney to Richard C. Komson of MORGAN & FINNEGANN LLP has been revoked by the assignee of the patent application on November 3, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KING & SPALDING LLP**
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-4003

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARGER JOHNSON & MCCOLLOM
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

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SEP 21 2005

OFFICE OF PETITIONS

In re Application of :
Ji-Young Kim et al :
Application No. 10/452,034 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. 9898-284 :

This is a decision on the petition, filed September 19, 2005, and supplemented on September 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2826 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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REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH VA 22042

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OFFICE OF PETITIONS

In re Application of	:	
Toyoshima et al.	:	
Application No. 10/452,045	:	ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. HITA.0397	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 16, 2005, to revive the above-identified application. In view of the allegation in the petition of the non-receipt of the Office action and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

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

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed September 22, 2004, which set a shortened statutory period for reply of three (3) months. A reply was due on or before December 22, 2004. A Notice of Abandonment was mailed on April 29, 2005.

An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

In the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

---

[1] See MPEP 71103(c) and notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Since petitioner has provided a showing as required, 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. Accordingly, the $1500.00 petition fee submitted with the instant petition will be credited to petitioner's deposit account as previously authorized.

This matter is being referred to Technology Center AU 2838 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206.

Brian Hearn
Petitions Examiner
Office of Petitions

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Paper No. 4

VENABLE BAETJER HOWARD & CIVILETTI
P.O. BOX 34385
WASHINGTON, DC 20043-9998

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DEC 0 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Zvi Or-Bach	:	
Application No. 10/452,049	:	NOTICE
Filed: June 3, 2003	:	
Attorney Docket No. 38897-189915	:	

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 2819.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

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DEC 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Shinichi Yoshida et al :
Application No. 10/452,051 : ON PETITION
Filed: June 3, 2003 :
Attorney Docket No. XA-9879 :

This is a decision on the petition, filed December 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 22, 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 2838 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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MAY 19 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Hollstein Keating Cattell Johnson & Goldstein P.C.
Willow Ridge Executive Office Park
Suite 301
750 Route 73 South
Marlton NJ 08053

In re Application of
Gaginda R. Wickramaratna
Application No. 10/452,078
Filed: June 2, 2003
For: **CAMERA MOUNTED PYLON SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed April 21, 2005 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

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

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

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

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(571) 272-7023

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

Ketan S. Vakil, Esq.
Snell and Wilmer, L.L.P.
1920 Main Street, Suite 1200
Irvine, CA 92614-7230

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JAN 27 2004

OFFICE OF PETITIONS

In re Application of :
Roger Bishop :
Application No. 10/452,094 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. 44251-6300 :

This is in response to the "Petition Under 37 CFR 1.47(b), filed November 30, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest: and (6) proof of irreparable damage. Applicant lacks item (2) set forth above.

As to item (2) above, a signed declaration in compliance with 37 CFR 1.63 and 1.64 must be made by the 37 CFR 1.47(b) applicant which sets forth the citizenship, residence, and mailing address of the putative party having proprietary interest. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary or Treasurer) may sign the oath or declaration. Where an oath or declaration is being signed on behalf of an assignee[1], note

[1] Applicant should note that it is not the "assignee" herein of the rights of inventor Bishop within the meaning of 35 USC 261 and 37 CFR 3.73(b) in the absence of Bishop's signature on the conveyance. In

MPEP Section 324, which however, presupposes that an executed assignment by the inventor has been recorded, or submitted for recordation. Attention is directed to 37 CFR 1.63(a)(3); MPEP §§ 605.02, 605.03. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(b).

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

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

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

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

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order for an instrument to be considered an assignment under the law, the conveyance must necessarily be *executed* by the assignor. See 35 USCA Section 256 n. 136; Ashcroft v. Walworth, C.C. Mass 1872, Holmes 152, Fed. Cas. No. 580. The assignment must be "in writing" in order to be valid or recognized by the PTO. Standard Computing Scale Co v. Lincoln Scale Corp., 57 F.2d 334, 11 USPQ 246 (W.D. Pa. 1931). That is, the written conveyance must be duly signed. American Tobacco v. Ascot Tobacco Works, 165 F. 207 (C.C.N.Y. 1908). Note also University Patents, Inc. v. Kligman, 762 F.Supp. 1212, 1218-19, 30 USPQ2d 1401, 1405 (E.D. Pa. 1991), which states: "Assignment of patent must be in writing, and writing must show clear and unmistakable intent to transfer ownership and **must be executed by patentee** or by patentee's assigns or legal representatives [emphasis added]." However, the "Confidential Nondisclosure Agreement" submitted with the petition is acceptable proof as proprietary interest in the instant invention.

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Ketan S. Vakil, Esq.
Snell and Wilmer, L.L.P.
1920 Main Street, Suite 1200
Irvine, CA 92614-7230

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Roger Bishop	:	
Application No. 10/452,094	:	ON PETITION
Filed: May 30, 2003	:	
Attorney Docket No. 44251-6300	:	

This is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(b), filed February 9, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor, Roger Bishop has 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 Edward C. Vees establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that PolyPhaser Corporation has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to PolyPhaser company. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

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

After this decision is mailed, the application will be referred to the Office of Initial Patent Examination for issuance of a corrected filing receipt. Thereafter the application will be referred to Technology Center 2800 for further processing.

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

Marianne E. Jenkins

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

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50205

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

JUN 8 2005

In re Application of:
Masuo Akamatsu
Serial No.: 10/452,143
Filed: June 3, 2003
Attorney Docket No.: **056207.49551C1**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed October 08, 2004, to revive the application under 37 C.F.R. § 1.137(b). The petition has been treated as a petition to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required. A supplement to the petition was filed on April 14, 2005.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a response to the Office action mailed on November 24, 2003. A Notice of Abandonment was mailed on September 07, 2004.

Petitioner asserts that the Office action mailed on November 24, 2003, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was provided in the supplement to petition.

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

The petition, as supplemented, is sufficient to establish a showing of non-receipt of the Office action mailed on November 24, 2003.

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

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Office action. The shortened statutory period for response set therein will be reset to run from the date the Office action is re-mailed. Extensions of time are available under 37 C.F.R. § 1.136.

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

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Adam T. Kornegay	:	
Application No. 10/452,155	:	DECISION ON PETITION
Filed: May 30, 2003	:	TO WITHDRAW
Attorney Docket No. 21297-07005	:	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 Jaunary 5, 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 Sabra-Anne R. Truesdale on behalf of all attorneys of record who are associated with Customer No. 00758.

All attorneys/agents associated with the Customer Number 00758 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 Joe Smith at the address indicated below]

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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Adam T. Kornegay
609 Saint Vincent
Irvine, CA 92618

cc: Knobbe Martens Olson & Bear LLP
2040 Main Street, 14th Floor
Irvine, CA 92614-3641

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
10/452,155	05/30/2003	Adam T. Kornegay	21297-07005

CONFIRMATION NO. 8159

OC000000019711805

OC000000019711805

00758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 07/21/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

- 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.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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

Mail Date: 04/20/2010

Applicant	: Adam T. Kornegay	: DECISION ON REQUEST FOR
Patent Number	: 7610229	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/452,155	: 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 **1621** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAR 05 2008

OFFICE OF PETITIONS

HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE, SUITE 550
SAN JOSE, CA 95110-1083

In re Application of :
David J. Long et al :
Application No. 10/452,163 : ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. 50277-1751

This is a decision on the petition, filed March 4, 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 4, 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 2189 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

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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).

OIPE JC34
OCT 0 6 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
TETSUO YAMANAKA, ET AL.	: EXAMINER: UNASSIGNED
SERIAL NO: 10/452,212	:
FILED: JUNE 3, 2003	: GROUP ART UNIT: 2852
FOR: COLOR OFFSET DETECTING APPARATUS AND METHOD	:

PETITION UNDER 37 C.F.R. § 1.182

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

This Petition is in response to the Notice of Omitted Items of August 4, 2003.

Applicants hereby petition the Commissioner of the U.S. Patent and Trademark Office (hereinafter "Office") to withdraw its determination that "Figure(s) 8A described in the specification" is omitted from the above-identified patent Application.

STATEMENT OF FACTS

On June 3, 2003, Applicants filed the above-identified Application which included Figure 8A (Exhibit 1) as Sheet 10 of 25 of the drawings. Applicants' representative received a date-stamped filing receipt from the Office on June 3, 2003 acknowledging acceptance of 25 sheets of drawings (Exhibit 2).

On August 4, 2003, the Office mailed an Official Filing Receipt acknowledging the receipt of 25 sheets of drawings (Exhibit 3).

10/09/2003 AROCHA1 00000007 10452212
01 FC:1460 130.00 OP

On August 4, 2003, the Office mailed a Notice to File Missing Parts of Nonprovisional Application citing "Figure(s) 8A described in the specification" as an omitted item. As is evidenced by the cited Exhibits herewith attached, Fig. 8A was properly included with the above-identified Application papers filed on June 3, 2003.

Applicants, however, believe the Office based the omitted item determination on the lack of description of Fig. 8A in the Brief Description of the Drawings section of the Application. Applicants note that this is an informality properly corrected during prosecution. To this end, Applicants have filed a Preliminary Amendment for which a complimentary copy is attached (Exhibit 4) to add the description of Figure 8A to the present specification.

REQUEST FOR RELIEF

In view of the evidence presented herein, it appears as though the Office intended to request a description of Fig. 8A, rather than the actual figure which was properly included with the original Application papers filed June 3, 2003. Therefore, the Notice of Omitted Items was issued in error.

The fee as required under §1.17(h) for the present petition of **$130.00** is enclosed. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any

necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Upon grant of this Petition, Applicants respectfully request the refund of the Petition fee.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Gregory J. Maier
Attorney of Record
Registration No. 25,599

Scott A. McKeown
Registration No. 42,866

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220

GJM:SAM:ycs

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

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NOV 1 0 2005

OFFICE OF PETITIONS

In re Application of Yamanaka, et al. :
Patent No. 6,920,303 :
Issue Date: July 19, 2005 : ON PETITION
Application No. 10/452,212 :
Filed: June 3, 2003 :
Attorney Docket No. 238476US2

This is a decision on the papers filed June 29, 2005, which have been treated as a petition under 37 CFR 1.55(a)(2), for entry of priority papers submitted after the date the issue fee was paid.

The petition is granted.

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119.

The priority papers are accepted as timely filed and have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority of a certified priority document under 37 CFR 1.55(a) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 USC 119(a)-(d) to make the priority claim information in the text of the patent. In such a situation, the patent will not contain the priority claim information. The patentee may request a certificate of correction under 35 U.S.C. § 255 and 1.323 and a determination of entitlement for such priority will be made after the patent is granted. See Federal Register/Vol. 65, No. 175, September 8, 2000, page 54622. As the patent has issued, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of $100.

Any questions concerning this decision on petition should be directed to Petitions Attorney Edward Tannouse at (571) 272-3228.

Frances Hicks

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

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CASELLA & HESPOS
274 MADISON AVENUE
NEW YORK, NY 10016

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JUN 15 2004

OFFICE OF PETITIONS

In re Application of	:	
Toshifumi Miyamoto	:	
Application No. 10/452,214	:	DECISION GRANTING PETITION
Filed: May 30, 2003	:	
Attorney Docket No. FP02-336US	:	

This is a decision on the petition under 37 CFR 1.10(d), filed August 25, 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 3, 2003.

Applicant alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service, on May 30, 2003. In support, applicant submitted, inter alia:

- a copy of the original application transmittal letter showing the Express Mail label No. EV329604765US thereon;
- an Express Mail label, receipt No. EV329604765US, showing a Date-In of May 30, 2003; and
- a declaration of Marie B. Bufalo, a Legal Secretary to Gerald E. Hespos.

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. That is the date that verifies that the package was actually mailed. 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. Accordingly, the instant application file is entitled to a filing date of May 30, 2003, and has been so accorded.

The petition is granted. No petition fee is required and none has been charged.

The application file is referred to Technology Center AU 2839 for examination in due course.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

MAILED

MAY 3 1 2005

Technology Center 2100

In re Application of:
Paul Kilmartin
Application No. 10/452,215
Filed: May 30, 2003
For: SYSTEM AND METHOD TO PERFORM DATA INDEXING IN A TRANSACTION PROCESSING ENVIRONMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 22, 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.

for
Vincent N. Trans
Special Program Examiner 5/6/05
Technology Center 2100

cc: Andre L. Marais
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
1600 TCF TOWER
121 South Eighth Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SHEMWELL GREGORY & COURTNEY LLP
SUITE 201
4880 STEVENS CREEK BOULEVARD
SAN JOSE, CA 95129

COPY MAILED

MAR 1 1 2004

OFFICE OF PETITIONS

NOTICE

In re Application of :
Nilesh A. Gharia :
Application No. 10/452,216 :
Filed: May 30, 2003 :
Attorney Docket No. NLMI.P132

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 2818.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/452,218	05/30/2003	3736	1044	LAIN 2744	2	27	5

CONFIRMATION NO. 6702

CORRECTED FILING RECEIPT

OC000000011167658

007812
SMITH-HILL AND BEDELL
12670 N W BARNES ROAD
SUITE 104
PORTLAND, OR 97229

Date Mailed: 11/03/2003

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)

Jarmo Ruohonen, Vantaa, FINLAND;

Domestic Priority data as claimed by applicant

Foreign Applications

FINLAND 20021050 05/31/2002

If Required, Foreign Filing License Granted: 08/08/2003

Projected Publication Date: 02/12/2004

Non-Publication Request: No

Early Publication Request: No

Title

Targeting method and apparatus for the magnetic stimulation of the brain

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.

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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/452,219	05/30/2003	3671	528	21850-RA	9	35	3

CONFIRMATION NO. 6700

CORRECTED FILING RECEIPT

OC000000014624081

30184
MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C.
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA, GA 30339

Date Mailed: 11/29/2004

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)

Aaron D. Smith, Norwalk, OH;

Power of Attorney: The patent practitioners associated with Customer Number **30184**.

Domestic Priority data as claimed by applicant

Foreign Applications

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 US10/452,219

Projected Publication Date: 12/09/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Construction device and method for stamping concrete

Preliminary Class

404

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

GRANTED

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/20/09

TO SPE OF : ART UNIT 1795 Ben Lewis

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/452224 Patent No.: 7364814

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 1795 **Art Unit**

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MAR 16 2007

OFFICE OF PETITIONS

IPSG, P.C.
P.O. BOX 700640
SAN JOSE CA 95170-0640

In re Application of	:	
Brian Hang Wai Yang et al.	:	
Application No. 10/452,229	:	DECISION ON PETITION
Filed: June 3, 2003	:	TO WITHDRAW
Attorney Docket No. RZMI-P305	:	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 1, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***at the request of Raza Microelectronics, Inc.***, do not meet any the conditions set forth in 37 CFR 10.40 because 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 January 29, 2007 was not accepted because it does not include signatures from ALL the applicants listed on the oath/declaration.

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.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Raza Microelectronics, Inc.**
Legal Department
18920 Forge Drive
Cupertino, CA 95014-0701

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/452,229	06/03/2003	Brian Hang Wai Yang	RZMI-P305

CONFIRMATION NO. 9724

OC000000022935357

OC000000022935357

32986
IPSG, P.C.
P.O. BOX 700640
SAN JOSE, CA 95170-0640

Date Mailed: 03/16/2007

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/29/2007 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The signature(s) of , a co-inventor in this application, has been omitted. The Power of Attorney will be entered upon receipt of confirmation signed by said co-inventor.

J. Williams

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

FORMER ATTORNEY/AGENT COPY

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Paper No. 5

Marc D. Kessnan
166 Park View Road
Pound Ridge, NY 10576

COPY MAILED

OCT 07 2004

OFFICE OF PETITIONS

In re Application of :
Mark D. Kessnan :
Application No. 10/452,231 :
Filed: May 30, 2003 :
Attorney's Docket No. 03-01 :

ON PETITION

This is a decision on the petition filed September 24, 2004, under 37 CFR 1.137(a), 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. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or, as described below, under 37 CFR 1.137(b). This is not a final agency decision.

The application became abandoned on September 24, 2003, for failure to timely reply to the Notice to File Corrected Application Papers mailed on July 22, 2003, which set a two-month extendable period for reply. No extensions of time were obtained. A Notice of Abandonment was mailed on September 8, 2004.

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. 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 § 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (1) and (3) above.

As to item (1), petitioner has failed to comply with the Notice to File Corrected Application Papers mailed on July 22, 2003. A copy of the Notice accompanies the present decision to better assist petitioner in preparing an appropriate response.

As to item (3), the Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[1] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable

[1] 35 U.S.C. § 133.

> employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

Petitioner asserts that he never received the Notice to File Corrected Application Papers mailed on July 22, 2003. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the **docket record** where the nonreceived Office action would have been entered had it been received and docketed.[4] A proper docket report consists of a "docket record **where the nonreceived Office action would have been entered had it been received and docketed.**"[5] "For example,

---

[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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

[4] See MPEP 711.03(c)(II).

[5] MPEP 711.03(c)(II) (emphasis added).

if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[6]

However, as petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. In that case, petitioner must explain his system for keeping track of patent matters - where he keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the Notice to File Corrected Application Papers of July 22, 2003, was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that petitioner exercised due diligence with respect to his most important business.

As petitioner has not provided sufficient evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition is dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

---

[6] Id.

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

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

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

Should petitioner decide to file a petition under 37 CFR 1.137(b), an additional petition fee of $685.00 would be due on filing. A form to revive the application due to unintentional abandonment is enclosed for petitioner's convenience.

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: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202)

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

Enclosures: Notice to File Corrected Application Papers
PTO/SB/64
The Privacy Act

UNITED STATES PATENT AND TRADEMARK OFFICE

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Marc D. Kessnan
166 Park View Road
Pound Ridge, NY 10576

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of :
Mark D. Kessnan :
Application No. 10/452,231 :
Filed: May 30, 2003 :
Attorney's Docket No. 03-01 :

ON PETITION

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

The petition is granted.

The application became abandoned on September 24, 2003, for failure to timely reply to the Notice to File Corrected Application Papers mailed on July 22, 2003, which set a two-month extendable period for reply. No extensions of time were obtained. A Notice of Abandonment was mailed on September 8, 2004. On September 24, 2004, petitioner filed a petition under 37 CFR 1.137(a), which was dismissed by the decision of October 7, 2004. The decision set a two-month period to file a renewed petition under 37 CFR 1.137(a). As the renewed petition was not filed until January 18, 2005, petitioner will be charged $225.00 for a two-month extension of time.

The Office finance records indicate that petitioner paid a $750.00 petition fee on January 18, 2005. The petition fee is unnecessary. The $225.00 extension of time fee will be deducted from the $750.00 petition fee, leaving a balance of $525.00. Petitioner may request a refund of $525.00 by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

The matter is being referred to Technology Center 3711.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Best Available Copy

QueueOS™
www.queueos.com
Casino Management System

166 Park View Road
Pound Ridge, NY 10576

Phone: (914) 763-1200
Fax: (914) 763-4200

12:35

February 28, 2005

Mail Stop 16
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Application of Mark D. Kessman
Application No. 10/452,231

To Whom It May Concern:

As per the copy of the enclosed letter from the Office of the Commissioner for Patents, I am requesting a refund of our overpaid petition fee of $525.00.

Please send it to the above return address and contact me if you have any questions.

Sincerely,

Lisa Gottesman

Executive Assistant, QueueOS, LLC

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United States Patent and Trademark Office
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Marc D. Kessnan
166 Park View Road
Pound Ridge, NY 10576

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FEB 1 5 2005

OFFICE OF PETITIONS

In re Application of
Mark D. Kessnan
Application No. 10/452,231
Filed: May 30, 2003
Attorney's Docket No. 03-01

ON PETITION

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

The petition is granted.

The application became abandoned on September 24, 2003, for failure to timely reply to the Notice to File Corrected Application Papers mailed on July 22, 2003, which set a two-month extendable period for reply. No extensions of time were obtained. A Notice of Abandonment was mailed on September 8, 2004. On September 24, 2004, petitioner filed a petition under 37 CFR 1.137(a), which was dismissed by the decision of October 7, 2004. The decision set a two-month period to file a renewed petition under 37 CFR 1.137(a). As the renewed petition was not filed until January 18, 2005, petitioner will be charged $225.00 for a two-month extension of time.

The Office finance records indicate that petitioner paid a $750.00 petition fee on January 18, 2005. The petition fee is unnecessary. The $225.00 extension of time fee will be deducted from the $750.00 petition fee, leaving a balance of $525.00. Petitioner may request a refund of $525.00 by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

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A copy of this decision should accompany petitioner's request.

The matter is being referred to Technology Center 3711.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MORGAN & FINNEGAN LLP
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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MAY 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Kessman, et al.	:	
Application No. 10/452,231	:	DECISION REFUSING STATUS
Filed: May 30, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 3125-4011	:	

This is in response to the petition under 37 CFR 1.47(a), filed April 1, 2008.

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

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (1) above.

Rule 47 applicant has not demonstrated diligent effort in finding non-signing inventor McCauley. With respect to showing diligent effort, "an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made."[1] Here, the evidence establishes that a copy of the application papers was mailed to the last known address of McCauley, but were returned as undeliverable. Knowing that McCauley is no longer at that address, Rule 47 applicant has not provided any information of the steps taken to subsequently locate him. Applicant has provided no documentary evidence, such as a copy of an internet search, to support such a finding[2].

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] MPEP 409.03(d).

[2] Such documentary evidence should be made part of the affidavit or declaration. See id.

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JUL 30 2008

MORGAN & FINNEGAN LLP
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of	:	
Kessman, et al.	:	
Application No. 10/452,231	:	DECISION ACCORDING STATUS
Filed: May 30, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 3125-4011	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 9, 2008.

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

On petition, petitioner has established that inventor McCauley has refused to sign the application papers. Specifically, petitioner stated that a copy of the application papers was forwarded to the last known address of McCauley on June 11, 2008. However, as of the date of the petition, no executed declaration from McCauley has been received.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to the Office of Data Management for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEAN MCCAULEY
5450 S FORT APACHE RD
APT 284S
LAS VEGAS NV 89148-4694

In re Application of Marc D. Kessman, Sean P. McCauley Application No. 10/452,231 Filed: May 30, 2003 Title: Products and Processes for Operations Management of Casino, Leisure and Hospitality Industry	LETTER

Dear Mr. McCauley:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

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SEP 28 2007

TECHNOLOGY CENTER 3600

Scott M. Tulino
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 Old Courthouse Road, Suite 200
Vienna, VA 22182-3817

In re Application of	:	
Masashi Furuya	:	DECISION ON PETITION
Application No. 10/452,245	:	REGARDING INFORMATION
Filed: June 3, 2003	:	DISCLOSURE STATEMENT
Attorney Docket No.: P21-157715M/YS	:	
For: CONNECTOR WITH CHECK FUNCTION	:	

This is in response to applicant's petition filed March 2, 2007 seeking to have the Information Disclosure Statement (IDS) of June 3, 2003 entered and considered.

The petition is **GRANTED**.

Applicant indicates that the examiner has failed to consider the IDS filed on June 3, 2003. Further, the submission to the examiner on September 7, 2006 of a form PTO-1449 was not the submission of a new IDS. Rather, the submitted form PTO-1449 was merely a courtesy copy of the one previously filed on June 3, 2003. Therefore, the examiner's denial of consideration for allegedly failing to supply a copy of the cited reference was incorrect.

A review of the record reveals that the IDS with copy of the cited reference were missing from the file. However, from the copy of the filing receipt filed by applicant on September 7, 2006, it is clear that an IDS, including form PTO-1449 and the cited reference, were actually received by the Office on June 3, 2003. After inquiry with the Scanning Customer Support, the IDS as filed on June 3, 2003 has now been located and scanned into the application file.

The IDS filed June 3, 2003 meets the requirements of 37 CFR 1.97 and 37 CFR 1.98 and, accordingly, the petition to have the IDS entered and considered is granted. The application is being forwarded to the examiner for prompt consideration of the IDS filed June 3, 2003.

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150
Facsimile No.: (571) 273-8300

KJD/DS: 6/8/07

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

March 10, 2005

McGinn & Gibb, PLLC
8321 Old Courthouse Road
Vienna, VA 22182-3817

MAR 1 0 2005

In re Application of:	:	
TAROU KANEKO	:	DECISION ON PETITION
Application No. 10/452,256	:	UNDER 37 CFR 1.181
Filed: June 3, 2003	:	
Attorney Docket No. NEC01P205-HIa 2	:	

The is a decision on the Petition filed on November 22, 2004 to withdraw the finality of the Office action mailed September 21, 2004 as premature. The petition was timely filed within two months of the mailing of the final rejection by way of facsimile transmission (November 21, 2004 fell on a Sunday, thus the following day – Monday November 22, 2004 was the next business day).

The Petition is **GRANTED**.

The petition is granted for the reasons stated by applicant on page 2 (first three paragraphs) of the petition. Petitioner is correct in stating that claims 25-28 and 47-48 were not substantively amended in the Amendment filed July 13, 2004. In the final rejection, a new ground of rejection was introduced for these claims. Therefore, the final rejection was indeed premature (see MPEP 706.07(a)). The finality of the Office action mailed September 21, 2004 is withdrawn and prosecution is reopened. The amendment after final rejection filed on December 14, 2004 is responsive to the Office action mailed September 21, 2004 and is now before the examiner for consideration.

The application is being forwarded to the examiner for consideration of the amendment filed December 14, 2004.

Janice A. Falcone

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

JAF/fgf

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

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JUN 19 2008

OFFICE OF PETITIONS

In re Patent No. 7,139,451	:	
Issue Date: November 21, 2006	:	
Application No. 10/452,256	:	DECISION ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. NEC01P205-HIA 2	:	

This is a decision on "Third Request For Issue Notification and Letters", filed September 21, 2007, requesting issuance of a duplicate Letters Patent for the above-identified patent.

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).

Petitioner states that the original Letters Patent was never received.

The Office follows the guidelines set forth in MPEP § 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

1. a statement from practitioner stating that the Letters Patent was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

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

3. a copy of the master docket for the firm docket record where the nonreceived Letters Patent would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

The petition is not accompanied by the evidence required to establish nonreceipt of the original Letters Patent.

In view of the above, the petition fails to provide the necessary evidence to establish nonreceipt of the letters patent. Accordingly, the petition for issuance of a duplicate Letters Patent cannot be granted at this time.

If petitioner cannot submit the required evidence to establish nonreceipt of the original Letters Patent or simply does not wish to, petitioner may wish to consider filing a petition under 37 CFR 1.182 requesting issuance of a duplicate Letters Patent and pay the required fee of $400.

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

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VIENNA VA 22182-3817

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OFFICE OF PETITIONS

In re Patent No. 7,139,451	:	
Issue Date: November 21, 2006	:	
Application No. 10/452,256	:	DECISION ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. NEC01P205-H1A2	:	

This is a decision on the petition under 37 CFR 1.182, filed August 6, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ms. Niomi Farmer, Office of Data Management, Phone: 703-308-9250 x129.

A copy of this decision is being faxed to Publishing Division for issuance of duplicate Letters Patent.

Charlema Grant
Petitions Attorney
Office of Petitions

cc: Ms. Niomi Farmer, Office of Data Management, Fax: 571-270-9753.

DATE 9/18/2007 APPLICATION NUMBER 10/452,267

DOC CODE PETDEC.TC DOC DATE 09/20/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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MURAMATSU & ASSOCIATES
Suite 310
114 Pacifica
Irvine CA 92618

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SEP 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Kozo YOKOYAMA et al.	:	
Application No. 10/452,267	:	ON PETITION
Filed: June 2, 2003	:	
Attorney Docket No. NAKAKURA.020AUS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the requirement for restriction/election mailed January 25, 2005, which set a shortened statutory period for reply of one (1) month. An extension along with the submission of an IDS was filed on March 14, 2005. Accordingly, the above-identified application became abandoned on February 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 response to a requirement for restriction/election; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of January 25, 2005 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 3724 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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JUN 12 2007

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of:
VAN GOMPEL, PAUL T.
Serial No.: 10/452,299
Filed: Jun. 2, 2003
Docket: 659-1093
Title: THREE-PIECE DISPOSABLE UNDERGARMENT WITH FOLDED CROTCH MEMBER AND METHOD FOR THE MANUFACTURE THEREOF

DECISION ON PETITION

This is a decision on the petition filed on Oct. 16, 2006 by which petitioner requests withdrawal of the examiner's objection raised in the Advisory Action and Examiner's Answer. In the alternative, petitioner requests that the examiner's objection be designated as a new ground of rejection under 35 U.S.C. 112 2nd paragraph.

The petition is being considered pursuant to 37 CFR 1.181, and no fee is required. The fee paid for this petition shall be refunded.

The petition is **GRANTED**.

In the petition, the petitioner requested the Office to withdraw the objection raised for the first time in the Advisory Action dated Mar. 22, 2006 regarding the claim limitation "crotch edge". The examiner never indicated in the Advisory Action whether there was an objection or a rejection to the "crotch edge" limitation in the claims, therefore petitioner is requesting clarification if there is an objection or a rejection. If there is an objection to the claims, the petitioner seeks reversal of the objection because petitioner believes that the form of the claim is clear. Alternatively, if there is a rejection under 35 U.S.C. 112 2nd paragraph, petitioner requests that the rejection be designated as a new ground of rejection, and if so designated, requests that the examiner issue a corrected Examiner's Answer that identifies a new ground of rejection so that petitioner can properly proceed under 37 CFR 41.39(b).

The record shows that:

1) On Aug. 3, 2005, the examiner issued a non-final Office action rejecting all of the pending claims. On page 3 of the non-final Office action, the examiner stated "The 'crotch edge' as recited in claim 1 is interpreted to be the 'first edge 14' as recited on page 8 of the specification.". The examiner never objected to or rejected the "crotch edge" limitation under 35 U.S.C 112 2nd paragraph as being unclear. On page 4 of the non-final Office action, the examiner stated that "Claims 1-2 and 5-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Gompel et al.". The examiner did not include claims 3 and 4 in the statement of the rejection. However, in the body of the rejection, on page 6 of the non-final Office action, the examiner included rejections of claims 3 and 4.
2) On Nov. 4, 2005, the petitioner filed an amendment to dependent claim 16 and presented new claims 29-32. The petitioner argued that "the body panels 52,53 of Van Gompel have maximum rises offset from the centerline of the body panel as shown in figure 1", whereas the claims in the application require that "the first lobe has a first maximum rise along a first direction at substantially a centerline of said front body panel". Petitioner requested clarification of status of claims 3 and 4 in response to the non-final Office action dated Aug. 3, 2005.
3) On Jan 12, 2006, the examiner issued a final Office action rejecting all of the pending claims under 35 U.S.C. 102(b) using the Van Gompel et al. reference. Again, the examiner left out claims 3 and 4 in the statement of the rejection, but rejected these claims in the body of the rejection. The examiner never objected to or rejected the "crotch edge" limitation under 35 U.S.C 112 2nd paragraph for being unclear. In response to petitioner's argument that the rise at the centerline of Van Gompel et al. cannot possibly be a maximum because the crotch edge 64 is U-shaped, the examiner stated that the maximum rise of Van Gompel was interpreted to be the vertical distance from the outermost top edge of the first lobe to the bottom point along the curved portion of edge 64.
4) On Mar. 8, 2006, the petitioner filed an after final request for reconsideration. The petitioner acknowledged an interview with the examiner on Mar. 7, 2006, however there is no Examiner's Interview Summary form of record in the application file.
5) On Mar. 22, 2006, the examiner issued an Advisory Action responding to petitioner's arguments. In the Advisory Action, the examiner acknowledged the interview of Mar. 7, 2006 and discussed the substance of the interview on page 2 of the Advisory Action attachment. On page 2 of the Advisory Action, the examiner states "..., Examiner maintains that since the term 'crotch edge' is not clearly defined by Applicant, the shaded region is not arbitrarily drawn in figure 1 as discussed in the telephonic After Final interview granted 7 March 2006.".
6) On Jun. 5, 2006, the petitioner filed an Appeal Brief to appeal the finally rejected claims 1-6 and 29-32.
7) On Aug. 17, 2006, the examiner issued an Examiner's Answer. Again, the examiner left out claims 3 and 4 in the statement of the 35 U.S.C. 102(b) in view of Van Gompel et al., but rejected these claims in the body of the rejection.
8) On Sep. 5, 2006, the Appeal Center returned the application to the examiner requiring correction of the Examiner's Answer.

9) On Sep. 28, 2006, the examiner issued a revised Examiner's Answer. In the paragraph bridging pages 2-3 of the Examiner's Answer, the examiner states "Appellant's brief presents arguments relating to an objection that the phrase "crotch edge" is unclear because it is not clearly defined...". [emphasis added]. The examiner further states that this issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. Again, the examiner left out claims 3 and 4 in the statement of the 35 U.S.C. 102(b) in view of Van Gompel et al., but rejected these claims in the body of the rejection.
10) On Oct. 16, 2006, the petitioner filed a Reply Brief. On page 2 of the Reply Brief, the petitioner argued that the dispute about the "crotch edge" limitation was never raised by the examiner in any Office action as an objection or a rejection. The petitioner further argued that the examiner for the first time raised an objection to the "crotch edge" limitation in the Examiner's Answer dated Sep. 28, 2006.
11) On Nov. 16, 2006, the petitioner filed the current petition seeking withdrawal of the objection to the limitation "crotch edge". Alternatively, the objection raised in the Examiner's Answer should be designated as a new ground of rejection under 35 U.S.C. 112 2nd paragraph for lack of clarity. If designated as a new ground of rejection under 35 U.S.C. 112 2nd paragraph, petitioner requests that a corrected Examiner's Answer be issued identifying the new ground of rejection. Concurrently with the petition, the petitioner filed a Reply Brief.
12) On Apr. 16, 2007, the Board of Patent Appeals and Interferences issued an Order requesting that the current petition be considered prior to docketing of the application for appeal.

Discussion and Analysis

MPEP 706.01 Contrasted With Objections [R-2], states:

> The refusal to grant claims because the subject matter as claimed is considered unpatentable is called a "rejection." The term "rejected" must be applied to such claims in the examiner's action. If the form of the claim (as distinguished from its substance) is improper, an "objection" is made. An example of a matter of form as to which objection is made is dependency of a claim on a rejected claim, if the dependent claim is otherwise allowable. See MPEP § 608.01(n). The practical difference between a rejection and an objection is that a rejection, involving the merits of the claim, is subject to review by the Board of Patent Appeals and Interferences, while an objection, if persisted, may be reviewed only by way of petition to the *>Director of the USPTO<. Similarly, the Board will not hear or decide issues pertaining to objections and formal matters which are not properly before the Board. These formal matters should not be combined in appeals to the Board.

MPEP 2171 Two Separate Requirements for Claims Under 35 U.S.C. 112, Second Paragraph, states:

> The second paragraph of 35 U.S.C. 112 is directed to requirements for the claims: The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention. There are two separate requirements set forth in this paragraph:
>
> (A) the claims must set forth the subject matter that applicants regard as their invention; and

> (B) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.
>
> The first requirement is a subjective one because it is dependent on what the applicants for a patent regard as their invention. The second requirement is an objective one because it is not dependent on the views of applicant or any particular individual, but is evaluated in the context of whether the claim is definite - i.e., whether the scope of the claim is clear to a hypothetical person possessing the ordinary level of skill in the pertinent art. Although an essential purpose of the examination process is to determine whether or not the claims define an invention that is both novel and nonobvious over the prior art, another essential purpose of patent examination is to determine whether or not the claims are precise, clear, correct, and unambiguous. The uncertainties of claim scope should be removed, as much as possible, during the examination process. The inquiry during examination is patentability of the invention as applicant regards it. If the claims do not particularly point out and distinctly claim that which applicants regard as their invention, the appropriate action by the examiner is to reject the claims under 35 U.S.C. 112, second paragraph. *In re Zletz*, 893 F.2d 319, 13 USPQ2d 1320 (Fed. Cir. 1989). If a rejection is based on 35 U.S.C. 112, second paragraph, the examiner should further explain whether the rejection is based on indefiniteness or on the failure to claim what applicants regard as their invention. *Ex parte Ionescu*, 222 USPQ 537, 539 (Bd. App. 1984).

A review of the record in this application reveals that the examiner apparently understood what the limitation "crotch edge" meant by stating "The 'crotch edge' as recited in claim 1 is interpreted to be the 'first edge 14' as recited on page 8 of the specification." (see non-final Office action dated Aug. 3, 2005). The examiner first raised the issue that the limitation "crotch edge" was unclear in the Advisory Action dated Mar. 22, 2006. There was never a formal rejection or objection to the limitation "crotch edge" in any non-final or final Office action. If the limitation "crotch edge" is unclear as purported by the examiner in the Advisory Action dated Mar. 22, 2006, then the claims should have been rejected under 35 U.S.C. 112 2nd paragraph. Applying the plain language of MPEP 2171, an essential purpose of patent examination is to determine whether or not the claims are precise, clear, correct, and unambiguous. If the claims are not clear, then the claims should be rejected under 35 U.S.C. 112 2nd paragraph. However, the examiner did not reject the claims under 35 U.S.C. 112 2nd paragraph, but instead the examiner stated on pages 2-3 of the Examiner's Answer of Sep. 28, 2006, that the claims have been objected to because "'crotch edge' is unclear because it is not clearly defined". A lack of clarity in the claims is clearly an issue raised under 35 U.S.C. 112 2nd paragraph and not an objectionable issue. According to MPEP 706.01, "If the form of the claim (as distinguished from its substance) is improper, an "objection" is made.". The examiner's position that "crotch edge" is not clearly defined is related to the substance of the claim and not to the form of the claim. The examiner's objection to the limitation "crotch edge" is improper because there is no issue raised with respect to the form of the claim. In addition, there does not appear to be clarity issues raised with respect to 35 U.S.C. 112 2nd paragraph because the examiner never rejected the claims under 35 U.S.C. 112 2nd paragraph and the examiner apparently understood what the "crotch edge" limitation meant in the non-final Office action dated Aug. 3, 2005.

The examiner made an explicit claim interpretation which does not appear to match the prior art applied. It is unfair to petitioner to state claims allowable, and then argue that the claims are vague and can be interpreted in any way. If claims are vague, a rejection should be tendered, otherwise, applicant's arguments appear compelling and should be responded to.

Since the examiner's answer dated Sep. 28, 2006 is not complete with respect to the 35 U.S.C. 102(b) rejection on page 3 of the examiner's answer (claims 3-4 are left out of the statement of the rejection), correction will be required.

In order to clear the record and comply with the Order by the Board of Patent Appeals and Interferences, the examiner is directed to: 1) vacate the Examiner's Answer dated Sep. 28, 2006; 2) withdraw the objection to the limitation "crotch edge"; and 3) issue a revised Examiner's Answer without an objection to the limitation "crotch edge" and including claims 3 and 4 in the heading of the rejection under 35 U.S.C. 102(b). Under the circumstance, the examiner has the option to re-open prosecution of the application if the examiner believes that the limitation "crotch edge" is unclear under 35 U.S.C. 112 2nd paragraph.

Conclusion

For the foregoing reasons, the relief requested by the petitioner is granted. A revised examiner's answer will be issued not inconsistent with this decision.

The application is being forwarded to Art Unit 3761 for further processing. Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

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OFFICE OF PETITIONS

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

In re Application of Barry et al. :
Application No. 10/452,301 :
Filing Date: June 2, 2003 :
Attorney Docket No. 02579-P00026A WWW/HUP :

Decision on Petition

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

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed July 20, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on October 21, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,500.

Petitioner has submitted a reply to the final Office action in the form of a RCE.

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." To the extent any statement of delay in the petition varies from this exact language, the statement has been be construed as the equivalent of the statement above. If the entire delay from the date of abandonment until the date the petition was filed was not unintentional, petitioner must notify the Office.

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

Technology Center Art Unit 3739 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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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of
Kyu-Seok Kim et al. :
Application No. 10/452,319 :
Filed: June 3, 2003 :
Attorney Docket Number: 1190860—991150 :

ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed December 1, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time were requested prior to the abandonment of the application on March 1, 2005. The instant petition and this decision on petition precede the mailing of a Notice of Abandonment.

The record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on June 13, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 07-1896.

This matter is being referred to Technology Center 2871 for appropriate action on the amendment filed June 13, 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

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

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

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

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

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

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Paper No: __

DLA PIPER RUDNICK
GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

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OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 10/452,319 : DECISION
Filing Date: 30 May, 2003 :
Attorney Docket No.: 1190860-991150 :

This is a decision on the petition filed on 23 June, 2006, alleging unintentional delay 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 reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on18 October, 2005, with reply due absent extension of time on or before 18 January, 2006;

- on 19 December, 2005, Petitioner filed an after-final amendment, which Petitioner as one registered to practice before the Office is aware is not of right and was not a proper reply,[1] and the Examiner mailed an Advisory Action on 11 January, 2006;

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

- the instant application went abandoned by operation of law after midnight 18 January, 2006;
- the Office mailed a Notice of Abandonment on 15 June, 2006;
- on 23 June, 2006, Petitioner filed the instant petition (with fee), reply in the form of an after-final amendment, which, as indicated above, is not of right,[2] however, the Examiner has indicated that he will enter the amendment, and Petitioner has made the statement of unintentional delay.

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.[3]

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[2] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[3] 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) 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;

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).[4]

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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7] And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt,[9] 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

---

(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]

[4] 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.

[5] 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.

[6] 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).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] 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.

[9] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[10]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Technology Center 2800 for further processing in due course.

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[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[10] 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.

[11] 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

In re Application of	:
Craig D. Johnson et al	:
Application No. 10/452,322	: DECISION GRANTING PETITION
Filed: June 2, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 68.0348	:

This is a decision on the petition, filed September 15, 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 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that petitioner herein, Mr. Sean P. Connolly, is an attorney of record in this file. However, in accordance with 37 CFR 1.34(a), the signature of Mr. Connolly 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. Connolly 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. Connolly. However, until otherwise instructed, all future correspondence regarding this application file

---

[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).*

will 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 3672 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

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777 EAST WISCONSIN AVENUE
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MILWAUKEE, WI 53202-5308

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JUN 14 2005

DORSEY & WHITNEY
4 EMBARCADERO CENTER, SUITE 3400
SAN FRANCISCO, CA 94111-4187

In re Application of	:
Thomas R. Alessiet al	:
Serial No.: 10/452,324	: PETITION DECISION
Filed: May 30, 2003	:
Attorney Docket No.: 34793/US	:

This is in response to the petition under 37 CFR 1.181, filed March 8, 2005, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicants on August 11, 2004, setting a one month shortened statutory period for reply. Upon failure to receive a reply the application became abandoned on February 12, 2005. A Notice of Abandonment has not been mailed to applicants. Applicants state and provide evidence that a reply was timely filed on September 13, 2004, but have discovered that two of the digits of the serial number were reversed inadvertently. Applicants provide a copy of the reply with the petition and hand-corrected serial number with a completed Certificate of Mailing dated September 13, 2004, which will be entered. In view thereof, the Abandoned status is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

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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OFFICE OF PETITIONS

ON PETITION

In re Application of
Pedro Ojeda
Application No. 10,452,325
Filed: June 2, 2003
Attorney Docket No. 137/107

This is a decision in response to the petition, filed October 20, 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 a Notice of Non-Compliant Amendment mailed July 28, 2005. A Notice of Abandonment was mailed on March 7, 2006. In response, on October 20, 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 an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3636 for consideration of the amendment filed October 20, 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

[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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Glenn M. Kubota
MORRISON & FOERSTER LLP
555 West Fifth Street
Los Angeles, California 90013-1024

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DEC 27 2005

Technology Center 2100

In re Application of:
Thomas V. SPENCER
Appl. No.: 10/452,330
Filed: June 2, 2003
For: METHOD AND APPARATUS FOR LOCAL AND DISTRIBUTED DATA MEMORY ACCESS ("DMA") CONTROL

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed September 1, 2005 to expunge the Information Disclosure Statement (IDS) submitted on June 14, 2005.

The petition is **GRANTED**.

Petitioner requests that the IDS submitted on June 14, 2005 be expunged from the record. Petitioner states that the IDS was unintentionally submitted on June 14, 2005 and states that a clerical error was made because of the internal similarities to the attorney docket number. The petition fee set forth in 37 CFR § 1.17(h) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent, which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

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

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OFFICE OF PETITIONS

In re Application of	:	
Van Gompel et al.	:	LETTER REGARDING
Application No. 10/452,340	:	PATENT TERM ADJUSTMENT
Filed: 2 June, 2003	:	
Attorney Docket No. 659-1094	:	

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed on 13 December, 2006. Applicants disclose that a terminal disclaimer was submitted in this application and thus, an adjustment of the patent term is not warranted.

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

35 U.S.C. 154(b)(2)(B) provides that:

> No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

37 CFR § 1.703(g) provides that:

> No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

The provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers

and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

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 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application will be referred to the Publishing Division for processing into a patent.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IONFINITY LLC
2400 LINCOLN AVENUE
ALTADENA CA 91001
Pub. No.: US 2003/0201389 A1
Pub. Date: October 30, 2003

COPY MAILED

OCT 3 1 2003

OFFICE OF PETITIONS

Applicant: Hartley
Appl. No.: 10/452,343
Filing Date: June 2, 2003
Title: OFT IONIZATION DEVICE WITH CHARACTERIZATION SYSTEMS AND METHODS OF MANUFACTURE
Attorney Docket No.: ION-05

This is in response to the "Request to Add Assignee Information to the Published Application", which was received on October 16, 2003.

The request is DISMISSED.

The application was published on October 30, 2003 and the assignment information was not printed on the patent application publication, because it was not provided on the transmittal letter or on an application data sheet.[1] The Office prints the assignee information as reflected on the transmittal letter or application data sheet, if provided by applicant and does not look at the assignment records for the assignment information.

If applicant desires to add bibliographic information for a patent application (e.g., inventor names and residences, title, assignee, and other information shown on the filing receipt), applicants may add the information by submitting an application data sheet and requesting a corrected filing receipt. If the information is submitted more than fourteen weeks before the projected publication date, there should be sufficient time for the information to be corrected before the information is forwarded to the printer (about nine weeks before the projected publication date). By submitting a "Request to Add Assignee Information to the Published Application," applicant may be negatively affecting the patent term adjustment under 37 CFR 1.704(c)(10), as the paper is a miscellaneous letter.

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

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

---

[1]See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2100 to await further examination 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

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.
10/452,343	06/02/2003	Frank T. Hartley	ION-05	1107

26686 7590 05/07/2004

CARL A. KUKKONEN, III
C/O WUESTHOFF & WUESTHOFF
SCHWEIGERSTRASSE 2
MUNICH, 81541
GERMANY

EXAMINER
BERMAN, JACK I

ART UNIT	PAPER NUMBER
2881	

DATE MAILED: 05/07/2004

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

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

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10452343			

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

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

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

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

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

☐ No reply has been received.

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

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

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

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

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

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

☐ No corrected drawings have been received.

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

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

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

☐ The reason(s) below: _____

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARL A. KUKKONEN, III
C/O WUESTHOFF & WUESTHOFF
SCHWEIGERSTRASSE 2
MUNICH, 81541
GERMANY

COPY MAILED

AUG 03 2004

OFFICE OF PETITIONS

In re Application of	:	
Frank T. Hartley	:	
Application No. 10/452,343	:	ON PETITION
Filed: June 2, 2003	:	
Attorney Docket No. ION-05	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed March 19, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 20, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDWIN D. SCHINDLER
FIVE HIRSCH AVENUE
P.O. BOX 966
CORAM, NY 11727-0966

COPY MAILED

JAN 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Simon Duff	:	
Application No. 10/452,350	:	DECISION ON PETITION
Filed: June 2, 2003	:	UNDER 37 CFR 1.55(c)
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.55(c), filed November 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Australia Application No. PS 2852, filed June 7, 2002.

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 June 2, 2003, which is after November 29, 2000 and within 12 months of June 7, 2002 (the filing date of the foreign application to which benefit is now being claimed). An executed oath/declaration has been received to identify the foreign application. The required petition fee of $1370 was received with the petition. 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. 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 Replacement Filing Receipt accompanies this decision on petition.

This application is being referred to Technology Center AU 3632 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 Irvin Dingle at (571) 272-3210.

Karen Creasy

Karen Creasy
Petition Exaniner
Office of Petitions

ATTACHMENT: Replacement 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
10/452,350	06/02/2003	3632	474		20	21	1

CONFIRMATION NO. 2728

REPLACEMENT FILING RECEIPT

OC000000022122585

OC000000022122585

60333
EDWIN D. SCHINDLER
FIVE HIRSCH AVENUE
P.O. BOX 966
CORAM, NY 11727-0966

Date Mailed: 01/24/2007

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)

Simon Duff, Berowra Waters, AUSTRALIA;

Power of Attorney:

Edwin Schindler--31459

Domestic Priority data as claimed by applicant

Foreign Applications

AUSTRALIA PS 2852 06/07/2002

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 US10/452,350

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Stand for flat panel display

Preliminary Class

248

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILLIPS LYTLE
INTELLECTUAL PROPERTY GROUP
3400 HSBC CENTER
BUFFALO, NY 14203-3509

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NOV 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael D. Rupp	:	
Application No. 10/452,368	:	ON PETITION
Filed: June 2, 2003	:	
Attorney Docket No. 18799.0(RUPP)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fees 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.

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/publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue/publication fees are accepted as having been unintentional delayed.

An extension of time pursuant to the provisions of 37 CFR 1.136 (a) or (b) cannot be submitted to extend the statutory period for payment of the issue fee. Accordingly, the extension of time filed on September 28, 2005 is unnecessary and the fee of $60.00 will be credited to petitioner's deposit account in due course.

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

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 4

MacMILLAN SOBANSKI & TODD
ONE MARITIME PLAZA
FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

COPY MAILED

SEP 0 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Stefan Borsch	:	
Application No. 10/452,372	:	NOTICE
Filed: June 2, 2003	:	
Attorney Docket No. 1-24477	:	

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

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

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

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

This file is being forwarded to Technology Center AU 3745.

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

Attachment: Corrected Filing Receipt

JGS
PAF

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

MAY 19 2003
MORGAN, LEWIS & BOCKIUS LLP

COPY MAILED
MAY 14 2003
OFFICE OF PETITIONS
ON PETITION

17612 U.S. PTO
10/452376
06/03/03

In re Application of :
Tozaki et al. :
Application No. 09/332,867 :
Filed: June 15, 1999 :
Attorney Docket No. 40782-5066-1 :

This is a decision on the petition under 37 CFR 1.182, filed April 25, 2003, to change the order of the names of the inventors.[1]

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. Akihiro Tozaki
2. Hidehiro Ishii
3. Tokihiro Takahashi
4. Hiroshi Nakamura
5. Takao Sawabe
6. Kaoru Yamamoto
7. Junichi Yoshio

Petitioner should note that the name of the 6th inventor is listed as "Yamaoto" on the petition and "Yamamoto" on the declaration. The Office assumes the declaration is correct and will use the spelling "Yamamoto."

This application is being forwarded to the Office of Publications Branch for processing into a patent.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

---

[1] The original petition filed June 15, 1999, cannot be located in the file. Therefore, this decision is based on the copy of the petition supplied on April 25, 2003.

40782-5066
DOCKETED
By SDA Date 5-19-03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071

In re Application of	:
Makoto Furukawa et al	:
Application No. 10/452,390	: DECISION GRANTING PETITION
Filed: May 30, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7272-115/10305781	:

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 27, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be retained in the Office of Petitions for consideration of the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c).

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\452390.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT & JAWORSKI, LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071

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APR 0 4 2006

OFFICE OF PETITIONS

In re Application of
Makoto Furukawa et al
Application No. 10/452,390
Filed: May 30, 2003
Attorney Docket No. 7272-115/10305781

: 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 March 9, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/JP01/09819, filed November 9, 2001, as set forth in the amendment submitted concurrently with the present petition and a Supplemental Application Data Sheet, filed on April 29, 2006.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in

that (1) a reference to the above-noted, prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as well as on a Supplemental Application Data Sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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 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 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 PCT 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 matter is being referred to the examiner of Technology Center Art Unit 2878 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Frances Hicks

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
10/452,390	05/30/2003	2878	2102		38	22	10

CONFIRMATION NO. 8761

CORRECTED FILING RECEIPT

OC000000018448883

000167
FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071

Date Mailed: 04/04/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Makoto Furukawa, Sayama-shi, JAPAN;
Sukeyuki Shinotsuka, Sayama-shi, JAPAN;
Jiro Kurita, Sayama-shi, JAPAN;
Katsuhiko Takebe, Sayama-shi, JAPAN;

Assignment For Published Patent Application

Honda Giken Kogyo Kabushiki Kaisha

Power of Attorney: The patent practitioners associated with Customer Number **000167**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP01/09819 11/09/2001

Foreign Applications

JAPAN 2000-403768 12/01/2000
JAPAN 2000-404931 12/28/2000
JAPAN 2000-404933 12/28/2000
JAPAN 2001-075036 02/08/2001
JAPAN 2001-075035 02/08/2001
JAPAN 2001-75034 02/08/2001
JAPAN 2001-116116 03/09/2001

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 US10/452,390

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

OUTPUT-COMPENSATING DEVICE FOR IMAGE SENSOR

Preliminary Class

250

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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

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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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

26 JUL 2006

FULBRIGHT & JAWORSKI
Twenty Ninth Floor
865 South Figueroa Street
Los Angeles, CA 90017-2576

In re Application of: FURUKAWA, et al. Application No.: 10/452,390 Filing Date: May 30, 2003 Attorney Docket No.: 7272-115/10305781 For: OUTPUT-COMPENSATING DEVICE FOR IMAGE SENSOR	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is issued in response to the "Petition Under 37 CFR 1.182 To Accept Substitute Translation Of PCT Claims" filed 31 March 2005. Applicant has paid the required petition fee.

BACKGROUND

On 09 November 2001, applicants filed international application PCT/JP01/09819, which claimed a priority date of 01 December 2000 and which designated the United States. The deadline for submission of the basic national fee and national stage entry was thirty months from the priority date, i.e., 01 June 2003.

On 30 May 2003, applicants initiated the present U.S. application by filing a transmittal letter and accompanying materials, including a specification and 14 claims. The transmittal letter used by applicant identifies the submission initially as an "Entry National Phase (PCT)" based on PCT/JP01/09819. However, the transmittal letter also identified the submission as a "Filing Under 37 CFR 1.53(b)."

On 31 July 2003, the USPTO mailed a "Notice To File Missing Parts Of Nonprovisional Application Filed Under 37 CFR 1.53(b)" indicating that the submission had been treated as a filing under 35 U.S.C. 111(a) and 37 CFR 1.53(b). The Notice required submission of an oath or declaration in compliance with 37 CFR 1.63, the surcharge for late filing the oath or declaration and additional claim fees.

On 30 September 2003, applicants filed a response to the Notice, including an executed declaration and the required surcharge payment.

On 31 March 2005, applicants filed the instant petition.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states the following:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

As noted above, applicant's 30 May 2003 filing included a transmittal letter that referred to the submission as both a national stage filing and a submission under 37 CFR 1.53(b). The inclusion of these two descriptions of the submission constitutes "conflicting instructions" which, pursuant to the MPEP, requires that the application be treated under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 30 May 2003 were correctly treated as a filing under 35 U.S.C. 111(a).

The present petition is based on the mistaken belief that the present application is a national stage filing under 35 U.S.C. 371 and, therefore, that a translation of the claims contained in the international application is required. The petition is moot because, as discussed above, the present application is not a U.S. national stage of PCT/JP01/09819. Rather, it is a U.S. application filed under 35 U.S.C. 111(a). Accordingly, the claims filed 30 May 2003 are the claims of record herein, and the replacement of these claims with the claims from the international application would not be appropriate without an amendment under 37 CFR 1.121 directing the USPTO to amend claims 1-14.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.182 is **DISMISSED AS MOOT**. The present application will continue to be treated as a filing under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182."

Please direct further correspondence with respect to this petition to 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.

The present application is being referred to the Office of Publications.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3292
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/452,424	5/30/03	CHRISTIAN S. NEILSEN	P-11397.00

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS, MN 55432-5604

EXAMINER	
THOMAS, ERIC W	
ART UNIT	PAPER NUMBER
2831	

DATE MAILED: 05/11/04

NOTICE OF RESCINDED ABANDONMENT

☐ In response to your communication filed _____

☒ Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded. ~~The issue fee receipt will be mailed within six weeks~~.

For Kendrick Searll
Manager, Publishing Division
Office of Patent Publication

INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, SUITE 325
SCOTTSDALE, ARIZONA 85251
Telephone: (480) 385-5060
Facsimile: (480) 385-5061

FACSIMILE TRANSMITTAL SHEET

TO: Thomas, Eric W., Examiner	FROM: Vincent B. Ingrassia, Atty, Reg. No. 25,732
COMPANY: USPTO	DATE: MAY 5, 2004
FAX NUMBER: 703-305-8755	TOTAL NO. OF PAGES INCLUDING COVER: 7
PHONE NUMBER: 703-308-4357	SENDER'S REFERENCE NUMBER: P-11397.00 (009.2016)
RE: Petition Under 37 C.F.R. §1.181	RECIPIENTS REFERENCE NUMBER: 10/452,424

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

EXAMINING GROUP ART UNIT 2831

FORMAL COMMUNICATION INTENDED FOR ENTRY

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PTO/SB/21 (08-03)
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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/452,424
Filing Date	05/30/2003
First Named Inventor	Christian S. Nielsen
Art Unit	2831
Examiner Name	Thomas, Eric W
Total Number of Pages in This Submission: 6	Attorney Docket Number: P11397.00 (009.2016)

ENCLOSURES ***(check all that apply)***

- [ ] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment / Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawings(s)
- [ ] Licensing-related Papers
- [x] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s)
- [ ] After Allowance Communication to Technology Center (TC)
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) *(please identify below):*

Copy Fee Transmittal PTOL-85
Copy Auto-Reply Facsimile Transmission
Outgoing Log page.

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	Vincent B. Ingrassia, Reg. No. 25,732
Signature	
Date	5/5/04

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Type or printed name	Vincent B. Ingrassia		
Signature		Date	5/5/04

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. SEND FEES OR COMPLETED FORMS TO: Mail Stop ___, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

UTILITY PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/452,424
Applicant	:	Nielsen et al.
Filed	:	05/30/2003
TC/A.U.	:	2831
Examiner	:	Thomas, Eric W.
Docket No.	:	P-11397.00 (009.2016)
Customer No.	:	29906

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

I hereby certify that this correspondence is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 305-8755.

on 5/5/04. Signature: Vincent B. Ingrassia

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. §1.181

Mail Stop Issue Fee
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The above-identified application became abandoned for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the

Notice of Allowance (PTOL-85). The Notice of Abandonment indicates the issue fee was not received.

Applicants hereby petition for revival of this application and state that the issue fee was timely paid on February 13, 2004, as evidenced by the Certificate of Mailing on the enclosed copy of the Fee Transmittal. Applicants also enclose copies of the Auto-Reply Facsimile Transmission and our Outgoing Log page, as prima facie evidence.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this Petition and/or for the extension necessary to prevent withdrawal of holding of abandonment on this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,

INGRASSIA FISHER & LORENZ

Dated: May 5 2004

By: _____
Vincent B. Ingrassia
Reg. No. 25,732
(480) 385-5060

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed wh appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

27581 7590 11/21/2003

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS, MN 55432-5604

Note: A certificate of mailing can only be used for domestic mailings of Fee(s) Transmittal. This certificate cannot be used for any other accompany papers. Each additional paper, such as an assignment or formal drawing, m have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the Un States Postal Service with sufficient postage for first class mail in an envel addressed to the Mail Stop ISSUE FEE address above, or being facsim transmitted to the USPTO, on the date indicated below.

Vincent B. Ingrassia. (Depositor's na
(Signat
2/13/04 (D

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/452,424	05/30/2003	Christian S. Nielsen	P-11397.00	8526

TITLE OF INVENTION: ELECTROLYTIC CAPACITOR FOR USE IN AN IMPLANTABLE MEDICAL DEVICE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1330	$300	$1630	02/23/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
THOMAS, ERIC W	2831	361-520000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Girma Wolde-Michael
2 Paul H. McDowall
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Medtronic, Inc. Minneapolis, Minnesota

Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual ☐ corporation or other private group entity ☐ governm

4a. The following fee(s) are enclosed:

☒ Issue Fee
☒ Publication Fee
☒ Advance Order - # of Copies 10

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment Deposit Account Number 50-2091 (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) (Date) 2/13/04
Vincent B. Ingrassia, Reg. #25,732

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

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01 FC:1501 1330.00 DA
02 FC:1504 300.00 DA

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TO:	Fax Sender at 4803855061
Fax Information	
Date Received:	2/13/2004 4:27:51 PM [Eastern Standard Time]
Total Pages:	3 (including cover page)

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Received Cover Page =======>

INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, SUITE 325
SCOTTSDALE, ARIZONA 85251
Telephone: (480) 585-5060
Facsimile: (480) 585-5061

FACSIMILE TRANSMITTAL SHEET

TO: Thomas, Eric W., Examiner	FROM: Vincent B. Ingrassia, Atty, Reg. No. 25,732
COMPANY: USPTO	DATE: FEBRUARY 13, 2004
FAX NUMBER: 703-746-4000	TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER: 703-	SENDER'S REFERENCE NUMBER: P-11397.00
RE: Issue Fee	RECIPIENT'S REFERENCE NUMBER: 10/452,424

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

EXAMINING GROUP ART UNIT 2831

FORMAL COMMUNICATION INTENDED FOR ENTRY

[illegible]

PAGE 1/3 * RCVD AT 2/13/2004 4:27:51 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-20 * DNIS:7461000 * CSID:4803855061 * DURATION (mm-ss):01-20

OUTGOING LOG

DATE	FROM	TO	IFAL DOCKET / CLIENT DOCKET	ACTION	SERIAL #	SENT VIA	EXPRESS MAIL LABEL IF APPLICABLE / PLACE, DATE, TIME OF DEPOSIT	Postage $$$	DEPOSITORS INITIALS	BILLED
2-12	PDA	Ken Burm	002.3145 H0003927	Search Request		MAIL		1.06	CRC	NB
2-12	PDA	EPO	002.3075PC H0002393	Response	PCT/US03/055589	FAX		—	CRC	B
2-12	PDA	K. Loewenstein	002.3075PC H0002393	Client ltr Response	"	MAIL		.60	CRC	NB
2-13	TJL	Gail Bollinger	009.4015CA PB8485.08	Client LTR Response	99812110.K	mail		—	SA	NB
2-13	TJL	"	009.4016IB PB8913.02	Client LTR F.A. Comm.	146150	mail		—	SA	NB
2-13	TJL	"	009.4029XY PB100116.00	Client LTR notice of Pub.	10/186,218	mail		—	SA	NB
2-13	TJL	John Jones	014.0007 GE 04727	Client LTR Filing rept	10/703,003	mail			SA	NB
2-13	PDA	EPO	002.3144DE 070-96-003	Response	98914263.3	FAX		—	CRC	B
2-13	CHK	PTO	009.4039 PB10057.01	missing parts	10/712,469	Fax		—	SA	B
2-13	TJL	John Jones	014.0005 GE04664	Client LTR notice of Pub	10/211,835	mail			SA	NB
2-13	PDA	Chuck Plevich	002.3135 H0006239	Search Results ltr	—	MAIL		3.13	CRC	NB
2-13	PDA	K. Loewenstein	002.3135 H0006239	Search Results ltr	—	MAIL		3.13	CRC	NB
2-13	SJP	USPTO	002.0079 H0003998	Response	10/227,218	FAX		—	CRC	B
2-13	PDA	K. Luther	002.0079 H0003998	Client ltr Response	10/227,218	MAIL		1.06	CRC	NB
2-13	PDA	K. Loewenstein	002.3144DE 070-96-003	Response ltr to Client	98914263.3	MAIL		.83	CRC	NB
2-13	PDA	USPTO	002.3079 H0003300	Response	10/242,125	FAX		—	CRC	B
2-13	PDA	K. Loewenstein	002.3079 H0003300	Client ltr Response	10/242,125	MAIL		1.29	CRC	NB
2-13	VBI	USPTO	009.2016 P11397.00	Issue Fee	10/452,424	FAX		--	[illegible]	B
2-16	PDA	USPTO	002.008821 HA-16721	Response (RCE)	09/315,399	FAX		—	CRC	B

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OCT 20 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

William H. Murray
Duane Morris LLP
One Liberty Place
Philadelphia PA 19103-7396

In re Application of:
Shuo-Hsiu Hu, et al.
Application No. 10/452,442
Filed: June 2, 2003
For: **APPARATUS AND METHOD OF AC DRIVING OLED**

DECISION ON PETITION

This decision is responsive to the "Response to Notice of Abandonment" and petition under 37 CFR 1.181 filed August 26, 2005 to withdraw the holding of abandonment. The petition is being treated under 37 CFR 1.8(b).

The petition is **GRANTED**.

This application became abandoned for failure to timely file a response to the January 7, 2005 non-final Office action, which set a shortened statutory period of three (3) months to reply. That period lapsed without reply. A Notice of Abandonment was mailed August 9, 2005.

Petitioner alleges to have timely filed a response to the Office action on April 5, 2005. To support this position, Petitioner has included with the instant petition, a copy of the Response including the Certificate of Mailing under 37 C.F.R. § 1.8 (a) and a statement attesting to mailing of patent office correspondence under 37 C.F.R. § 1.8 (b)(3).

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the 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.

Petitioner has met the requirements above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to the Technology Center's technical support staff for entry of the response. From there, the file will be forwarded to the examiner for consideration in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MATTHEW K. RYAN
C/O FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK NY 10151

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,943,926 :
Issued: September 13, 2005 :
Application No. 10/452,450 :
Filed: June 2, 2003 :
Attorney Docket Number: 590416-2014 :

This is a decision on the petition, filed January 20, 2006, to correct the assignee's name on the front of the Patent, which is being treated as a request under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the name of the second assignee was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the second assignee on the front page of the Letters Patent.

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

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

A request for certificate of correction (and fee) as required by 3.81(b) was filed December 22, 2005 and dismissed in a decision mailed January 10, 2006 since the request was not accompanied by a petition under 37 CFR 3.81.

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[1] *See* Official Gazette of June 22, 2004

Office assignment records however, reflect that Sharp Kabushiki Kaisha is also an assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee and the fee for the certificate of correction have been properly posted to the finance records for this patent.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. None

Kyocera Wireless Corp.
Attn: Patent Dept.
PO Box 928289
San Diego CA 92192-8289

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NOV 1 6 2004

OFFICE OF PETITIONS

In re Application of
Stanley S. Toncich and Craig Lilja
Application No. 10/452,464
Filed: June 2, 2003
Attorney Docket No. UTL 00194
Title: SYSTEM AND METHOD FOR FILTERING TIME DIVISION MULTIPLE ACCESS TELEPHONE COMMUNICATIONS

DECISION ON PETITION UNDER 37 C.F.R. §1.47(A)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed September 9, 2004.

On June 2, 2003, the application was deposited without a declaration, identifying Stanley S. Toncich and Craig Lilja as joint inventors. On June 30, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

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1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

With the instant petition, Petitioner has submitted the petition fee, a statement of facts, the surcharge, the last known address of the non-signing joint inventor, and a copies of letters which were sent to the non-signing inventor.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR §1.47(a).

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

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

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

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Craig Lilja
528 Bonito Avenue
Imperial Beach, CA 91932

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NOV 1 6 2004

OFFICE OF PETITIONS

In re Application of
Stanley S. Toncich and Craig Lilja
Application No. 10/452,464
Filed: June 2, 2003
Attorney Docket No. UTL 00194
Title: SYSTEM AND METHOD FOR FILTERING TIME DIVISION MULTIPLE ACCESS TELEPHONE COMMUNICATIONS

DECISION ON PETITION UNDER 37 C.F.R. §1.47(A)

Dear Mr. Lilja:

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, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3225. 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).

cc: Kyocera Wireless Corp.
Attn: Patent Dept.
PO Box 928289
San Diego CA 92192-8289

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

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JJGJr: 09-03

Paper No: 3

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

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OFFICE OF PETITIONS

In re Application of	:	
Salim, et al.	:	
Application No. 10/452,466	:	ON PETITION
Filed: 2 June, 2003	:	
Attorney Docket No.: 3011.1015-001 (D-20856-1)	:	

This is a response to the paper filed in parts on 30 June, 2003, styled as a "Petition to Accord the Proper Filing Date," considered under 37 C.F.R. §1.10,[1] seeking to obtain a 2 June, 2003, filing

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[1]The regulations at 37 C.F.R. §1.10 provide in pertinent part:

§ 1.10 Filing of papers and fees by "Express Mail."

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

* * *

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

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

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

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

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

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

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

date, rather than the 3 June, 2003, filing date presently accorded

The petition is **GRANTED**, and, no fee is charged.

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OFFICE OF PETITIONS

BACKGROUND

The record indicates that:

- Petitioner Anabelle Cristina Taylor (Reg. No. 38,999) (Petitioner) alleges that this nonprovisional application was filed via Express Mail (US Postal Service (USPS) Express Mail label number EV214949161US;

- the Office thus far has accorded a filing date of 3 June, 2003, the date of delivery, as provided in 37 C.F.R. §1.10(a);

- the instant petition is supported by the statement of Petitioner included in the petition; and:

  --what is indicated to be a true copy of USPS Express Mail label No. EV214949161US attached, and--while the "date in" is overwritten and appears altered from an original an obviously erroneous date of 6 June--there is a USPS date stamp of "JUN 2 2003"; and

  --what is indicated to be a copy of a one- (1-) page mail log of outgoing mail for the date of 2 June, 2003, including therein USPS Express Mail label number EV214949161US also bearing Petitioner's Docket No. 3011.1015-001, already identified with this application;

  --what is indicated to be a copy of the one- (1-) page USPS Track & Confirm document evidencing the Express Mail label number EV214949161US and the indication that it was accepted by USPS at 7:50 p.m. on 2 June, 2003, at East Boston, MA;

  --what is indicated to be a copy of a one- (1-) page application transmittal for the instant application evidencing the USPS Express Mail label number EV214949161US, the title of the claimed invention and Petitioner's docket number.

---

deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

* * *

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

CONCLUSION

Therefore, as to the instant nonprovisional application, Application No. 10/452,466, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 2 June, 2003; and
- issue a filing receipt specifying the filing date as that of 2 June, 2003.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PRAXAIR INC.
39 OLD RIDGEBURY ROAD
M1-557
DANBURY, CT 06810-5113

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OFFICE OF PETITIONS

In re Application of Sateria et al. :
Application No.10/452,466 : Decision on Petition
Filing Date: June 2, 2003 :
Attorney Docket No. 20,856-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 2006, to revive the above-identified application.

The petition is **dismissed**.

The above-identified application became abandoned for failure to reply in a proper manner to the final Office action mailed March 13, 2006, which set a shortened statutory period for reply of three (3) months.

An amendment and a request for a three-month extension of time were filed September 13, 2006.

The amendment failed to place the application in condition for allowance and the application became abandoned as of September 14, 2006.

An Advisory Action and Notice of Abandonment were mailed September 27, 2006.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by the required reply. In this case, a grantable petition must be include a proper reply to the final Office action.

A proper reply to a final rejection consists only of:

(1) an amendment which *prima facie* placed the case in condition for allowance,
(2) a Notice of Appeal and the required fee,
(3) a RCE, or
(4) a continuation application.

The petition states the amendment field September 13, 2006, is the reply. However, the reply filed on September 13, 2006, failed to prima facie place the application in condition for allowance as indicated on the Advisory Action. Therefore, the amendment is not a proper reply.

A proper reply must be filed in order for the petition to be granted.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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PRAXAIR INC.
39 OLD RIDGEBURY ROAD
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DANBURY, CT 06810-5113

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OFFICE OF PETITIONS

In re Application of Sateria et al. :
Application No.10/452,466 : Decision on Petition
Filing Date: June 2, 2003 :
Attorney Docket No. 20,856-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a proper manner to the final Office action mailed March 13, 2006, which set a shortened statutory period for reply of three (3) months. An amendment and a request for a three-month extension of time were filed September 13, 2006. The amendment failed to place the application in condition for allowance and the application became abandoned as of September 14, 2006. An Advisory Action and Notice of Abandonment were mailed September 27, 2006.

Petitioner previously submitted the required petition fee. Petitioner has submitted a reply to the outstanding Office action in the form of a RCE and submission.

The petition filed October 18, 2006, explicitly stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The instant renewed petition does not include such language. However, the language in the renewed petition will be construed as the equivalent of the statement made in the first petition. If the entire delay from the date of abandonment, until the date the renewed petition was filed, was not unintentional, petitioner must notify the Office.

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

A request to change the address to the address associated with Customer Number 27182 was filed with the petition. The request is signed by Iurie Schwartz. However, Schwartz is not an attorney or agent of record. Therefore, the address of record will remain unchanged until such time as the Office receives a proper request to change the address or record.

Technology Center Art Unit 1724 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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Commissioner for Patents
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SHREWSBURY, NJ 07702

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OFFICE OF PETITIONS

In re Application of :
Forrest H. BENNETT III et al. :
Application No. 10/452,481 : DECISION ON PETITION
Filed: May 30, 2003 :
Attorney Docket No. NUM002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 09, 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 February 08, 2007, which set a shortened statutory period for reply of three (3) months. 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). 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). A three (3) 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 August 09, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of February 08, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2128 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

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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RAYMOND R. MOSER JR., ESQ.
MOSER IP LAW GROUP
1030 BROAD STREET
2ND FLOOR
SHREWSBURY, NJ 07702

Mail Date: 04/27/2010

Applicant	: Forrest H. Bennett III	: DECISION ON REQUEST FOR
Patent Number	: 7577553	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/452,481	: 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 **1184** 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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TC 3600

LERNER AND GREENBERG, PA
PO BOX 2480
Hollywood, FL 33022-2480

In re application of	:	**DECISION ON PETITION**
Manuel A. Ray	:	**TO MAKE SPECIAL**
Application No. 10/452,484	:	**(APPLICANT'S AGE)**
Filed: June 02, 2003	:	
For: LIGHTWEIGHT BUILDING COMPONENT		

This is a decision on the petition submitted on July 30, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a driver's license for Mr. Ray indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 9/13/04

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OGILVY RENAULT
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL, QC H3A2Y3
CANADA

AIRMAIL

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OCT 1 5 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Alexander Stanley Isbitsky :
Application No. 10/452,507 :
Filed: June 3, 2003 :
Attorney Docket No. 1775-97US RM/MR/MP :

This is a decision on the petition under 37 CFR 1.313, filed October 6, 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). See37 CFR 1.313(c)(2).

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

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

This matter is being referred to Technology Center AU 3754 for processing of the request for continued examination under 37 CFR 1.114.

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/24/2005

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction on Patent No.: 10/452517 6901093

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:

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_____ **SPE** _____ **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/24/2005

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction on Patent No.: 10/452517 6901093

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:

_____

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SPE — **Art Unit** 2821

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SHELL OIL COMPANY
P O BOX 2463
HOUSTON, TX 77252-2463

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JAN 18 2006

OFFICE OF PETITIONS

In re Application of :
Christian Jeremy Affeld, et al. :
Application No. 10/452,531 : ON PETITION
Filed: June 2, 2003 :
Attorney Docket No. TS 6250 USA :

This is a decision on the petition, filed December 15, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 8, 2005, which set a shortened statutory period for reply of three (3) months. This decision precedes the mailing of a Notice of Abandonment.

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

The file is being referred to Technology Center Art Unit 1723 for consideration of the amendment filed December 15, 2005.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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FEB 27 2007

OFFICE OF PETITIONS

SHELL OIL COMPANY
P O BOX 2463
HOUSTON, TX 77252-2463

In re Application of :
Christian J. Affeld, et al. :
Application No. 10/452,531 :
Filed: June 2, 2003 :
Attorney Docket No. TS 6250 USA :

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 1, 2006. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 2, 2006. This decision precedes the mailing of a Notice of Abandonment.

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

This application is being referred to Technology Center AU 1723 for further processing of the RCE in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/14/2006

TO SPE OF : ART UNIT 2800 (2841)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,053,314

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 – 2900 South Tower ste.9A43A
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to enter new drawings as req. in C of C?

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

HAMAND CUNEO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

YS 8/2/06

SPE — **Art Unit** 2841

PTO/SB/44 (04-05)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : US 7,053,314

APPLICATION NO.: 10/452,543

ISSUE DATE : May 30, 2006

INVENTOR(S) : Sergio Camerlo

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

Claim 14, Column 12, Line 36, "The circuit board component assembly of claim 1" should read "The circuit board component assembly of claim 13".

Figure sheets 1 through 5 are substitutes for figure sheets 1 through 5 as published.

OK
TO ENTER
VS
8/2/06

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

Bainwood, Huang & Associates, LLC, 2 Connector Road
Westborough, MA 01581

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

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

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FAIRHAVEN MA 02719

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MAR 02 2005

OFFICE OF PETITIONS

In re Application of	:
Burnett et al.	:
Application No. 10/452,558	: ON PETITION
Filed: June 2, 2003	:
Attorney Dck't. No. C03-03	:

This is a decision on the petition filed December 3, 2004, requesting under 37 CFR 1.183 suspension of the rules such that prosecution is stayed herein.

The petition is **dismissed**.

Petitioner seeks extraordinary relief in that while an office action was mailed October 4, 2004, which set a shortened statutory period of 3 months within which to reply or face abandonment, the real party in interest has received a Court Order dated November 18, 2004, that in essence temporarily prohibits its further prosecution of this application.

As set forth in 37 CFR 1.103, however, suspension of examination is proscribed if there is, as here, an outstanding unanswered office action. The instant petition, even construed in a light most favorable to petitioner, is simply not a reply within the meaning of 37 CFR 1.111 and § 1.135 to the outstanding Office action. Note further the terms of 37 CFR 1.181(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.

Accordingly, this petition could not operate in of itself to toll the period for reply. Indeed, there is as of yet no reply of record to the outstanding office action, and obviously there will not be any forthcoming unless and until the Court Order is lifted.

It should be noted that as 37 CFR 1.183, by its terms, cannot operate to the contrary of any statute, the USPTO cannot equitably toll the statutory period running against this application by waiver of 37 CFR 1.103. The period for reply to the above-noted Office action, as noted in the cover sheet of that action, is governed by the terms of 35 U.S.C. § 133. However, § 133 specifically limits the maximum period for reply to an Office

action to six months. The USPTO has no power to waive or enlarge the period for reply here, as such is, by law, not extendable for more than six months from the mailing of the Office action. See 35 U.S.C. § 133. Rather, since the maximum term is limited by law to be six months, the USPTO simply has neither the discretion or the power to relax any requirement of that 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).

Furthermore, the statute is self-executing and thus beyond the control of the USPTO where it mandates that in the absence of a timely reply, an application shall be regarded as abandoned. Here, petitioner asks, in essence, that the period for filing the reply be extended far beyond the statutory 6 month maximum for some indefinite period up to the time the Stay is lifted. While the period for reply may not be extended beyond six months, an unintentional or unavoidable delay in filing the reply may nevertheless be excused under another, more appropriate regulation. A standard principle of statutory construction is: *expressio unius est exclusion alterius* (the mention of one thing implies exclusion of another thing), namely absent legislative intent to the contrary, when a statute expressly provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n Of R.R. Passengers, 414 U.S. 453, 458 (1974); see also Botany Worsted Mills v. United States, 278 U.S. 282, 289 (1929)("when a statute limits a thing to be done in a particular mode, it includes the negative of any other mode"). That is, the patent statute at 35 U.S.C. § 41(a)(7), and § 133 (and their promulgating regulation 37 CFR 1.137) provides a specific mechanism whereby an applicant may petition the USPTO to accept a reply that was unavoidably, or unintentionally, delayed. Since there is a specific mechanism in place to remedy a belated reply, then it is inappropriate for the USPTO to contemplate circumventing that mechanism by creating another remedy *e.g.*, by "staying" the period for reply under 37 CFR 1.183.

While the USPTO sincerely regrets that the period for reply to the outstanding Office action operates to preclude more direct and immediate relief in this instance under 37 CFR 1.183 , petitioner need only point to the Court Order as to why the instant application became abandoned when revival is sought promptly after the Order is lifted.

The $130 petition fee has been charged to counsel's deposit account as authorized.

Telephone inquiries relative to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

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

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OFFICE OF PETITIONS

In re Application of	:	
MICHAEL S. BURNETT, et. al.	:	
Application No. 10/452,559	:	DECISION ON PETITION
Filed: June 2, 2003	:	
Attorney Docket No. C03-09	:	

This is a decision on the petition filed December 3, 2004, seeking to stay prosecution [relating to the Office action mailed October 4, 2004] which is being treated as a petition 37 CFR 1.183 to waive the rules.

The petition is **DISMISSED**.

Petitioner seeks extraordinary relief in that while an Office action was mailed October 4, 2004, which set a shortened statutory period of 3 months within which to reply or face abandonment, the real party in interest has received a Court Order from the Superior Court of the State of California dated November 18, 2004, which requires that the real party in interest herein Acushnet Company, refrain from further prosecution of this application.

As set forth in 37 CFR 1.103, however, suspension of examination is proscribed if there is, as here, an outstanding unanswered Office action. The instant petition, even construed in a light most favorable to petitioner, is simply not a reply within the meaning of 37 CFR 1.111 and § 1.135 to the outstanding Office action. Note further the terms of 37 CFR 1.181(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.

Accordingly, this petition could not operate in of itself to toll the period for reply. Indeed, there is as of yet no reply of record to the outstanding office action, and obviously there will not be any forthcoming unless and until the Court Order is lifted.

It should be noted that as 37 CFR 1.183, by its terms, cannot operate to the contrary of any statute, the USPTO cannot equitably toll the statutory period running against this application by waiver of 37 CFR 1.103. The period for reply to the above-noted Office action, as noted in the

cover sheet of that action, is governed by the terms of 35 U.S.C. § 133. However, § 133 specifically limits the maximum period for reply to an Office action to six months. The USPTO has no power to waive or enlarge the period for reply here, as such is, by law, not extendable for more than six months from the mailing of the Office action. See 35 U.S.C. § 133. Rather, since the maximum term is limited by law to be six months, the USPTO simply has neither the discretion or the power to relax any requirement of that 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).

Furthermore, the statute is self-executing and thus beyond the control of the USPTO where it mandates that in the absence of a timely reply, an application shall be regarded as abandoned. Here, petitioner asks, in essence, that the period for filing the reply be extended far beyond the statutory 6 month maximum for some indefinite period up to the time the Stay is lifted. While the period for reply may not be extended beyond six months, an unintentional or unavoidable delay in filing the reply may nevertheless be excused under another, more appropriate regulation. A standard principle of statutory construction is: *expressio unius est exclusion alterius* (the mention of one thing implies exclusion of another thing), namely absent legislative intent to the contrary, when a statute expressly provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n Of R.R. Passengers, 414 U.S. 453, 458 (1974); see also Botany Worsted Mills v. United States, 278 U.S. 282, 289 (1929)("when a statute limits a thing to be done in a particular mode, it includes the negative of any other mode"). That is, the patent statute at 35 U.S.C. § 41(a)(7), and § 133 (and their promulgating regulation 37 CFR 1.137) provides a specific mechanism whereby an applicant may petition the USPTO to accept a reply that was unavoidably, or unintentionally, delayed. Since there is a specific mechanism in place to remedy a belated reply, then it is inappropriate for the USPTO to contemplate circumventing that mechanism by creating another remedy e.g., by "staying" the period for reply under 37 CFR 1.183.

While the USPTO sincerely regrets that the period for reply to the outstanding Office action operates to preclude more direct and immediate relief in this instance under 37 CFR 1.183 , petitioner need only point to the Court Order as to why the instant application became abandoned when revival is sought promptly after the Order is lifted. According, when the court lifts applicant's stay of prosecution, that order, the required reply, and a petition under 37 CFR 1.137 should be promptly filed in the USPTO.

Telephone inquiries relative to this decision should be directed to Amelia Au at 571-272-7414.

Brian Hearn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Burnett :
Application No. 10/452,560 : ON PETITION
Filed: June 2, 2003 :
Attorney Dck't. No. C03-10 :

This is a decision on the petition filed December 3, 2005, by facsimile transmission seeking a stay prosecution [relating to the Office action mailed July 8, 2004] which is being treated as a petition under 37 CFR 1.183 to waive the rules.

The petition is **dismissed**.

Petitioner seeks extraordinary relief consistent with a copy of an accompanying court order from the Superior Court of the State of California, which requires that the real party in interest herein Acushnet Company, *inter alia*, refrain from further prosecution.

As set forth in 37 CFR 1.103, however, suspension of examination is proscribed if there is an outstanding office action. Since, on December 3, 2004, there was an unanswered Office action, any request for suspension of prosecution was simply not grantable under the terms of the rule. Rather, applicant had to have prepared and filed a timely reply and could additionally have filed a petition under the rule for suspension. The petition that was filed on December 3, 2005, even construed in a light most favorable to petitioner, was simply not a reply within the meaning of 37 CFR 1.111 and § 1.135 to the outstanding Office action. Note further the terms of 37 CFR 1.181(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.

Accordingly, the petition could not operate in of itself to toll the period for reply. Indeed, there is as of yet no reply of record to the outstanding office action.

Further, as noted in the cover sheet of that action, the period for reply, and the consequences of a failure to reply are governed by the terms of 35 U.S.C. § 133. However, § 133 specifically limits the maximum period for reply to an Office action to six months. The USPTO has no power to waive or "enlarge" the period for reply here, as such is, by law, not extendable for more than six months from the mailing of the Office action. See 35 U.S.C. § 133. Rather, since the maximum term is limited by law to be six months, the USPTO simply has neither the discretion or the power to relax any requirement of that 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). Furthermore, § 133 is a self-executing statute in that if no reply is timely filed, abandonment for failure to reply is automatic and that circumstance is likewise not subject to suspension or obviation by the USPTO.

It is also noted that the PTO will not normally consider an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982). Further in this regard, a standard principle of statutory construction is: *expressio unius est exclusion alterius* (the mention of one thing implies exclusion of another thing), namely absent legislative intent to the contrary, when a statute expressly provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n Of R.R. Passengers, 414 U.S. 453, 458 (1974); see also Botany Worsted Mills v. United States, 278 U.S. 282, 289 (1929)("when a statute limits a thing to be done in a particular mode, it includes the negative of any other mode"). That is, the patent statute at 35 U.S.C. § 41(a)(7), and § 133 (and their promulgating regulation 37 CFR 1.137) provides a specific mechanism whereby an applicant may petition the USPTO to accept a reply that was unavoidably, or unintentionally, delayed. Since there is a specific mechanism in place to remedy a belated reply, then it is inappropriate for the USPTO to contemplate circumventing that mechanism by creating another remedy *e.g.*, by "suspending or enlarging" the period for reply.

Nevertheless, the USPTO is not unsympathetic to petitioner's predicament. When the court lifts applicant's stay of prosecution, that order, the required reply and a petition under 37 CFR 1.137 should be promptly filed in the USPTO.

This application is being brought to the attention of the Technology Center.

Telephone inquiries relative to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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GOODWIN PROCTER LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20001

Mail Date: 04/20/2010

Applicant	: Peter C. Freund	: DECISION ON REQUEST FOR
Patent Number	: 7606756	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/452,573	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1811** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747e

Patent No. 7,111,082	:	
Issue Date: September 19, 2006	:	DECISION ON REQUEST FOR
Application No. 10/452,578	:	RECONSIDERATION OF
Filed: June 3, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 0951-0117P	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed November 20, 2006. Patentee requests that the patent term adjustment indicated in the patent be corrected from three hundred and forty-three (343) days to four hundred and forty-two (442) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred and forty-two (442) days.

On September 19, 2006, the application matured into U.S. Patent No. 7,111,082 with a revised patent term adjustment of 442 days. On November 20, 2006, 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 442 days. Patentee disputes the reduction of 99 days for the filing of a paper on June 13, 2006, after the mailing of a notice of allowance on May 16, 2006. In effect, patentee asserts that the submission was a letter that was filed "to correct a PTO Error made in the Notice of Allowance."

The electronic record has been reviewed, and patentee appears to be correct regarding this submission. Moreover, it is noted

that pursuant to MPEP § 2732, the submission of a a response to the examiner's reasons for allowance subsequent to the mailing of a notice of allowance does not constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

It is further noted that the record shows 442 days of Office delay. The application was filed on June 3, 2003, and a First Office action was not mailed until June 27, 2005; this exceeds 14 months from the actual filing date of the application by 328 days. Furthermore, a response to this non-final office action was filed on September 22, 2005, and the Office did not mail a Notice of Allowance and Issue Fee due until May 16, 2006; this exceeds 4 months from the response by 114 days.

It does not appear that there has been any Applicant delay.

As such, the total PTA equals 328 plus 114 minus 0, which equals 442 days.

In view thereof, the patent should have issued with a patent term adjustment of four hundred and forty-two (442) days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Petitioner's Deposit Account, as authorized in the petition. 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 **four hundred and forty-two (442) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,111,082 B2

DATED : September 19, 2006

INVENTOR(S) : Okahashi

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 (343) days

Delete the phrase "by 343" and insert – by 442 days--

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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	:	
Mayer et al.	:	DECISION ON PETITION
Application No. 10/452,594	:	
Filed: June 2, 2003	:	
Attorney Docket No. 10018484-1	:	

This is a decision on the petition under 37 CFR 1.10(c), filed November 13, 2003, requesting that the above-identified application be accorded a filing date of June 2, 2003, rather than the presently accorded filing date of June 3, 2003.

Petitioner alleges that the application was deposited in Express Mail service on June 2, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EO900919393US. The "date-in" indicated on the Express Mail label is June 2, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

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

The Office of Initial Patent Examination is directed to correct the filing date to June 2, 2003, and to mail a corrected filing receipt.

Telephone inquiries 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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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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MAY 0 2 2007

OFFICE OF PETITIONS

Applicant: Guirakhoo
Appl. No.: 10/452,610
Filing Date: June 2, 2003
Title: TETRAVALENT DENGUE VACCINES
Attorney Docket No.: 06132/070002
Pub. No.: US 2004/0259224 A1
Pub. Date: December 23, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 10, 2005, 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 in dependent claim 6 wherein the phrase "5log$_{10}$ PFU" is misprinted as "5logio PFU".

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

The error noted by requestor wherein the phrase "5log$_{10}$ PFU" is misprinted as "5logio PFU" in dependent claim 6 may be an Office error, but it is not a material Office error under 37 CFR 1.221. The error noted by requestor with respect to the typographical error in this published application is due to the quality of the text in the application. The quality of the text is poor, as it is small, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52. The typographical error also does not affect the understanding of the application, as the phrase is a well known phrase. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake

[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).

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.

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text in the application is small and not clear, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

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

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

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

By facsimile: 571-273-8300

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

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

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John M. Harrison
2139 E. Bert Kouns
Shreveport, LA 71105

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AUG 03 2005

OFFICE OF PETITIONS

In re Application of
COUVILLION, Frederick L., III
Application No.: 10/452,641
Filing Date: June 02, 2003
Docket No.: 9185
For: MAGNETICALLY ATTACHED DECOY WINGS

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on October 1, 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 Corrected Application Papers mailed July 28, 2003. The 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 29, 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 replacement drawings, paid the petition fee and made the required statement of unintentional delay. Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to the Office of Initial Patent Examination for continued processing.

Erin 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

April 4, 2005

Gregory J. Skoch
Hovey Williams
2405 Grand Boulevard, Suite 400
Kansas City, Mo 64108

In re Application of:
Brett E. Lanz
Serial No: 10/452,650 On Petition
Filing Date: June 2, 2003
For: **METHOD AND APPARATUS FOR CONTROL OF CHEMICAL OR BIOLOGICAL WARFARE AGENTS**

In response to the petitions received by fax on March 21, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 5, 2003. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned October 7, 2003. The notice of abandonment was mailed on September 8, 2004.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Part of Nonprovisional Application on September 2, 2003.

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

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

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

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Tomoo Yamaguchi, et al.	:	
Application No.: 10/452,700	:	ON PETITION
Filed: June 2, 2003	:	
Attorney Docket No.: UNIU79.009AUS	:	

This is a decision on the petition, filed March 25, 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 December 10, 2007, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1794 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Paper No. 3

Robert M. Asher
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

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SEP 0 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Gallant	:	
Application No. 10/452,705	:	ON PETITION
Filed: June 2, 2003	:	
Attorney Docket No. 1506/105	:	

This is a decision on the petition filed July 3, 2003, to accord the above-identified application a filing date of June 2, 2003, instead of June 3, 2003.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of June 2, 2003.

A petition fee is unnecessary for a petition under 37 CFR 1.10. Therefore, the $130 previously charged to petitioner's deposit account for the fee will be credited back to the deposit account.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of June 2, 2003.

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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Stephen E. Feldman, P.C.
12 East 41st Street
New York NY 10017

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OFFICE OF PETITIONS

In re Application of
Walker et al.
Application No. 10/452,707
Filed: May 30, 2003
Title: Bone Shaping Device for Knee Replacement

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 16, 2007, to revive the above-identified application.

The petition is **dismissed.**

This above-identified application became abandoned for failure to timely file a reply to the Restriction Requirement of October 5, 2006. The Restriction Requirement set a one (1) 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 November 6, 2003. This decision precedes the mailing of a Notice of Abandonment.

The petition has **not** been reviewed on the merits because the petition provided has not been signed.

Pursuant to 37 CFR 1.33, amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition

under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Stephen E. Feldman, P.C.
12 East 41st Street
New York NY 10017

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OFFICE OF PETITIONS

In re Application of
Walker et al.
Application No. 10/452,707
Filed: May 30, 2003
Title: Bone Shaping Device for Knee Replacement

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 15, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the Restriction Requirement of October 5, 2006. The Restriction Requirement set a one (1) 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 November 6, 2003. This decision precedes the mailing of a Notice of Abandonment. A petition under 37 CFR 1.137(b) was dismissed on May 11, 2007.

This petition is hereby **GRANTED**.

The Office hereby acknowledges the receipt of the Response to the Restriction Requirement.

This application is being referred to Art Unit 3733 for further processing

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE : P. Engle

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/07

TO SPE OF : ART UNIT 3673

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/452,710 Patent No.: 6991264

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: _____

Patricia H Engle — 3673
SPE — **Art Unit**

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ONE BROADWAY
NEW YORK NY 10004

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Tetsuya Knabe, et al.	:	
Application No. 10/452,723	:	ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. 29284-590	:	

This is a decision on the petition, filed November 28, 2005, under 37 CFR 1.182 requesting withdrawal of a previously filed terminal disclaimer. The petition fee has been received.

The petition is granted.

Petitioners assert that the Terminal Disclaimer filed on July 29, 2005 in this application does not list the correct patent. A Terminal Disclaimer listing the correct patent number has been filed.

As the examiner has concurred, the request can be favorably considered.

The application is being referred to Technology Center Art Unit 1773 for further processing consistent with this decision.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

In re Patent No. 7,463,280	: DECISION DISMISING
Leonard P. Steuart, III	: REQUEST FOR RECONSIDERATION
Application No. 10/452,726	: OF PATENT TERM ADJUSTMENT
Issue Date: December 9, 2008	: UNDER 37 CFR 1.705
Filed: June 3, 2003	:
Attorney Docket No. 09969.002-00	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed on February 6, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from eight hundred fourteen (814) days to one thousand four hundred eighty-three (1483) 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 814 days.

BACKGROUND

This application was filed on June 3, 2003. On August 1, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 794 days. On December 9, 2008, the application matured into U.S. Patent No. 7,463,280, with a revised patent term adjustment of 814 days. The Office determined that the period of 920 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and the period of 884 days of Office delay pursuant to 37 CFR 1.702(b) overlap partially. As such, 36 additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 106 days, the patent issued with a revised patent term adjustment of 814 (884 + 36 – 106) days.

On February 6, 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 1483 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 submits that the patent is entitled to an additional 669 days of patent term adjustment, i.e., a total patent term adjustment of 1,483 days.

Accordingly, patentee maintains that 215 days accorded pursuant to 37 CFR 1.702(a)(1) overlaps with the period under § 1.702(b). Patentee asserts that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1589 (884 + 920 – 215 overlap) days as these periods do not occur on the same day. Further, given the applicant delay of 106 days, patentee asserts entitlement to 1483 (1589 – 106) days of patent term adjustment.

OPINION

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A).
35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the
> patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR
> § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending

before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), June 3, 2003, and ending on the date of issuance of the patent, December 9, 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), 884 days of patent term adjustment were accorded during the pendency of the application. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 920 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

884 days of the 920 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 884 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of the additional 884 days is neither permitted nor warranted. 920 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 36 days of adjustment pursuant to 37 CFR 1.702(b) for a total of the greater period of 920 days for Office delay.

CONCLUSION

In view thereof, no 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 Attorney Douglas I. Wood, at (571) 272-3231.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 03, 2007

TO SPE OF : ART UNIT 2615

10/452731

SUBJECT : Request for Certificate of Correction on Patent No.: 7010132 B2

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

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

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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:

_____

_____

_____

_____

_____

SLP — **SPE**

2615 — **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. 3

MacMILLAN SOBANSKI & TODD
ONE MARITIME PLAZA
FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

COPY MAILED

SEP 0 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Stefan Borsch	:	
Application No. 10/452,746	:	NOTICE
Filed: June 2, 2003	:	
Attorney Docket No. 1-24519	:	

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

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

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

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

This file is being forwarded to Technology Center AU 3745.

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

COPY MAILED

JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
VILKOV, Zalman	:	
Application No. 10/452,754	:	DECISION ON PETITION
Filed: June 2, 2003	:	TO WITHDRAW
Attorney Docket No. **221957**	:	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 23, 2007.

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

A review of the file record indicates that the power of attorney to **LEYDIG VOIT & MAYER, LTD** has been revoked by the assignee of the patent application on March 19, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CANTOR COLBURN, LLP**
20 CHURCH STREET, 22ND FLOOR
HARTFORD, CT 06103

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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

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JUN 1 8 2004
OFFICE OF PETITIONS

In re Application of :
Kazunori Kanekura, et al. :
Application No. 10/452,760 : ON PETITION
Filed: June 2, 2003 :
Attorney Docket No. 35664 :

This is a decision on the petition, filed June 17, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2852 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 4

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

COPY MAILED

NOV 03 2003

OFFICE OF PETITIONS

In re Application of Unknown Application No. 10/452,768 Filed: May 30, 2003 Attorney Docket No. INTV.023A	:	DECISION GRANTING PETITION

This is a decision on the paper styled "PETITION UNDER 37 C.F.R. § 1.10(c) OR UNDER 37 C.F.R. § 1.10(d) TO CORRECT USPS ERROR RESULTING IN GRANTING OF INCORRECT FILING DATE" filed 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. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner requests 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, petitioner provided a copy of the receipt for Express Mail label No. EV319017417US, which is the same Express Mail number found on the original itemized transmittal sheet in the present application. It is noted that, while the "date-in" on the copy of the Express Mail receipt was left blank, it includes a "Century City Postal Store, Los Angeles, CA" receipt stamp dated "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.

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
P.O. Box 1450
Alexandria, VA 22313-1450
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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of
Sunil Sadanand Nadkarni
Application No. 10/452,772
Filed: June 2, 2003
Attorney Docket No. 1296-001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2008, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1615 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed November 12, 2008.

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

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AUG 0 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES CA 90067

In re Application of
Shane Antony Yeend, et al.
Application No. 10/452,781
Filed: May 31, 2003
For: **MULTIPLE NETWORK PROTOCOL ENCODER/DECODER AND DATA PROCESSOR**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 17, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

The petition fails to meet requirement (4) above, insomuch as there is no description of the classes or subclasses that were searched. Furthermore, details of any text searches used absent a class/subclass search have not been provided. It is insufficient to state that a search was performed by an independent , professional search firm.

For the above stated reasons, the petition is **DENIED**.

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should include a complete description of the search method employed, such as classes and subclasses searched, text keyword search, etc.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES CA 90067

In re Application of
Shane Antony Yeend, et al.
Application No. 10/452,781
Filed: May 31, 2003
For: **MULTIPLE NETWORK PROTOCOL ENCODER/DECODER AND DATA PROCESSOR**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 17, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination, as supplemented on July 23, 2004.

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 supplemental to the original petition includes a statement of pre-examination search which includes a discussion of the search method employed, thus meeting the requirement of item (4) above.

For the above stated reasons, the petition is **GRANTED**.

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

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-16-07

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7064204

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

SPE

1624
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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Paper No. 5

COOLEY GODWARD, LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO, CA 94306

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DEC 17 2003

OFFICE OF PETITIONS

In re Application of:	
Lawrence B. Elowitz and	
Alexander W. Berg	
Application No. 10/452,789	
Filed: May 30, 2003	DECISION GRANTING
Title of Invention: APPARATUS AND METHOD	STATUS UNDER
FOR FACILITATING A SEARCH FOR GEMS	37 CFR 1.47

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed November 17, 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, Lawrence B. Elowitz, 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

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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Cooley Godward LLP
Attn: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Lawrence B. Elowitz et al.	:	
Application No. 10/452,789	:	DECISION ON PETITION
Filed: May 30, 2003	:	TO WITHDRAW
Attorney Docket No. BLUN-001/00US	:	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 25, 2006.

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

A review of the file record indicates that the power of attorney to Cliff Z. Liu with the firm of Cooley Godward LLP has been revoked by the assignee of the patent application on March 29, 2007. 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.

There are no outstanding office actions at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Perkins Coie LLP
Patent – SEA
P.O. Box 1247
Seattle, WA 98111-1247

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
10/452,789	05/30/2003	Lawrence Benjamin Elowitz	BLUN-001/00US

CONFIRMATION NO. 7395

OC000000023978254

23419
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 500
1200 - 19th Street, NW
Washington, DC 20036-2402

Date Mailed: 05/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2007.

- 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).

Kimberly Bravinet

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

FORMER ATTORNEY/AGENT COPY

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PERKINS COIE, LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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FEB 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Lawrence Benjamin Elowitz, et. al.	:	
Application No. 10/452,789	:	DECISION ON PETITION
Filed: May 30, 2003	:	
Attorney Docket No. N/A	:	

This is a decision on the petition, filed October 3, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

The application was abandoned for failure to notify the Office of the subsequently filed foreign or international application filed on April 6, 2005. Office records show that a Request to Rescind was filed on October 4, 2007.

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

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

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

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

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

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment. That party, in turn must explain what effort(s) was made to reply and why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as

Perkins Coie, LLP were the counsels of record at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts were made to further reply and with whom this matter was discussed outside of their Law Office. Copies of any correspondence relating to the filing, or not filing a reply are required from the responsible persons and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons at Perkins Coie, LLP, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids,

LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any 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. No additional petition fee is required.

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to 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

PERKINS COIE, LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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OFFICE OF PETITIONS

In re Application of	:	
Lawrence Benjamin Elowitz, et. al.	:	
Application No. 10/452,789	:	DECISION ON PETITION
Filed: May 30, 2003	:	
Attorney Docket No. N/A	:	

This is a decision on the renewed petition, filed August 15, 2008, 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 delay in responding is sincerely regretted.

In response to the petition decision mailed February 15, 2008, petitioner submits the present renewed petition along with a request for a four month extension of time filed on August 15, 2008.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). 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. Therefore, the petition is **GRANTED**.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice of New or Revised Projected Publication Date which set forth the projected publication date of January 17, 2008 was mailed on October 11, 2007.

This application is being referred to Technology Center Art Unit 3629 for examination in due course.

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

for Monica A. Graves

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Mark Buer et al	:	
Application No. 10/452,792	:	DECISION ON PETITION
Filed: June 3, 2003	:	TO WITHDRAW
Attorney Docket No. 1875.4010000	:	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 8, 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 Linda E. Horner attorney/agent of record on behalf of herself.

Linda E. Horner has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

Karen Creedy for

David Bucci
Petitions Examiner
Office of Petitions

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Paper No. 4

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

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OFFICE OF PETITIONS

In re Application of
Unknown
Application No. 10/452,793
Filed: May 30, 2003
Attorney Docket No. INTV.026A

DECISION GRANTING PETITION

This is a decision on the paper styled "PETITION UNDER 37 C.F.R. § 1.10(c) OR UNDER 37 C.F.R. § 1.10(d) TO CORRECT USPS ERROR RESULTING IN GRANTING OF INCORRECT FILING DATE" filed 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. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner requests 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, petitioner provided a copy of the receipt for Express Mail label No. EV319017482US, which is the same Express Mail number found on the original itemized transmittal sheet in the present application. It is noted that, while the "date-in" on the copy of the Express Mail receipt was left blank, it includes a "Century City Postal Store, Los Angeles, CA" receipt stamp dated "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.

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

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
10/452,799	05/30/2003	2631	0.00	INTV.022A	14	16	5

CONFIRMATION NO. 7374

CORRECTED FILING RECEIPT

OC000000011145069

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

Date Mailed: 10/30/2003

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

Applicant(s)

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/403,851 08/14/2002

Foreign Applications

If Required, Foreign Filing License Granted: 08/06/2003

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Systems and methods for resetting rate control state variables upon the detection of a scene change within a group of pictures

Preliminary Class

375

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

GRANTED

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

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

In re Application of
Unknown
Application No.10/452,799
Filed: May 30, 2003
Attorney Docket No. INTV.022A
Title of Invention: SYSTEMS AND METHODS FOR RESETTING RATE CONTROL STATE VARIABLES UPON THE DETECTION OF A SCENE CHANGE WITHIN A GROUP OF PICTURES

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. EV319017403US (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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No. 4

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OFFICE OF PETITIONS

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

In re Application of
Houchmair, et al.
Application No. 10/452,828
Filed: June 2, 2003
Attorney Docket No. 1941/165

ON PETITION

This is a decision on the petition filed on June 20, 2003, to accord the above-identified application a filing date of June 2, 2003

The petition is **granted**.

Title 37, Section 1.10(d) of the Code of Federal Regulations reads, in pertinent part:

> 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 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 the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. The application will, therefore, be accorded a filing date of June 2, 2003. A corrected filing receipt is enclosed.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 2, 2003 and for issuance of a corrected filing receipt reelecting the same.

Telephone injuries should be directed to the undersigned at (703)305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/27/2010

Applicant	: Erwin Hochmair	: DECISION ON REQUEST FOR
Patent Number	: 7657045	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/452,828	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1483** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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REVEO, INC.
6 Skyline Drive
Hawthorne NY 10523

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DEC 18 2008

In re Application of	:	
William MORRIS et al.	:	
Application No. 10/452,833	:	DECISION ON PETITION
Filed: June 02, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 26, 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.

This application became abandoned for failure to timely reply on or before February 11, 2008, as required by the Notice of Drawing Inconsistency with Specification, mailed January 11, 2008. Accordingly, the date of abandonment of this application is February 12, 2008.

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

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under §3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein Mr. Tsepin Tsai was ever given a power of attorney to act on behalf of inventor William Morris, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

Since 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.

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 K. Reichle at (571) 272-6051.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Tsepin Tsai
eVionyx, Inc.
6 Skyline Drive
Hawthorne, New York 10532

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REVEO, INC.
6 SKYLINE DRIVE
HAWTHORNE NY 10523

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OFFICE OF PETITIONS

In re Application of:	:	
William Morris et al.	:	
Application No: 10/452,833	:	ON PETITION
Filed: June 02, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply on or before February 11, 2008 as required by the Notice of Drawing Inconsistency with Specification, mailed January 11, 2008. Accordingly, the date of abandonment of this application is February 12, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3). The statement of unintentional abandonment is not properly signed. The statement is allegedly signed by the assignee, but is not accompanied by a statement under 37 CFR 3.73(b). Form PTO/SB/96 may be helpful in completing the statement by the assignee.

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 Zohreh Fay at 571-272-6051 or in her absence to the undersigned at (571) 272-7099.

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

12/31/03

Heller Ehrman White and McAuliffe LLP
275 Middlefield Road
Menlo Park CA 94025-3506

Dear Applicant:

The Box PGPub replacement drawings for application number 10/452,851 received on 11/25/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES 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.

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED

MAR 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Snow et al.	:	
Application No. 10/452,851	:	ON APPLICATION FOR
Filed: May 30, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 17170-003001	:	
(25835-4002)	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed January 23, 2009. Applicants request that the determination of patent term adjustment be corrected from five hundred twenty-three (523) days to one thousand forty-one (1041) days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

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

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

It is acknowledged that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on January 17, 2008.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MAILED

MAR 10 2010

OFFICE OF PETITIONS

PROTEOTECH, INC.
12040 115TH AVE NE
KIRKLAND WA 98034-6931

In re Patent No. 7,514,583	:	DECISION ON REQUEST
Snow et al.	:	FOR
Issue Date: April 7, 2009	:	RECONSIDERATION OF
Application No. 10/452,851	:	PATENT TERM ADJUSTMENT
Filed: May 30, 2003	:	and
Atty Docket No. P26US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 3, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand forty-one (1,041) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand eleven (1,011)** days.

Patentees incorrectly excluded a 30-day applicant delay from the calculation of patent term adjustment because it occurred after the filing of the request for continued examination (RCE)[1]. However, such an exclusion pursuant to 37 CFR 1.703(b) only applies to overlapping Office delay[2]. Patentees do not otherwise

[1] See petition, p. 6, FN1.

[2] 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) 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).

dispute this delay. Including this 30-day applicant delay, the patent term adjustment is 1,011, not 1,041, days.

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on January 23, 2009. No additional fees are required.

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 eleven **(1,011)** 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 : 7,514,583 B2

DATED : **April 7, 2009** **DRAFT**

INVENTOR(S) : Snow 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 523 days

Delete the phrase "by 523 days" and insert – by 1,011 days--

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

PROTEOTECH, INC.
12040 115TH AVE NE
KIRKLAND, WA 98034-6931

Mail Date: 04/21/2010

Applicant	: Alan D. Snow	: DECISION ON REQUEST FOR
Patent Number	: 7514583	: RECALCULATION of PATENT
Issue Date	: 04/07/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/452,851	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAY 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Kotikanyadanam SREEKRISHNA et al.	:	
Application No. 10/452,858	:	DECISION ON PETITION
Filed: June 02, 2003	:	
Attorney Docket No. 8956	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 07, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 08, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of February 07, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050.00 extension of time fee submitted with the petition on February 25, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and

Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

This application is being referred to Technology Center AU 1647 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
Paralegal Specialist
Office of Petitions

cc: **C. ALLEN BLACK, JR.**
KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
HENRY W. OLIVER BLDG.
535 SMITHFIELD ST.
PITTSBURG, PA 15222

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENBERG TRAURIG
77 WEST WACKER DRIVE
SUITE 2500
CHICAGO, IL 60601-1732

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APR 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Geoffry A. Westphal	:	
Application No. 10/452,868	:	DECISION GRANTING PETITION
Filed: June 2, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 31083.08US1	:	

This is a decision on the petition, filed March 28, 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 month publication country on May 27, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 4, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This application is being forwarded to Technology Center Art Unit 3625.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

OIPE JC26
FEB 1 9 2004
PATENT & TRADEMARK OFFICE

Image 1775

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	10/452,871
Group Art Unit:	1775
Filing Date:	June 2, 2003
Examiner:	Not Known
Inventors:	John E. Irvine and A. Anthony Groh
Assignee:	CMI Limited, Co.
Title:	SEAWALL PANEL WITH INNER LAYER
Docket No.:	CMI1840-008C

AUG 3 0 2004
Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

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

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8 (A)

Date of Deposit: February 17, 2004

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first-class mail in an envelope addressed Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Trisha M. Beachy
Trisha M. Beachy, Paralegal

Sir:

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT FOR APPLICANT

Jeffrey S. Standley on behalf of himself and all the attorneys at the law firm of Standley Law Group LLP (associated with customer number 08698), hereby request withdrawal as attorneys or agents of record for the Applicant for the reasons set forth below.

The Applicant/Client has instructed this firm to transfer all pending matters to the Applicant/Client and take no further action on their behalf.

By Federal Express ~~delivery~~ sent on February 17, 2004, Applicant received the original file containing all papers and property concerning prosecution of the application together with a status letter dated February 16, 2004 (copy attached) listing any due dates on pending matters. That letter confirms that Applicant was given due notice of replies due (if any) in this application.

All future correspondence for the above application should be addressed to:

John Irvine, President
CMI Limited, Co.
4501 Circle 75 Parkway
Suite E-5370
Atlanta, Georgia 30339
Phone: 800-256-8857 ext. 1117
Fax: 770-485-1717

Inasmuch as Standley Law Group LLP has complied with all requirements of 37 C.F.R. 10.40(a) by taking reasonable steps to avoid foreseeable prejudice to the rights of the Applicant, the undersigned respectfully requests that this Request be granted.

Date: February 17, 2004

By:

Jeffrey S. Standley, Reg. No. 34,021
Standley Law Group LLP
495 Metro Place South, Suite 210
Dublin, Ohio 43017-5315
Telephone: (614) 792-5555
Facsimile: (614) 792-5536

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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAY 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Otsubo et al.	:	
Application No. 10/452890	:	
Filing or 371(c) Date: 06/02/2003	:	
Attorney Docket Number:	:	
42P15510	:	ON PETITION

This is a decision on the "Petition To Withdraw Holding of Abandonment Under 37 CFR 1.181(a)," filed April 6, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office Action, mailed May 13, 2008. The Office action set a three (3) month period for reply. No reply having been received, the application became abandoned on August 14, 2008. A Notice of Abandonment was mailed November 26, 2008.

With the present petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to the Technology Center Art Unit 2629 for processing of the Request for Continued Examination ("RCE") and submission filed with the present petition in the normal course of business.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 5

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

COPY MAILED

SEP 0 2 2003

OFFICE OF PETITIONS

In re Application of
Ookawa
Application No. 10/452,893
Filed: June 2, 2003
Attorney Docket No. UNIU79.010 AUS
For: ADHESIVE SHEET FOR DICING GLASS SUBSTRATE AND METHOD OF DICING GLASS SUBSTRATE

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed August 20, 2003, requesting that the above-identified application be accorded a filing date of June 2, 2003.

The application was deposited on June 2, 2003. On July 31, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the application papers deposited on June 2, 2003 because no drawings were present, as is required by 35 USC 113.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the above-identified application be accorded a filing date of June 2, 2003 on the basis that 1 sheet of drawing figures was received in the Patent and Trademark Office (PTO) on June 2, 2003. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing June 2, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 1 sheet of drawings.

The return postcard constitutes *prima facie* evidence that 1 sheet of drawings were filed on June 2, 2003. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, deposit account no. 11-1410 will be credited the $130 petition fee submitted on August 20, 2003.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **June 2, 2003**, using the copy of the 1 sheet of drawings submitted with the instant petition. Office records will be corrected to show that 1 sheet of drawings was present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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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JUL 20 2006
OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re Application of	:
Dijk	: LETTER REGARDING PTA
Application No. 10/452,914	:
Filed: June 3, 2003	:
Atty. Dkt. No.: 055506-0110	:

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed June 7, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention, and, further, apologizes for the delay in the issuance of the instant response.

The correct Patent Term Adjustment ("PTA") at the time of the issuance is zero days. The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of zero days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The Determination of Patent Term Adjustment mailed May 26, 2005 indicated that at the time of allowance, the above-identified application was entitled to an adjustment of 103 days.

Applicants, however, indicate that the proposed adjustment of 103 days disagrees with applicants' own calculation, and request verification of the calculation.

A review of the application history reveals that at the time of allowance an adjustment of 134 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

The adjustment of 134 days is properly reduced a total of 325 days for applicants' failure to engage in reasonable efforts to conclude prosecution (or processing) within the meaning of 37 CFR 1.704.

The adjustment of 103 days is reduced 294 days in accordance with 37 CFR 1.704(b). The adjustment began October 29, 2003, the day after the date that is three months after the date the Notice to File Missing Parts was mailed, and ended August 17, 2004, the date a reply thereto was filed.

The adjustment of 134 days is further reduced 31 days in accordance with 37 CFR 1.704(b). The reduction began March 16, 2005, the day after the date that is three months after the date the non-final rejection was mailed, and ended April 15, 2005, the date a response thereto was filed.

In view thereof, at the time of allowance, the application was entitled to an adjustment of zero days.

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

As this letter was submitted as an advisement to the Office of an error in applicants' favor, no fee is due in connection with this matter.

The application is being directed to the Office of Patent Publication for processing into a patent.

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

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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Wednesday

PALM INTRANET

Date: 7/19/2006
Time: 11:01:26

PTA Calculations for Application: 10/452914			
Application Filing Date:	06/03/2003	PTO Delay (PTO):	134
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-294		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
29	07/19/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		294	
18	05/26/2005	MAIL NOTICE OF ALLOWANCE			
17	05/25/2005	ISSUE REVISION COMPLETED			
16	05/25/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
15	05/25/2005	NOTICE OF ALLOWABILITY			
14	04/26/2005	DATE FORWARDED TO EXAMINER			
13	04/15/2005	RESPONSE AFTER NON-FINAL ACTION		31	11
12	04/15/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
11	12/15/2004	MAIL NON-FINAL REJECTION	134		-1
10	12/13/2004	NON-FINAL REJECTION			
9	12/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	08/17/2004	NEW OR ADDITIONAL DRAWING FILED			
7	12/02/2004	CASE DOCKETED TO EXAMINER IN GAU			
6	10/12/2004	APPLICATION DISPATCHED FROM OIPE			
5	10/13/2004	APPLICATION IS NOW COMPLETE			
4	06/03/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
2	06/12/2003	CLEARED BY OIPE CSR			
1	06/03/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Date : February 20, 2009

Patent No. :7434725
Inventor(s) :Yukie Taniyama
Issued :October 14, 2008
Title :BILL HANDLING MACHINE, AUTOMATED TELLER MACHINE, AND METHOD
:FOR CHANGE AT AUTOMATED TELLER MACHINE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

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

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

By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions
EFS web	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

for A. Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9390 ext. 123

Keith E. George
600 13TH Street, N.W
Washington, DC 20005

/arg

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

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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JUN 17 2009
OFFICE OF PETITIONS

In re Patent No. 7,434,725	:	
Issue Date: October 14, 2008	:	
Application No. 10/452,935	:	ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. 62807-127	:	

This is a decision on the petition filed April 3, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

Docket No.: 062807-0127 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Customer Number: 20277
Yukie TANIYAMA	:	Confirmation Number: 8828
Patent No.: 7,434,725 B2	:	Issue Date: October 14, 2008
Application No.: 10/452,935	:	Group Art Unit: 2887
Filed: June 03, 2003	:	Examiner: D.I. Walsh

For: BILL HANDLING MACHINE, AUTOMATED TELLER MACHINE, AND METHOD FOR PAYMENT OF CHANGE AT AUTOMATED TELLER MACHINE

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR 1.323

Mail Stop Certificate of Correction
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reviewing the above-identified patent, a printing error was discovered therein requiring correction in order to conform the Official Record in the application. The error was made in good faith and was of a clerical or typographical nature or of minor character.

The error noted is set forth on the attached copy of form PTO-1050 Rev. 2-93 in the manner required by the Commissioner's Notice.

Specifically, in Item "(73) Assignee", the name of the Assignee is incorrectly shown as "Hitachi, Ltd." rather than --Hitachi-Omron Terminal Solutions Corp.--. The Assignment was recorded on March 22, 2006, prior to the issuance of the patent, and is located at Reel 017344, Frame 0353. This error was made due to our office having incorrectly listed Hitachi, Ltd. on the Issue Fee Transmittal Form.

Adjustment date: 06/17/2009 CKHLOK
04/06/2009 INTEFSW 00000541 500417 10452935
01 FC:1464 130.00 CR
02 FC:1811 100.00 CR

06/17/2009 CKHLOK 00000005 500417 7434725

01 FC:1808 130.00 DA
02 FC:1811 100.00 DA

Please charge the **$100.00** filing fee under 37 CFR 1.20(a) and the **$130.00** processing fee under 37 CFR 1.17(i) to our Deposit Account 500417.

Please charge any shortage in fees due in connection with the filing of this paper to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Ben K. Judd Reg. No. 51,321

Keith E. George
Registration No. 34,111

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 KEG:alb
Facsimile: 202.756.8087
Date: April 3, 2009

Please recognize our Customer No. 20277 as our correspondence address.

WDC99 1699236-1.062807.0127

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Alexandria, VA 22313-1450
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OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE, SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

COPY MAILED

MAR 03 2008

In re Application of	:	
TREMBLAY, et al.	:	
Application No. 10/452,944	:	DECISION ON PETITION
Filed: June 3, 2003	:	TO WITHDRAW
Attorney Docket No. **14834-1US-1-CMB/AA/MB**	:	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 20, 2007.

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

A review of the file record indicates that the power of attorney to **OGILVY RENAULT, LLP** has been revoked by the assignee of the patent application on September 12, 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.

Mónica A. Graves
Petitions Examiner
Office of Petitions

cc: **MERCHANT & GOLD PC**
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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BLOOMFIELD HILLS MI 48302

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OFFICE OF PETITIONS

In re Application of
Feng Liang
Application No.10/452,946
Filed: June 4, 2003

Attorney Docket No. 202-0686
Title of Invention: ROTOR SKEW METHODS FOR PERMANENT MAGNET MOTORS

ON PETITION

This is a decision on the petition filed August 20, 2004 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

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

This application became abandoned for failure to timely submit the issue and publication fees , as required by the Notice of Allowance and Fee (s) Due which was mailed May 6, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on May 7, 2004. This decision precedes the mailing of a Notice of Abandonment.

Petitioner contends the Notice of Allowance and Fee (s) Due was not received.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:

(1) the required reply,[1]

(2) the petition fee,

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office Action,

---

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

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[2] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice to File Missing Parts may have been lost after receipt rather than a conclusion that the Notice to File Missing Parts was lost in the mail.

Although petitioner has provided a statement that a search of the file jacket was conducted, petitioner has failed to provide a copy of docket records covering May 6, 2004 through August 6, 2004.

Pursuant to petitioner's request, deposit account no. 06-1510 is being charged the $110.00 petition fee, $1330 issue fee and $300 publication fee.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

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

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 220 20th Street S.

[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 306-0251 until September 24, 2004, thereafter (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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838 WEST LONG LAKE, SUITE 120
BLOOMFIELD HILLS MI 48302

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Feng Liang
Application No.10/452,946
Filed: June 4, 2003
Attorney Docket No. 202-0686
Title of Invention: ROTOR SKEW METHODS FOR PERMANENT MAGNET MOTORS

This is a decision on the renewed petition under 37 CFR §1.137(a), filed November 22, 2004 and supplemented December 16, 2004 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 May 6, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on May 7, 2004. This decision precedes the mailing of a Notice of Abandonment. A petition filed under 37 CFR 1.137(a) was dismissed on September 20, 2004.

The requirements for a grantable petition under 37 CFR §1.137(a) 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 concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R Grant

Charlema R. Grant
Petition 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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AUG 29 2006

MYRON AMER, P.C.
Suite 310
114 Old Country Road
Mineola NY 11501

In re Application of: KASTEN, JANA Serial No.: 10/452,959 Filed: June 4, 2003 Docket: P-3997-1 Title: MESSAGE-DISPLAYING NECKLACE	:	DECISION ON PETITION

This is a decision on the petition filed on Nov. 22, 2004 by which petitioners request supervisory review whether the examiner acted properly in refusing to enter of record an Appeal Brief of June 28, 2004. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is **dismissed**.

Facts in the Record

A review of the file shows that the examiner refused to enter the Appeal Brief filed on June 28, 2004 because the brief does not refer to the specification by page and line number in the concise explanation of the claimed invention section of the brief. For example, the specification should be referred to by page and line number in accordance with MPEP 1206 under the heading (5) "Summary of Invention". The applicant filed this petition to request the Office to accept the Appeal Brief filed on June 28, 2004. In the petition, the applicant argued that MPEP 1206 instructs the applicant, with respect to description of the invention, to provide the source thereof, or attribution to the specification by page and lines, but nowhere is it mandated that the attribution must be in the words "page xx, lines xx of the specification." The applicant further argued that logic dictates that it suffices that the attribution used clearly establishes that the description provided is part of the Record on Appeal, and it is inarguable that such has been clearly established in the use of the heading "Summary of Invention," the use of the subheadings "pages 2 and 3" and the consecutively numbered lines as filed in the Appeal Brief of June 28, 2004. In response to the applicant's letter of Oct. 5, 2004, the examiner in the Office action of Nov. 12, 2004, rejected the applicant's arguments because the numerals on left hand margin of the paper typed on pages 2-3 and the headings "Page 2" and "Page 3" in the appeal brief filed on June 28, 2004 refer to a page of the specification and typed lines of text. The examiner disagreed with the applicant's argument. It was unclear what the reference numerals on the left column of pages 2 and 3 and the headings "Page 2" and "Page 3" were referring to because the brief does not indicate what these notations are referring to. The examiner stated that the proper format for

referring to the specification by page and line number should be indicated in the following manner ""page xx, lines xx of the specification" (see Office letter dated 9/23/04).

Applicable Rules and Statutes

August 2001 Edition of MPEP 1206 (5), states:
(5) *Summary of Invention.* A concise explanation of the invention defined in the claims involved in the appeal. This explanation is required to refer to the specification by page and line number, and, if there is a drawing, to the drawing by reference characters. Where applicable, it is preferable to read the appealed claims on the specification and any drawing. While reference to page and line number of the specification may require somewhat more detail than simply summarizing the invention, it is considered important to enable the Board to more quickly determine where the claimed subject matter is described in the application.

Analysis

Under the heading of "Summary of Invention" on pages 2 and 3 of the Appeal Brief of June 28, 2004, it appears the appellant merely copied some portions of pages 2 and 3 of the specification. Pages 2 and 3 on the left hand margin of the Appeal Brief, however, did show a column of numbers and subheading of "Page 2" and "Page 3" which correspond to the number of lines and pages of the specification. Nowhere does the Appeal Brief show any notation as to what the reference numerals on the left column of pages 2 and 3 and the subheadings of "Page 2" and "Page 3" mean. The explanation of summary of invention is *required* to refer by page and line number of the specification as clearly stated in MPEP 1206 (5). (*emphasis added*). Therefore, the Appeal Brief of June 28 2004 is not in compliance with this provision of MPEP.

Based on the analysis of the facts, the relief as requested in the petition cannot be granted. Since no timely corrective Appeal Brief was filed and no claim was allowed in the application, the appeal is dismissed. Accordingly, the petition is dismissed and the application is now abandoned.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3726 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 Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. None

Alexander Kastalsky
3 Kenneth Dr.
Wayside NJ 07712

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JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of
Alexander Kastalsky
Application No. 10/452,962
Filed: June 4, 2003
Title: MAKING COLOR IN TWO - AND THREE - DIMENSIONAL IMAGES CREATED IN GLASS WITH LASER INDUCED MICRO-EXPLOSIONS

DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed May 2, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 20, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 21, 2004. A Notice of Abandonment was mailed April 4, 2005.

With the present petition, Petitioner has asserted that a response was submitted to the Office on an unspecified date. Petitioner may wish to review 37 C.F.R. §1.8 and MPEP §503 concerning certificate of mailing practice and the use of return postcards, respectively.

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

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. §1.137(b) is set forth in 37 C.F.R. §1.17(m) as being $1500 for a large entity and $750 for a small entity. Petitioner has not included a petition fee, and therefore, requirement number (2) has not been met.

The payment of the required petition fee is a prerequisite to the filing of a petition to revive under 37 C.F.R. §1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[2]

In view of the foregoing, this petition is **DISMISSED**.

Any reply to 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 reply should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C 704.

The 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[3], hand-delivery[4], or facsimile[5].

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

---

[2] "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

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 (703) 872-9306 - please note this is a central facsimile number. On July 15, 2005, the Central FAX Number changed to 571-273-8300. To give customers 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.

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SIERRA PATENT GROUP, LTD.
1657 HWY 395, SUITE 202
MINDEN, NV 89423

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OFFICE OF PETITIONS

In re Application of	:	
Banks et al.	:	DECISION ON PETITION
Application No. 10/452,967	:	TO WITHDRAW
Filed: June 2, 2003	:	FROM RECORD
Attorney Docket No. VAST-001	:	

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 27, 2005.

The request is **APPROVED**.

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

The request was signed by Kenneth D'Alessandro on behalf of all attorneys of record.

All attorneys/agents of record have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

A Change of Address of Record was submitted by the assignee on March 30, 2006. However, it lacked the necessary Statement under 3.73(b) required when an assignee wishes to take action in a matter pending before the Office.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) an intervening assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor at the below-listed address until otherwise properly notified by the applicants.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Buccei
Petitions Examiner
Office of Petitions

Cc:

MARTIN L. BANKS
19601 BUCK RIDGE ROAD
GRASS VALLEY, CA 95949

VISUAL ADVERTISING SALES TECHNOLOGY, INC.
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AUBURN, CA 95603

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

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AUG 1 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Koichi Sugiyama et al :
Application No. 10/452,971 :
Filed: June 3, 2003 :
Attorney Docket No. 450100-3399.9

This is a decision on the petition, filed August 10, 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 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

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LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE, NY 10583

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OFFICE OF PETITIONS

In re Application of	:	
Anil Kush Kumar, et. al.	:	
Application No. 10/452,989	:	ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. RELIA.P-110U	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 5, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the non-final Office action mailed August 10, 2006. A Notice of Abandonment was mailed on May 3, 2007.

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

As authorized, the petition fee of $750 has been charged to petitioner's deposit account.

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**.

This application file is being referred to Technology Center Art Unit 1661, 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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OFFICE OF PETITIONS

OLIVE & OLIVE, P.A.
500 MEMORIAL STREET
PO BOX 2049
DURHAM, NC 27702

In re Application of John D. Grinstead Application No. 10/453,026 Filed: June 3, 2003 Attorney Docket No. JDGG5001JL	: : : : :	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2005, 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 June 2, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of June 30, 2005 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on December 21, 2004. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.

The application is being referred to the Office of Publications to await a response to the Notice of Publication Fee Due mailed March 25, 2005. Failure to respond will again result in the abandonment of this application.

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

Sherry D. Brinkley
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

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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MAY 03 2007

OFFICE OF PETITIONS

In re Application of	:
Dipak J. Shah	:
Application No. 10/453,027	: DECISION ON PETITION
Filed: June 3, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. H26036-1161.1191102	:

This is a decision on the petition filed January 17, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional application 09/697,633.

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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3744 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.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/453,027	06/03/2003	3744	2112	H16-26036 (9028/331)	25	2

CONFIRMATION NO. 2986

CORRECTED FILING RECEIPT

OC000000023660381

128
HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Date Mailed: 05/03/2007

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)

Dipak J. Shah, Eden Prairie, MN;

Power of Attorney:

John Shudy Jr–31214
Ian MacKinnon–34660
Craig Lervick–35244

Domestic Priority data as claimed by applicant

This application is a CON of 09/697,633 10/26/2000 PAT 6,595,430

Foreign Applications

If Required, Foreign Filing License Granted: 07/30/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/453,027

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

GRAPHICAL USER INTERFACE SYSTEM FOR A THERMAL COMFORT CONTROLLER

Preliminary Class

236

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 PETITIONS

In re Application of	:	
Dipak J. Shah	:	
Application No. 10/453,027	:	DECISION ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. H16-26036 (9028/331)	:	

This is a decision on the petition, filed October 31, 2007, 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 not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Brian N. Tufte 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. If, Mr. Tufte 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. Tufte, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to a Notice of Allowance and Fees Due on or before September 25, 2007. A Notice of Abandonment was mailed on October 19, 2007. In response, on October 31, 2007, the present petition was filed. While petitioner request that the abandonment be withdrawn, a petition under 37 CFR 1.137(b) was also filed.

Petitioner indicates that the issue fee was timely filed using a certificate of mailing dated September 20, 2007. In support petitioner provides a copy of the Issue Fee transmittal letter, bearing a certificate of mailing dated September 20, 2007. The file record indicates that the originally submitted papers were ultimately received on October 26, 2007.

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 Notice of Allowance and Fees Due of June 25, 2007 is hereby withdrawn and the application restored to pending status.

The petition under 1.137(b) is dismissed as moot. Under the circumstance, no petition fee was charged to counsel's deposit account.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: BRIAN N. TUFTE
CROMPTON SEAGER AND TUFTE LLC
1221 NICOLLET AVE STE 800
MINNEAPOLIS, MN 55403-2402

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KRUMHOLZ & MENTLIK
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WESTFIELD NJ 07090

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,012,314	:	
Application No. 10/453,037	:	
Filed: June 3, 2003	:	
Issued: March 14, 2006	:	
Attorney Docket No. NOBLE 3.0-001	:	

This is a decision on the petition under 37 CFR 3.81(b) filed October 24, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No.

HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

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OFFICE OF PETITIONS

In re Application of	:	
Jarvis et al.	:	
Application No. 10/453,061	:	ON APPLICATION FOR
Filed: June 3, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 117089.00020	:	
Title: BUSINESS FORM	:	

This is in response to the "REQUEST FOR RECONSIDERTAION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed February 16, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is three hundred and seventy-five (375) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

---

[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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SCULLY, SCOTT,
MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY NY 11530

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SEP 15 2008

In re Patent No. 7,183,091 :
Issue Date: 27 February, 2007 :
Application No. 10/453,093 : DECISION
Filed: 3 June, 2003 :
Attorney Docket No. 10112021

This is a decision on the petition filed on 6 August, 2007, requesting issuance of duplicate Letters Patent for the above-identified patent/application under 37 C.F.R. §1.182.

The Office regrets the delay in addressing the instant matter, however, the matter was presented to the attorneys in the Office of Petitions only at this writing.

The petition is **GRANTED.**

BACKGROUND

Petitioner Edward W. Grolz (Reg. No 33,705) has made demand upon the Office to issue duplicate Letters Patent in the instant matter.

Petitioner has declared that the patent apparently was lost.

Petitioner has demonstrated that the petition fee has been paid as required for the petition under 37 C.F.R. §1.182.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

[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

In re Patent No. 7,183,091
Application No. 10/453,093

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.

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of duplicate Letters Patent.

The file is being released to the IFW Repository.

Any questions regarding the issuance of the duplicate Letters Patent should be directed to Ms. Niomi Farmer, Office of Data Management, Office: 703-308-9250x119, Fax: 571-270-9753.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

cc: Ms. Niomi Farmer, ST/8C23 FAX: (571) 270-9753

---

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] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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APR 19 2005
OFFICE OF PETITIONS

In re Application of

Mark T. Finstad

Application No. 10/453,122

Filed: June 3, 2003

Attorney Docket No. **21041-US**

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned on October 27, 2004, for failure to file a proper response to the final Office action mailed July 26, 2004. The final Office action set a shortened statutory period for reply of two months from its mailing date. An amendment was filed on October 25, 2005, but did not place the application in condition for allowance. An amendment was also filed on December 10, 2004, but was not entered because it was not signed.

The Request for Continued Examination and amendment filed February 7, 2005, are noted.

The application is being directed to Technology Center 3600, GAU 3641 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GARDNER CARTON & DOUGLAS LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Cotter, Joan	:	
Application No. 10/453,132	:	DECISION GRANTING PETITION
Filed: June 3, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 86521-9024US	:	

This is a decision on the petition, filed May 2, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 1, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 12, 2006, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 3713 for examination in due course.

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

Liana Chase
Petitions Examiner
Office of Petitions

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.
10/453,132	06/03/2003	Joan Cotter	86521-9024US

CONFIRMATION NO. 1449

08968
GARDNER CARTON & DOUGLAS LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO, IL 60606

Date Mailed: 07/03/2006

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 10/12/2006.

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

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

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

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

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

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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GARDNER CARTON & DOUGLAS LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO IL 60606

COPY MAILED
JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Cotter, Joan	:	
Application No. 10/453,132	:	DECISION GRANTING PETITION
Filed: June 3, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 86521-9024US	:	

This is a decision on the petition, filed May 2, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 1, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 12, 2006, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 3713 for examination in due course.

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

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AUG 22 2005

WHITE & CASE LLP
Patent Department
1155 Avenue of the Americas
New York, NY 10036

In re Application of Nghi Pham Serial No: 10/453,179 Filed: June 2, 2003 For: BACKING PLATE WITH FRICTION MATERIAL RETENTION MEMBERS AND METHOD AND APPARATUS FOR MANUFACTURING SAME	:	NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313

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

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

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fee(s) due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Robert Oberleitner, Director
Patent Technology Center 3600
(571) 272-5350

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Pierre Bonnat	: DECISION ON REQUEST FOR
Patent Number	: 7584064	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/453,192	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO, NC 27420

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of :
Bernhard Schoennagel, et al. :
Application No. 10/453,197 : DECISION ON PETITION
Filed: June 3, 2003 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 05004709-006US1 :

This is a decision on the renewed petition under 37 CFR 1.55(c), filed August 26, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign Application Nos. DE 10225039.0 and DE 10232745.0, filed June 6, 2002 and July 19, 2002.

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.

The instant 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. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

It is noted on the ADS submitted on August 26, 2004, that this application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

A filing receipt accompanies this decision on petition.

This matter is being referred to Technology Center AU 3721.

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 08-06

Paper No: __

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

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AUG 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Luthra	:	
Application No. 10/453,211	:	DECISION
Filing Date: 3 June, 2003	:	
Attorney Docket No.: BCS03169	:	

This is a decision on the petition filed on 8 June, 2006, alleging unintentional delay 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**.

NOTE:

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 4 October, 2005, with reply due absent extension of time on or before 4 January, 2006;
- on 24 February, 2006, Petitioner filed a request and fee for extension of time and a after-final amendment–which, Petitioner, as one registered to practice before the Office, is aware is not of right, and thus is not a proper reply[1] to a final Office action–and the Examiner did not enter the reply and mailed an Advisory Action on 14 March, 2006;
- the instant application went abandoned by operation of law after midnight 4 March, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- on 8 June, 2006, Petitioner filed the instant petition (with fee), reply in the form of a request for continued examination (RCE) with fee, pointed to an earlier-filed amendment as the submission under 37 C.F.R.§1.114, and made the statement of unintentional delay.

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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[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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,

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]

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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) 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,[8] 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.[9]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Technology Center 2600 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] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[9] 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[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

cc:
THOMAS BETHEA
MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

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

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

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

ICE MILLER LLP
ONE AMERICAN SQUARE, SUITE 3100
INDIANAPOLIS IN 46282-0200

COPY MAILED

JUL 25 2008

In re Application of	:	
Sproule, Craig	:	
Application No. 10/453,236	:	ON PETITION
Filed: June 2, 2003	:	
Attorney Docket No. VSE-001US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2008, which will be treated as a petition to withdraw of the holding of abandonment in the above-identified application.

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

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed December 15, 2006, which set a shortened statutory period for reply of three (3) months. A reply was due on or before March 15, 2006. A Notice of Abandonment was mailed on June 4, 2008.

A Notice Requiring Extension of Time Fee was mailed on July 9, 2007, stating that the appropriate extension of time fee was missing from the response submitted on June 18, 2007.

Petitioner states that the reply, including the Extension of Time, 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 June 18, 2007 of 1. Applicant's Response; 2. Replacement Drawings; (3) Petition for Extension of Time; and (4) Check No. 103329 for $1720.00, Three Month Time Extension fee and additional claims fee. Additionally, petitioner has supplied a copy of the previously mailed check.

A review of the application file shows that the document (1), (2), and (3) as listed above originally submitted on June 18, 2007 (Certificate of Mailing date June 14, 2007) are of record. USPTO financial records, however, fail to reflect item (4), the $1720.00 check.

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 $1720.00 check 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. The petition to revive under 37 CFR 1.137(b) is hereby dismissed as moot.

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 collected.

This matter is being referred to Technology Center AU 2192 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

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.
10/453,240	06/03/2003	Leo Zhaoqing Liu	RD 02029	9494

7590 12/19/2005

JOHN DANIEL WOOD
RHODIA INC.
259 PROSPECT PLAINS ROAD, CN-7500
CRANBURY, NJ 08512

EXAMINER
PEZZUTO, HELEN LEE

ART UNIT	PAPER NUMBER
1713	

DATE MAILED: 12/19/2005

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER

20051212

DATE MAILED:

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

Commissioner for Patents

Enclosed please find decision on applicant's petition under 37 CFR 1.48(a).

Helen L. Pezzuto
Primary Examiner
Art Unit: 1713

UNITED STATES PATENT and TRADEMARK OFFICE

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

Mailed: DWW

In re Application of Leo Zhaoqing Liu
Serial No.: 10/453,240
Filed: June 3, 2003

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

Title: MONOMER COMPOUND COMPRISING SEVERAL CATIONIC GROUPS, PROCESS FOR MAKING THE SAME, AND POLYMERS COMPRISING UNITS DERIVED THEREFROM

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed May 19, 2005 to correct inventorship under 37 CFR 1.48(a) by adding the name of Dominic Wai-Kwing Yeung to the list of inventors of the instant application.

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.

David Wu
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700

Rhodia Inc.,
259 Prospect Plains Road
Cranbury, NJ 08512

UNITED STATES 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

Howard M. Cohn
Suite 220
21625 Chagrin Blvd.
Cleveland OH 44122

COPY MAILED

OCT 17 2003

OFFICE OF PETITIONS

In re Application of	:	
Geoffrey A. Landis	:	
Application No. 10/453,251	:	DECISION GRANTING
Filed: June 3, 2003	:	PETITION
Attorney Docket No. LEW-17391-1	:	
Title: MEMS CLOSED CHAMBER HEAT	:	
ENGINE AND ELECTRIC GENERATOR	:	

This is a decision on the "Response to Notice of Omitted Item(s) in a Nonprovisional Application and Petition under 37 CFR §1.182", filed September 16, 2003, which is properly treated as a petition under 37 CFR §1.53(b), requesting Figures 6 and 7A-D (six and seven-a through seven-d) be entered.

On June 3, 2003, the above-identified application was filed. On August 1, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of June 3, 2003, and advising applicant that Figures 6 and 7A-D (six and seven-a through seven-d) appeared to have been omitted. The Notice set a two-month period for response.

In response, on September 16, 2003, applicants filed the present petition. The petition is further accompanied by Figures 1 through 7D (one through seven-d), a newly executed declaration, and a request that a new filing date be assigned - the date of receipt of the new set of formal drawings.

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 16, 2003, the date of receipt of the formerly omitted items, Figures 6 and 7A-D (six and seven-a through seven-d).

Any inquiries related to 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

LAW OFFICES OF JOHN P. MCGONAGLE
800 HINGHAM STREET - 2N
ROCKLAND MA 02370

COPY MAILED
AUG 14 2005
OFFICE OF PETITIONS

In re Application of	:	
Mark L. Bowditch	:	
Application No. 10/453,266	:	DECISION DISMISSING
Filed: June 4, 2003	:	PETITION UNDER 37 C.F.R. §1.137(a)
Attorney Docket Number: 7380	:	AS MOOT
Title: OUTDOOR PLANTER SYSTEM	:	

This is a decision on the petition filed July 22, 2005, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

On November 9, 2004, the Office mailed a Notice of Allowance and Issue Fee Due, which set a shortened statutory period for reply of three (3) months. No reply was received, and no extensions of time are permitted for transmitting formal drawings, issue fees, or publication fees[2].

Petitioner alleges that he never received said notice. On or about March 28, 2005, he learned of its mailing, and soon thereafter the Examiner sent him a duplicate. On May 17, 2005, the Office sent a Notice under 37 C.F.R. §1.251, informing Petitioner that a copy of the notice of allowance could not be located.

---

1 A grantable petition pursuant to 37 CFR §1.137(a) must be accompanied by:

(1) the required reply (in a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof);
(2) the petition fee;
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;
(4) a terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

On June 28, 2005, the issue fee was received, and the present petition was submitted on July 22, 2005.

Four days later, on July 26, 2005, the Office mailed a Corrected Notice of Allowance and Issue Fee(s) due, which appears to have reset the period for response to October 26, 2005.

As such, the present petition is hereby **DISMISSED AS MOOT**, as the present application is not abandoned.

The petition fee will be refunded via the mailing of a treasury check in due course.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/14/08

TO SPE OF : ART UNIT 3732 Rodriguez, Chris (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/453309 Patent No.: 7217130

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: _____

Chris Rodriguez 3732
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

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BOSTON MA 02109

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APR 16 2008

OFFICE OF PETITIONS

In re Application of	:	
CUI, Shuji et al.	:	
Application No. 10/453,317	:	DECISION ON PETITION
Filed: June 02, 2003	:	TO WITHDRAW
Attorney Docket No. **041152-2002**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 26, 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 Peter McDermott on behalf of all attorneys of record who are associated. All attorneys/agents associated with 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 Shujie Cui at the address indicated below.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **SHUJIE CUI**
ALICE H. YU
7396 TRADE STREET
SAN DIEGO, CA 92121

UNITED STATES 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 COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
P.O. BOX 450A
SANTA CLARA, CA 95052

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Hsiao et al.	:	
Application No. 10/453,333	:	ON PETITION
Filed: June 2, 2003	:	
Attorney Docket No. 6465	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 21, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

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MAR 2 0 2007

OFFICE OF PETITIONS

In re Application of
Ronald D. Adams
Application No. 10/453,367
Filed: June 3, 2003
Attorney Docket No. 10121/00702

ON PETITION

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply to the final Office action mailed April 29, 2005, which set a period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowed period, and the application became abandoned on July 30, 2005. A Notice of Abandonment was mailed on August 21, 2006.

A review of the application file history reveals that a request was filed on March 8, 2005, to change the correspondence address of record to that of "Fay Kaplun & Marcin, LLP, 150 Broadway, Suite 702, New York, New York 10038." The change of correspondence address was not entered by the USPTO until December 21, 2005—after the final Office action was mailed. The final Office action was, therefore, mailed to the incorrect address of "Fay Kaplun & Marcin, LLP, 17th Floor, 100 Maiden Lane, New York, NY 10038" despite applicant having provided the USPTO with timely notification of a change of address. Under these circumstances, applicant cannot be held responsible for filing a timely response to an Office Action that was not mailed to the correct address.

It is also noted that a petition under 37 CFR 1.137(a) requires petitioner to establish that the entire delay in responding to the Office action was unavoidable. Further to this point, Section 711.03(c) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> 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).**

Petitioner states and a review of the record reveals that the petitioner was notified of the abandonment of the application on August 21, 2006, by a Notice of Abandonment and the instant petition was promptly filed September 6, 2006. Having taken into consideration the totality of the circumstances surrounding the abandonment of the application, it its concluded that petitioner has established that the entire delay in responding to the final Office action was unavoidable.

The fee for the instant petition is $500.00, not $130.00. Accordingly, deposit account 50-1492 will be charge an additional $370.00 to satisfy the fee requirement of 37 CFR 1.137(a).

The amendment filed September 6, 2006, has been determined to place the application in condition for allowance.

The file is now being forwarded to Technology Center 3700, GAU 3731 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-6-04

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/453376 Patent No.: 6976546

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 title + claims

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

E Yun

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: IDS filed June 10, 2004 was not originally considered, but it has now been considered and an initialled & signed copy sent to Applicant.

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
Art Unit

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Devon A. Rolf
GARMIN INTERNATIONAL, INC.
1200 East 15st Street
Olathe, KS 66062

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JUL 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	DECISION
Application No. 10/453,371	:	ON PETITION
Filed : June 3, 2003	:	
Attorney Docket Number:	:	
702.194	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 15, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed July 21, 2005. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned October 22, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

This application is being returned to Technology Center 2612 for processing of the RCE and Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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Paper No. None

Richard P. Berg, Esq.
c/o LADAS & PARRY
Suite 2100
5670 Wilshire Boulevard
Los Angeles CA 90036-5679

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OFFICE OF PETITIONS

In re Application of
Jiann-Jong Chen et al.
Application No. 10/453,378
Patent No. 6,891,495
Filed: June 2, 2003
Issue Date: May 10, 2005
Attorney Docket Number: B-5109
620995-3
Title: ANALOG-TO-DIGITAL
CONVERTER

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

This is a decision on the petition filed July 26, 2005 under 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 the wrong assignee name was inadvertently listed on form PTOL-85B, and requests that a Certificate of Correction be issued identifying the correct assignee. Petitioner submits a "Certificate of Correction" for this purpose, which lists the assignee's name as "Princeton Technology Corp., Taipei (TW)."

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

1 See Official Gazette, June 22, 2004.

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.

Both Petitioner's evidence and Office records show that the assignment of the above-identified application to this assignee was submitted for recording in the Office on June 11, 2003 (Reel/Frame 015284/0007). This was prior to the payment of the Issue Fee on March 14, 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

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

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CHARLOTTE NC 28280-4000

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SEP 1 5 2003

OFFICE OF PETITIONS

In re Application of
Keener
Application No. 10/453,379
Filed: June 3, 2003
Attorney Docket No. 038190/160307
For: METHOD FOR PREPARING PRE-COATED, METALLIC COMPONENTS AND COMPONENTS PREPARED THEREBY

DECISION GRANTING PETITION

This is a decision on the petition entitled, "Petition To Grant Filing Date And To Refund Petition Fee," filed August 29, 2003 (certificate of mailing date August 27, 2003), requesting that the above-identified application be accorded a filing date of June 3, 2003 rather than the presently accorded filing date of June 4, 2003.

Petitioner requests the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on June 3, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV185285595US listing no "date-in", but having a USPS date stamp of JUN 3 2003 affixed thereto. The same Express Mail label number is listed on the original Utility Patent Application Transmittal found in the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV185285595US was deposited with the USPS on June 3, 2003.

Accordingly, the petition is granted.

Pursuant to petitioner's authorization, deposit account no. 16-0605 will be credited the $130 fee submitted with the instant petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **June 3, 2003**.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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SEP 1 5 2003

OFFICE OF PETITIONS

In re Application of
Keener
Application No. 10/453,379
Filed: June 3, 2003
Attorney Docket No. 038190/160307
For: METHOD FOR PREPARING PRE-COATED, METALLIC COMPONENTS AND COMPONENTS PREPARED THEREBY

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "Petition To Grant Filing Date And To Refund Petition Fee," filed August 29, 2003 (certificate of mailing date August 27, 2003), requesting that the above-identified application be accorded a filing date of June 3, 2003 rather than the presently accorded filing date of June 4, 2003.

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Accordingly, the petition is granted.

Pursuant to petitioner's authorization, deposit account no. 16-0605 will be credited the $130 fee submitted with the instant petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **June 3, 2003**.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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AUG 07 2008

OFFICE OF PETITIONS

In re Application of :
Suresh Katukam, et. al. :
Application No. 10/453,390 : ON PETITION
Filed: June 3, 2003 :
Attorney Docket No. CISCP825 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed October 3, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on July 23, 2007, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

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) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/453,390	Applicant(s) KATUKAM ET AL.	
	Examiner MELVIN H. POLLACK	Art Unit 2145	

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

THE REPLY FILED 23 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 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☒ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-31*.
   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: _____.

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145

/M. H. P./
Examiner, Art Unit 2145
12 June 2008

Continuation of 3. NOTE: Claims 1, 6, 7, 10, 13, 16, 17, 20, 25 and 28 have been amended. Claims 32 and 33 have been added. All other claims derive from an amended parent claim. These amendments all add new limits regarding the pseudo link that must be searched and considered. Furthermore, they define the term pseudo link with aspects not included in the specification, such as the argument that that the pseudo link is not pre-established (P. 11). The fact that a pseudo link is not pre-established may be new matter.

Continuation of 11. does NOT place the application in condition for allowance because: the arguments are focused solely on the scope-changing amendments, and therefore are not persuasive in regards to the original claims. Further, they depend on reading limitations into the definition of psuedo link. Finally, the term pseudo link requires a better and clearer definition, as it is a term not known to one of ordinary skill in the art.

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SUITE 400
ROCKVILLE, MD 20850

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MAR 26 2009

OFFICE OF PETITIONS

In re Application of Suresh Katukam, et. al. Application No. 10/453,390 Filed: June 3, 2003 Attorney Docket No. 0370.0734C	: : : : :	ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 13, 2009, to revive the above-identified application.

In response to the decision mailed August 7, 2008, a Request for Continued Examination (RCE) with the $810 fee was filed on August 13, 2008. However, since the RCE was not accompanied by a cover letter entitled "Renewed petition under 37 CFR 1.137(b)", the response went unnoticed until the filing of the present renewed petition on March 13, 2009.

The renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE and $810 fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2145 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the previously submitted amendment.

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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101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Scott H. Mathews	: DECISION ON REQUEST FOR
Patent Number	: 7627494	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/453,395	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1704** 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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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Scott H. Mathews	: DECISION ON REQUEST FOR
Patent Number	: 7627494	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/453,395	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1704** 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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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 05/18/2010

Applicant : Scott H. Mathews
Patent Number : 7627494
Issue Date : 12/01/2009
Application No : 10/453,395
Filed : 06/03/2003

: 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 **1781** 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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DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

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JUN 13 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Brian J. Pelkey et al. :
Application No. 10/453,400 :
Filed: June 3, 2003 :
Attorney Docket No. P-5315P1 :

This is a decision on the petition filed June 1, 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 26, 2005 for failure to timely pay the issue fee on or before May 25, 2005. The petition to revive and this decision on petition precedes the mailing of a Notice of Abandonment.

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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DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

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OFFICE OF PETITIONS

In re Application of	:	
Brian J. Pelkey et al.	:	
Application No. 10/453,400	:	DECISION GRANTING
Filed: June 3, 2003	:	PETITION
Attorney Docket No. P-5315P1	:	

This is a decision on the petition filed November 22, 2005 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 31, 2005, for failure to timely respond to the Notice of Drawing Inconsistency, mailed September 30, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The petition fee in the amount of $1500.00 has been charged to deposit account no. 02-1666.

As the issue fee and publication fee have both already been paid, this matter is being referred to the Publishing Division for review of the drawings shown as having been received in the PTO on November 22, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Attention: Anna M. Nelson
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of :
Wasimul Haque :
Application No. 10/453,414 :
Filed: June 3, 2003 : ON PETITION
Attorney Docket Number: :
12695.4USC1 :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b), filed July 12, 2005. The petition is properly treated under 37 CFR 1.181.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 16, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on March 17, 2005. A Notice of Abandonment was mailed on July 5, 2005.

Applicant's Assertion

Applicant asserts that the application became abandoned as a result of a typographical error in the serial number of the Amendment filed in response to the Nonfinal Office action. Applicant asserts that a timely reply to the non-final Office action was filed on March 14, 2004. In support of this assertion, Applicant provides a copy of the Amendment which contains a Certificate of Facsimile dated March 14, 2004. Applicant avers that, due to a scrivener's error, the application number was entered on the Amendment as application serial number 10/452,414, instead of 10/453,414.

The Amendment filed via facsimile on March 14, 2004 has been located and placed in application 10/453,414. Apparently the

Amendment was filed in this Office on March 14, 2004. The same Amendment has been filed in this petition.

Accordingly, the petition is granted.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

The petition fee has been refunded to deposit account 13-2725.

The application file is being referred to Technology Center Art Unit 1626 for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of	:
Haque, et al.	: DECISION ON APPLICATION
Application No. 10/453,414	: FOR PATENT TERM ADJUSTMENT
Filed: June 3, 2003	:
Atty. Dkt. No: 12695.4USC1	:

This is a decision on the "REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)" filed May 2, 2006. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment. The instant application for patent term adjustment was timely filed May 2, 2006 wherein applicants argue the application is entitled to an adjustment of 70 days rather than the Office determined amount of eleven (11) days.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **DISMISSED**. However, the Office will adjust the PTA determination **downward** in view of the file history to reflect a determination of ZERO (0) days.[1]

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed March 2, 2006, indicated that the PTA to date is 11 days.

However, the instant application for patent term adjustment lacks the required application fee, currently, $200.00. In accordance with 37 CFR 1.705(b), an application for patent term adjustment must be accompanied by the required $200.00 application fee. As the instant application for patent term adjustment lacks the required fee, the Office would not have been able to grant applicant any additional PTA if the determination by the Office would have provided additional PTA.

Applicants argue that the Office erred in assessing a reduction of fifty-nine (59) days under 37 CFR 1.704(b). Applicants assert that the amendment was filed on October 17, 2005, not January 20, 2006 and the paper entered on January 20, 2006 is a

[1] The amount of delay by the Office at the time of the notice of allowance is 70 Days and the amount of delay by applicants is 80 days.

copy of the October 17, 2005 submitted amendment after final rejection.

Applicants are correct that the amendment was filed in October 2005, however, the amendment filed October 17, 2005 did not place the case in condition for allowance.[2] Accordingly, applicant needed to file an amendment placing the case in condition for allowance prior to or on November 22, 2005 in order to prevent a reduction under 37 CFR 1.704(b). Applicants submitted such amendment on February 10, 2006 (terminal disclaimer).[3] Accordingly, applicants failed to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(b) by a period of eighty(80) days.[4]

Overall, the amount of Office delays is 31 days under 37 CFR s1.702(a)(1) and 39 days under 37 CFR 1.702(a)(2). Applicants' delay amounted to 80 days pursuant to 37 CFR 1.704(b). Accordingly, the correct amount of PTA at the time of the mailing of the notice of allowance is ZERO(70-80=0) days.

Office delays under 37 CFR 1.702(a)(4)and 1.702(b) will be added to the PTA determination at the time of the issuance of the patent. Applicant delays under 37 CFR 1.704(c)(10) will also be reduced from the determination at the time of the issuance of the patent and will be reflected in the issuance notification letter that is mailed to applicants approximately three weeks prior to issuance of the patent.

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

Kery A. Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

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[2] The record is clear that the October 17, 2005 amendment did not place the application in condition for allowance because applicants submitted a terminal disclaimer on February 10, 2006.

[3] Note that the Office still determines the PTA in applications wherein a terminal disclaimer has been filed. However, the front page of the patent provides notice that the PTA determination is subject to the consequences of the terminal disclaimer.

[4] The reduction began on November 23, 2005 and ended on February 10, 2006, an eighty-day period.

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Attention: Anna M. Nelson
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OFFICE OF PETITIONS

In re Application of	:
Haque, et al.	: DECISION ON APPLICATION
Application No. 10/453,414	: FOR PATENT TERM ADJUSTMENT
Filed: June 3, 2003	:
Atty. Dkt. No: 12695.4USC1	:

This is a decision on the "REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)" filed May 2, 2006. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

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

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed March 2, 2006, indicated that the PTA to date is 11 days. The instant application for patent term adjustment was timely filed May 2, 2006 wherein applicants argue the application is entitled to an adjustment of 70 days.

However, the instant application for patent term adjustment lacks the required application fee, currently, $200.00. In accordance with 37 CFR 1.705(b), an application for patent term adjustment must be accompanied by the required $200.00 application fee. As the instant application for patent term adjustment lacks the required fee, treatment on the merits is precluded.

In view thereof, the adjustment to date remains 11 days, as indicated in the Determination of Patent Term Adjustment mailed March 2, 2006.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

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

Kery A. Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Wednesday

PALM INTRANET

Date: 6/20/2007
Time: 19:46:30

PTA Calculations for Application: 10/453414			
Application Filing Date:	06/03/2003	PTO Delay (PTO):	374
Issue Date of Patent:	06/12/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	59
Post-Issue Petitions:	0	Total PTA (days):	294
PTO Delay Adjustment:	-21		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
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53	05/14/2007	EXPORT TO FINAL DATA CAPTURE			
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50	05/04/2007	ADJUSTMENT OF PTA CALCULATION BY PTO			
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48	05/02/2006	PETITION ENTERED			
47	05/13/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
46	05/10/2006	ISSUE FEE PAYMENT VERIFIED			
45	03/06/2006	EXPORT TO INITIAL DATA CAPTURE			
44	03/02/2006	MAIL NOTICE OF ALLOWANCE			
43	03/02/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
42	02/28/2006	ISSUE REVISION COMPLETED			
41	02/28/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	02/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
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37	02/15/2006	PARALEGAL TD ACCEPTED			
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35	01/20/2006	AMENDMENT AFTER FINAL REJECTION		59	33

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33	08/22/2005	MAIL FINAL REJECTION (PTOL - 326)	39		30
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31	08/09/2005	DATE FORWARDED TO EXAMINER			
30	03/14/2005	RESPONSE AFTER NON-FINAL ACTION			
29	08/10/2005	MAIL NOTICE OF RESCINDED ABANDONMENT			
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27	08/08/2005	PETITION TO REVIVE APPLICATION - GRANTED			
26	07/12/2005	PETITION ENTERED			
25	07/05/2005	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
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22	12/13/2004	NON-FINAL REJECTION			
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20	09/30/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
19	09/30/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	09/03/2004	MAIL RESTRICTION REQUIREMENT	31		-1
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16	08/07/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	05/21/2004	WORKFLOW INCOMING PETITION IFW			
14	11/12/2003	APPLICATION RETURN FROM OIPE			
13	07/31/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	06/30/2003	APPLICATION RETURN TO OIPE			
11	06/27/2003	APPLICATION RETURN FROM OIPE			
10	06/30/2003	APPLICATION IS NOW COMPLETE			
9	06/27/2003	APPLICATION RETURN TO OIPE			
8	06/27/2003	APPLICATION RETURN FROM OIPE			
7	06/27/2003	APPLICATION IS NOW COMPLETE			
6	06/27/2003	APPLICATION RETURN TO OIPE			
5	06/27/2003	APPLICATION DISPATCHED FROM OIPE			
4	06/27/2003	APPLICATION IS NOW COMPLETE			
3	06/23/2003	CLEARED BY OIPE CSR			
2	06/10/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	06/03/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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ROHM AND HAAS ELECTRONIC MATERIALS LLC
455 FOREST STREET
MARLBOROUGH, MA 01752

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OFFICE OF PETITIONS

In re Application of :
Deyan Wang, et al. :
Application No. 10/453,423 : DECISION GRANTING PETITION
Filed: June 3, 2003 :
Atty Docket No. 51362 :

This is a decision in response to a communication filed September 25, 2006 transmitting a copy of a petition under 37 CFR 1.10, filed under the provisions of 37 CFR 1.8 on June 13, 2003. Since the original petition cannot be located, a decision on the copy follow.

Petitioners allege that the application was deposited in "Express Mail" Service with the U. S. Postal Service (USPS) on June 3, 2003. In support, petitioners provide, *inter alia*, a copy of the "Express Mail" mailing label receipt No. ER 326987638 US, showing a "Date-In" of "6 3 03". The same Express Mail receipt number was referred to in the original application transmittal letter found in the file. Accordingly, petitioner requests that the application be accorded a filing date of June 3, 2003, instead of the presently accorded date of June 4, 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. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the USPS on June 3, 2003.

The petition is granted.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **June 3, 2003** and issuance of a corrected filing receipt.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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7/21/03

Weingarten Schurgin Gagnebin and Lebovici LLP
Ten Post Office Square
Boston MA 02109

Dear Applicant:

The Box PGPub replacement drawings for application number 10/453,426 received on 7/7/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

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Signature of Reviewer, Office of Initial Patent Examination

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/453,438	06/03/2003	James Cornett	2002P08887US01	1844

7590 02/02/2009

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER
NORTON, JENNIFER L

ART UNIT	PAPER NUMBER
2121	

MAIL DATE	DELIVERY MODE
02/02/2009	PAPER

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

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

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

In re Application of: James Cornett, et al.	)	
Application No. 10/453,438	)	DECISION ON PETITION FOR
Attorney Docket No. 2002P08887US01	)	SUPERVISORY REVIEW
Filed: 06/03/2003	)	UNDER *37 CFR §1.181*
For: WIZARD FOR PROGRAMMING AN	)	
INTELLIGENT MODULE	)	

This is a decision on the petition, filed September 11, 2008 under 37 CFR § 1.181 requesting the Commissioner to require the Examiner to withdraw the Final rejection mailed July 11, 2008.

The petition is **DISMISSED AS MOOT**.

A review of the application file record indicates that a Request for Continued Examination (RCE) with the required fee was filed on December 10, 2008.

37 C.F.R. § 1.114(d) states, in part:

> If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination ...

Pursuant to 37 C.F.R. § 1.114(d), the amendment filed December 10, 2008 has been entered and forwarded to the examiner for issuance of an Office action.

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

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3719.

/Kakali Chaki/

Kakali Chaki
Quality Assurance Specialist
Technology Center 2100

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Commissioner for Patents
Washington, DC 20231
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7/22/03

Weingarten Schurgin Gagnebin and Lebovici LLP
Ten Post Office Square
Boston MA 02109

Dear Applicant:

The Box PGPub replacement drawings for application number 10/453,451 received on 7/18/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

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CHICAGO, IL 60603-3406

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DEC 2 2 2004

OFFICE OF PETITIONS

In re Application of :
James E. Malackowski et al :
Application No. 10/453,452 :
Filed: June 3, 2003 :
Attorney Docket No. 78990

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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
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	:	
Malackowski et al.	:	
Application No. 10/453,452	:	DECISION ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. 78990	:	

This is a decision on the "Petition under 37 CFR 1.181 to Refund or Avoid Payment of Extension Fees", filed April 17, 2007.

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.

This application would have been held abandoned for failure to reply to the Notification of Non-Compliant Appeal Brief mailed January 18, 2007, which set an extendable one (1) month shortened statutory period for reply. To make the reply timely a two month extension of time fee was submitted on April 17, 2007. This decision precedes the mailing of a Notice of Abandonment.

Petitioner asserts that the Notification of Non-Compliant Appeal Brief dated January 18, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Non-Compliant Appeal Brief, 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 Non-Compliant Appeal Brief was not in fact received. In this regard, the showing required to establish the failure to receive the Non-Compliant Appeal Brief must consist of the following:

1. a statement from practitioner stating that the Non-Compliant Appeal Brief 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 Non-Compliant Appeal Brief was not received; and

3. a copy of the docket record where the nonreceived Non-Compliant Appeal Brief 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 Non-Compliant Appeal Brief of January 18, 2007, the petition requesting refund of the extension of time fees cannot be granted.

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) 272-3215.

Nancy Johnson for

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Malackowski et al.	:	
Application No. 10/453,452	:	DECISION ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. 7696/78990	:	

This is a decision on the renewed petition, filed November 29, 2007 to refund or avoid payment of extension of time fees, under 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

This application would have been held abandoned for failure to reply to the Notification of Non-Compliant Appeal Brief mailed January 18, 2007, which set an extendable one (1) month shortened statutory period for reply. To make the reply timely a two- month extension of time fee was submitted on April 17, 2007.

Petitioner asserts that the Notification of Non-Compliant Appeal Brief dated January 18, 2007 was not timely received. To avoid abandonment petitioner submitted a reply with a two-month extension of time fee.

A review of the written record indicates no irregularity in the mailing of the non-compliant appeal brief 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 Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Office action has been met

Accordingly, the extension of time fee will be refunded.

This application is being referred to the Technology Center technical support staff of Art Unit 2617 for continued processing of the application in the normal course of business.

Charlema 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

Paper No. 110104

STRATEGIC PATEN SERVICES INC.
1096 Trestle Glen
Oakland, CA 94610

DEC 2 2004

In re Application of:	:	
Shanti Cavanaugh	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/453,455	:	
Filed: June 2, 2003	:	
Attorney Docket No.: **SPS-07**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 05, 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 Gary Zalewskiz, on behalf of himself and all the attorneys associated with Customer No. 36665.

The request is APPROVED. There are no attorneys of record at this time.

All future communications from the Office will be directed to, Shanti Cavanaugh, at the address indicated below until otherwise notified by applicant.

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

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Lighthouse Capital Partners
500 Drakes Landing Road
Greenbrea, CA 94904

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
1650 TYSONS BLVD., SUITE 300
MCLEAN, VA 22102

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Shanti A. Cavanaugh et al	:	
Application No. 10/453,455	:	ON PETITION
Filed: June 2, 2003	:	
Attorney Docket No. SPS-07	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 21, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 22, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition on May 6, 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2871 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW 02-04

KILLWORTH, GOTTMAN, HAGAN & SCHAEFF, L.L.P.
SUITE 500
ONE DAYTON CENTRE
DAYTON OH 45402-2023

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FEB 27 2004

OFFICE OF PETITIONS

In re Application of	:	
Kyozaburo Takagi	:	
Application No. 10/453,456	:	DECISION ON PETITION
Filed: 3 June, 2003	:	
Attorney Dkt. FUU 0016 PA/40929.58	:	

This is a decision on the petition filed under 37 CFR 1.182 on 10 December, 2003, requesting withdrawal of the Notice of Incomplete Nonprovisional Application mailed on 26 November, 2003.

The petition is **GRANTED**.

A review of the record reveals that on 3 June, 2003, the above-identified application was filed. On 4 August, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring the statutory basic filing fee, an executed oath or declaration, a surcharge for their late filing, and additional claim fees.

On 2 October, 2003 (certificate of mailing date 29 September, 2003), petitioners filed an oath or declaration and a check for $1,132.00. However, on 26 November, 2003, a Notice of Incomplete Reply was mailed, stating that additional filing fees were due. On 4 December, 2003, petitioner filed a reply to the Notice of Incomplete Reply, including the additional fees and a two-month extension of time and fee.

The present petition was filed on 10 December, 2003. Petitioner asserts that the response filed on 2 October, 2003, was a complete and timely response to the Notice mailed on 4 August, 2003, and that the Office erred in charging petitioner the fee amounts in effect on 1 October, 2003, rather than the fee amounts in effect on 29 September, 2003.

Petitioner's argument has been considered and is persuasive. Petitioner has included a copy of a certificate of mailing dated 29 September, 2003, which was received on 2 October, 2003, itemizing the filing of, *inter alia*, a check for $1,132.00. Furthermore, a review of Office financial records reveals that the check was received on 2 October, 2003. As petitioner correct points out, Certificate of Mailing procedures may be applied to payments of fees to the Office. As such, petitioner's reply with a Certificate of Mailing dated 29 September, 2003, should be considered filed on 29 September, 2003, and the filing fees in effect on that date applied to the subject fee payment.

As the Notice of Incomplete Reply was mailed in error, the Notice of Incomplete Reply mailed on 26 November, 2003, is **vacated**.

Since the present petition was necessitated by Office error, the petition fee is unnecessary. A treasury check refund of the petition fee, and the fees of $456.00 paid on 4 December, 2003, will be scheduled.

The application will be forwarded to Technology Center 3600 for examination in due course.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

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JUN 2 7 2008

OFFICE OF PETITIONS

In re Application of
John KELLY et al.
Application No. 10/453,459
Filed: June 02, 2003
Attorney Docket No. ONS001.00

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 20, 2008 and supplemental petition filed June 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 10, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of April 10, 2007 is accepted as having been unintentionally delayed.

The power of attorney filed by the assignee with the petition on February 25, 2008 has been accepted and made of record.

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

The application file is being referred to Technology Center AU 3629 for appropriate action on the concurrently filed amendment.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272- 4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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JUN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark Johnson	:	
Application No. 10/453,462	:	DECISION ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. 16413.1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed February 23, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 24, 2006. A Notice of Abandonment was mailed on November 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $395 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of February 23, 2006 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has

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

This application is being referred to Technology Center AU 3772 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 (previously filed).

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

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 7/17/06

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/453475 Patent No.: 7017127 B1

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: Changes are hereby approved as being only to correct typographical errors.

[signature]
SPE

2823
Art Unit

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
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Christoph Behrendt	: DECISION ON REQUEST FOR
Patent Number	: 7590987	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/453,527	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1868** 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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MICHAEL R. WILLIAMS
ADE & COMPANY
1700-360 MAIN STREET
WINNIPEG MB R3C 3Z3
CANADA

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AUG 18 2008

In re Application of	:	
Liping YU	:	
Application No. 10/453,540	:	DECISION ON PETITION
Filed: June 4, 2003	:	
Attorney Docket No. 85133-102	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed September 13, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election and amendment, (2) the petition fee of $770; and (3) the required statement of unintentional delay.

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

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received March 26, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

cc: MICHAEL R. WILLIAMS
2157 HENDERSON HIGHWAY
WINNIPEG MANITOBU CANADA R2G IP9

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P. O. BOX 2245
MORRISTOWN, NJ 07962-2245

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MAY 25 2007

OFFICE OF PETITIONS

In re Application of	:
Dipak J. Shah	:
Application No. 10/453,563	: DECISION ON PETITION
Filed: June 3, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. H16-26035	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 8, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/706,077, filed November 3, 2000, 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) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

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

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

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

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

This application is being forwarded to Technology Center Art Unit 2173 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

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/453,563	06/03/2003	2173	750	H16-26035 (9028/330)	13	3

CONFIRMATION NO. 8662

CORRECTED FILING RECEIPT

OC000000024057415

128
HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Date Mailed: 05/24/2007

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)

Dipak J. Shah, Eden Prairie, MN;

Power of Attorney:

John Shudy Jr--31214
Ian MacKinnon--34660
Craig Lervick--35244

Domestic Priority data as claimed by applicant

This application is a CON of 09/706,077 11/03/2000 PAT 6,621,507

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 US10/453,563

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Multiple language user interface for thermal comfort controller

Preliminary Class

345

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON DC 20006-5403

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DEC 01 2009

OFFICE OF PETITIONS

In re Application of
Kensaku Yamamoto et al
Application No. 10/453,578
Filed: June 4, 2003
Attorney Docket No. R2184.0232/P232

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 30, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 13, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Rule 1.48 petition.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : May 05, 2008

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/453610 Patent No.: 6895353 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

5/5/08

ELISEO RAMOS-FELICIANO
SUPERVISORY PATENT EXAMINER
SPE

2857
Art Unit

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of
Eiji Takaike
Application Number: 10/453,665
Filing Date: June 4, 2003
Attorney Docket Number: 030572

:DECISION ON PETITION

This is a decision on the petition to correct the assignee's name under 37 CFR 1.182 filed on August 4, 2005. The petition is properly treated under 37 CFR 3.81 (b) to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **Dismissed**.

Effective June 25, 2004, when a request to issue a patent to an assignee is filed after payment of the issue fee, a certificate of correction must be submitted as there is no time to process these request before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must :

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(l)

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of	:	
Takaike	:	
Application Number: 10/453,665	:	DECISION ON PETITION
Patent: 6,956,293	:	
Attorney Docket Number: 030572	:	
Filing Date: June 4, 2003	:	
Issue Date: October 18, 2005	:	

This is a decision on the petition to correct the name of the assignee under 37 CFR 1.183 filed on June 2, 2005. The petition is properly treated under 37 CFR 3.81 (b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE, SUITE 2800
SEATTLE, WA 98101-2347

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OFFICE OF PETITIONS

In re Application of
Mark BENEDIKT
Application No. 10/463,675
Filed: June 16, 2003
Attorney Docket No. MSFT120503

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 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 May 4, 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)(II)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) the required statement of unintentional delay.

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

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

This application is being referred to Technology Center AU 2436 for processing by the Examiner in the normal course of business.

Thurman Page
Petitions Examiner
Office of Petitions

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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 S. Kieval	:	
Application No. 10/453,678	:	DECISION ON PETITION
Filed: June 2, 2003	:	TO WITHDRAW
Attorney Docket No. 021433-000210US	:	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 6, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Townsend and Townsend and Crew, LLP has been revoked by the applicant of the patent application on December 7, 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: **Patterson, Thuente, Skaar & Christensen, P.A.**
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

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OFFICE OF PETITIONS

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

In re Application of	:	
Yoshiharu Hirakata, et al.	:	
Application No. 10/453,684	:	DECISION GRANTING PETITION
Filed: June 4, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7163	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 10, 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 September 24, 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 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

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Fish & Neave IP Group of
Ropes $ Gray LLP
One International Place
Boston MA 02110

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OFFICE OF PETITIONS

In re Patent No. 7,393,648	:
Rother et al.	: DECISION UPON REMAND AND
Issue Date: July 1, 2008	: RECONSIDERATION OF
Application No. 10/453,698	: PATENT TERM ADJUSTMENT
Filed: June 3, 2003	: AND NOTICE OF INTENT
Attorney Docket No. ALXN -PO2-	: TO ISSUE CERTIFICATE OF
082	: CORRECTION
Title: Hybrid Antibodies	:

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 seven hundred and fifty-seven (757) 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 seven hundred and fifty-seven (757) 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 : 7,393,648 B2

DATED : **July 1, 2008** **DRAFT**

INVENTOR(S) : Rother 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 462 days

Delete the phrase "by 462 days" and insert – by 757 days--

Day : Tuesday
Date: 3/23/2010

PALM INTRANET

Time: 16:24:33

PTA Calculations for Application: 10/453698			
Application Filing Date:	06/03/2003	PTO Delay (PTO):	538
Issue Date of Patent:	07/01/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	76
Post-Issue Petitions:	0	Total PTA (days):	757
PTO Delay Adjustment:	295		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
106	03/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	295		
98.5	06/11/2008	PTA 36 MONTHS			
98	07/01/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
97	05/30/2008	EXPORT TO FINAL DATA CAPTURE			
96	05/29/2008	DISPATCH TO FDC			
95	05/29/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
94	05/23/2008	ISSUE FEE PAYMENT VERIFIED			
93	05/23/2008	APPLICANT HAS FILED A VERIFIED STATEMENT OF SMALL ENTITY STATUS IN COMPLIANCE WITH 37 CFR 1.27			
92	05/23/2008	ISSUE FEE PAYMENT RECEIVED			
90	04/22/2008	FINISHED INITIAL DATA CAPTURE			
89	04/03/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
88	04/03/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
87	04/01/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
86	03/25/2008	EXPORT TO INITIAL DATA CAPTURE			
85	03/18/2008	MAIL NOTICE OF ALLOWANCE			
84	03/14/2008	ISSUE REVISION COMPLETED			
83	03/14/2008	DOCUMENT VERIFICATION			
82	03/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
81	03/12/2008	NOTICE OF ALLOWABILITY			
68	01/30/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			

67	02/11/2008	DATE FORWARDED TO EXAMINER			
66	01/30/2008	AMENDMENT AFTER FINAL REJECTION			
65	12/13/2007	MAIL FINAL REJECTION (PTOL - 326)			
64	12/10/2007	FINAL REJECTION			
62	09/24/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
61	10/03/2007	DATE FORWARDED TO EXAMINER			
60	09/27/2007	RESPONSE AFTER NON-FINAL ACTION		7	59
59	06/20/2007	MAIL NON-FINAL REJECTION			
58	06/13/2007	NON-FINAL REJECTION			
57	03/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	03/26/2007	REFERENCE CAPTURE ON IDS			
55.7	03/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	03/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	04/13/2007	DATE FORWARDED TO EXAMINER			
53	03/26/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
52	04/13/2007	DATE FORWARDED TO EXAMINER			
51	03/26/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
50	04/13/2007	DISPOSAL FOR A RCE / CPA / R129			
49	03/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
48	03/26/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
47	09/25/2006	MAIL FINAL REJECTION (PTOL - 326)			
46	09/08/2006	MISCELLANEOUS INCOMING LETTER			
45	09/18/2006	FINAL REJECTION			
44	04/07/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	08/11/2006	DATE FORWARDED TO EXAMINER			
42	08/07/2006	RESPONSE AFTER NON-FINAL ACTION		31	35
41	08/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
40	08/11/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
39	08/04/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

38	08/01/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
37	04/07/2006	REFERENCE CAPTURE ON IDS			
36.7	04/07/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	04/07/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	04/07/2006	MAIL NON-FINAL REJECTION			
34	04/03/2006	NON-FINAL REJECTION			
33	02/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	05/25/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	02/27/2006	REFERENCE CAPTURE ON IDS			
30.7	02/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	28
30	02/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	03/07/2006	DATE FORWARDED TO EXAMINER			
28	02/27/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
27	01/23/2006	MAIL RESTRICTION REQUIREMENT	538		-1
26	01/19/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
25	10/21/2005	CORRESPONDENCE ADDRESS CHANGE			
24	10/21/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
23	10/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	07/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
20	05/25/2005	REFERENCE CAPTURE ON IDS			
19.7	05/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	05/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	04/19/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	11/04/2003	PRELIMINARY AMENDMENT			
16	04/19/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	11/19/2003	APPLICATION DISPATCHED FROM OIPE			
14	11/19/2003	APPLICATION IS NOW COMPLETE			
13	11/04/2003	ADDITIONAL APPLICATION FILING FEES		38	4

12	11/04/2003	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
11	11/18/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
10	09/12/2003	SEQUENCE ERRORS			
8	08/26/2003	ADDITIONAL APPLICATION FILING FEES			
7	08/26/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	08/26/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
5	06/03/2003	DRAWING PRELIMINARY AMENDMENT			
4	06/27/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	06/20/2003	CLEARED BY OIPE CSR			
1	06/03/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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OFFICE OF PETITIONS

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

In re Application of
Chang, et al.
Application No.: 10/453,708
Filed: June 4, 2003
Attorney Docket No.: Q75434
For: PHOTO LABORATORY MANAGEMENT SYSTEM

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed June 4, 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 June 4, 2003 with a partially executed declaration, a petition under 37 CFR 1.47(a) and the required petition fee. A declaration of facts of Amy Don-Schroeder, human resources manager for FujiFilm Software, Inc., accompanies the petition. Ms. Don-Schroeder explains that non-signing joint inventor Loehnert was not interested in discussing the patent application. In addition, Ms. Don-Schroeder states that she mailed a copy of the application and declaration for the above-identified application, but the inventor did not respond to the request that he sign the declaration for the patent application. A declaration of facts of Wendy LeGate explains that on February 25, 2003 Mr. Loehnert stated that he would not sign the declaration unless he received additional compensation and recommendation letters.

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. All information for Mr. Loehnert is missing. The signing inventors must execute another declaration that lists the application serial number and filing date, contains the signers' own information, and lists Mr. Loehnert's citizenship, residence, and post office address.

The citizenship of each inventor must be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 USC 115, it cannot be waived.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor 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
Attn: E. Shirene Willis

By facsimile: (703) 308-6916
Attn: Office of Petitions -- E. Shirene Willis

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
Attn: E. Shirene Willis

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
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Paper No. 8

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

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DEC 3 0 2003

OFFICE OF PETITIONS

In re Application of
Chang, et al.
Application No.: 10/453,708
Filed: June 4, 2003
Attorney Docket No.: Q75434
For: PHOTO LABORATORY MANAGEMENT SYSTEM

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed December 15, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor Loehnert has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of Amy Don-Schroeder, human resources manager for FujiFilm Software, Inc., explains that she mailed a copy of the application and declaration for the above-identified application to Loehnert, but the inventor did not respond to the request that he sign the declaration for the patent application. A declaration of facts of Wendy LeGate explains that on February 25, 2003 Mr. Loehnert stated that he would not sign the declaration unless he received additional compensation and recommendation letters. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 3600 for consideration of the petition for retroactive foreign filing license, filed June 4, 2003.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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James D. Withers
Withers & Keys, LLC
P.O. Box 2049
McDonough, GA 30253

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AUG 1 2 2005

OFFICE OF PETITIONS

In re Application of :
Chisholm et al. :
Application No. 10/453,711 :
Filed: June 3, 2003 :
Attorney Docket No. 10008.0074USD4 :

ON PETITION

This is a decision on the petition under 37 CFR 1.47 filed May 23, 2005, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by all of the named inventors.

The petition under 37 CFR 1.183 is **dismissed.**

Petitioner requests the Office accept the 37 CFR 1.131 declaration without the signature of inventor Robert Chisholm. Petitioner has shown that Chisholm was contacted and that he refused to sign the declaration.

In view of the efforts recounted in the petition to obtain the signature of Chisholm, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed May 23, 2005.

However, the petition cannot be granted because the full petition fee has not been submitted.

The petition is properly considered under 37 CFR 1.183 rather than 37 CFR 1.47. Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

The fee for a petition under 37 CFR 1.47 is $200. Petitioner has submitted $200 for the fee. However, the fee for a petition under 37 CFR 1.183 is $400. Although fee authorizations are included as parts of some of the papers filed May 23, 2005, the fee authorizations do not clearly apply to this paper. Either a check for $200 or clear authorization to charge the fee to petitioner's deposit account should be filed.

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 not permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183."

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: (573) 273-8300
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 (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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James D. Withers
Withers & Keys, LLC
P.O. Box 2049
McDonough, GA 30253

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Chisholm et al. :
Application No. 10/453,711 :
Filed: June 3, 2003 :
Attorney Docket No. 10008.0074USD4 :

This is a decision on the renewed petition under 37 CFR 1.183 filed August 18, 2005, seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by all of the named inventors.

The petition under 37 CFR 1.183 is **granted.**

Petitioner requests the Office accept the 37 CFR 1.131 declaration without the signature of inventor Robert Chisholm. Petitioner has shown that Chisholm was contacted and that he refused to sign the declaration.

In view of the efforts recounted in the petition to obtain the signature of Chisholm, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed May 23, 2005.

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

The Office notes that the examiner may still object to the declaration based on the fact that all the inventors did not sign the declaration if the Rule 48 petition is not granted.

The examiner, or another member of his TC Art Unit, will render a decision on the Rule 48 petition filed on May 23, 2005.

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

UNITED STATES DEPARTMENT OF COMMERCE
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ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Scott H. Mathews	: DECISION ON REQUEST FOR
Patent Number	: 7627495	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/453,727	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1651** 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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ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Scott H. Mathews	: DECISION ON REQUEST FOR
Patent Number	: 7627495	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/453,727	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1651** 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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ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 05/18/2010

Applicant : Scott H. Mathews
Patent Number : 7627495
Issue Date : 12/01/2009
Application No : 10/453,727
Filed : 06/03/2003

: 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 **1734** 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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FITZPATRICK CELLA HARPER &
SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OFFICE OF PETITIONS

In re Application of

Tsutomu Ikeda

Application No. 10/453,768

Filed: June 4, 2003

Attorney Docket No. 03500.017307

DECISION ON PETITION

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

The petition is **granted**.

This application was held abandoned March 14, 2005, after no reply was received to the non-final Office action mailed December 13, 2005. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on March 14, 2005. A Notice of Abandonment was mailed June 28, 2006. The instant petition was filed on August 28, 2006. Petitioner maintains that the non-final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

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

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

The application file is being forwarded to Technology Center 2800, GAU 2873 for further processing including remailing of the non-final Office action and resetting of the time period for reply.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JAMES V. HARMON
SUITE 2000
PILLSBURY CENTER
220 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402

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JUL 1 4 2005

OFFICE OF PETITIONS

In re Application of	:
Errol O. Singh	:DECISION GRANTING PETITION
Application No. 10/453,770	:UNDER 37 CFR 1.137(b)
Filed: June 3, 2003	:
Attorney Docket No. None	:

This is a decision on the petition, filed June 29, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 21, 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 USPTO 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 previously rescinded.

This matter is being referred to Publishing Division to be Publishing Division to be processed into a patent.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

Wan Laymon

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

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IP Patent Docketing
K&L GATES LLP
599 Lexington Avenue
33rd Floor
New York, NY 10022-6030

Mail Date: 04/21/2010

Applicant	: Christopher Collins	: DECISION ON REQUEST FOR
Patent Number	: 7590950	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/453,772	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1371** 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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101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Scott H. Mathews	: DECISION ON REQUEST FOR
Patent Number	: 7599849	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/453,779	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1789** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 12, 2008

TO SPE OF : ART UNIT 3766

SUBJECT : Request for Certificate of Correction for Appl. No 10/453785 patent no7280870

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: EXAMINER'S SUPPLEMENTAL NOA OF 6/20/07 FORGOT TO FORMALLY ENTER CHANGES TO BASE CLAIM 1 WITH THE SUBJECT MATTER OF CLAIMS 4 AND 6 OF 7,280,870, WHICH WERE CANCELLED. THE PRESENT CERT. OF CORRECTION REMEDIES THIS DEFECT. ALL OTHER CLAIMS ARE UNCHANGED AND NO NEW MATTER IS PRESENT. CLAIMS HAVE BEEN RENUMBERED.

Carl H. Layno — SPE

3766 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/453,790	06/04/2003	Philip J. Lingle	3691-562	6342

23117 7590 03/23/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
PIZIALI, ANDREW T

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
03/23/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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wk

Mailed : 3/23/09

In re Application of
Lingle et al.
Serial No. 10/453,790
Filed: June 4, 2003
For: Heat Treatable Low-E Coated Articles And Methods Of Making Same.

DECISION ON PETITION

This is a response to withdraw the abandonment of this application and is being considered as a PETITION UNDER RULE 37 C.F.R. 1.181(a). A Notice of Abandonment dated January 30, 2008 was mailed out to Applicant. Petitioner on January 29, 2009 has filed a petition to withdraw the notice of abandonment.

DECISION

Rule 1.181, Section (f) states:
§ 1.181 Petition to the Commissioner.

(f) 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

Accordingly, the instant petition is **DISMISSED.**

Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Joseph A. Rhoa
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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JUN 1 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Philip J. Lingle, et al.	:	
Application No. 10/453,790	:	ON PETITION
Filed: June 4, 2003	:	
Attorney Docket No. 3691-562	:	

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

The petition is **DISMISSED**.

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

The application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1) mailed November 20, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 21, 2007. See MPEP 1215.04. The Notice of Abandonment was mailed January 30, 2008.

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

According the examiner the Supplemental Appeal Brief filed herewith petition is non-compliant.

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

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 Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
Philip J. Lingle, et al.	:	
Application No. 10/453,790	:	ON PETITION
Filed: June 4, 2003	:	
Attorney Docket No. 3691-562	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 12, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1) mailed November 20, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 21, 2007. See MPEP 1215.04. The Notice of Abandonment was mailed January 30, 2008.

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

According the examiner the Supplemental Appeal Brief filed herewith petition is non-compliant.

A $1,620 refund will be credited to your deposit account. There is no charge to file a renewed petition.

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

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 Terri Johnson at (571) 272-2991.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
Philip J. Lingle, et al.	:	
Application No. 10/453,790	:	DECISION ON PETITION
Filed: June 4, 2003	:	
Attorney Docket No. 3691-562	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1) mailed November 20, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 21, 2007. See MPEP 1215.04. The Notice of Abandonment was mailed January 30, 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 appeal brief, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
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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8TH FLOOR
ARLINGTON, VA 22201-4714

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SEP 22 2003

OFFICE OF PETITIONS

In re Application of Stuyver et al. Application No. 10/453,792 Filed: June 4, 2003 Attorney Docket No. 2551-120	DECISION ON PETITION

This is a decision on the "PETITION," filed August 27, 2003, requesting that the Office accept Figures 3, 5, 6 and 7 as having been originally-filed with the application on June 4, 2003. Accompanying this petition was a "REFUND REQUEST," requesting refund of the petition fee.

The petition is **DISMISSED**.

The request for refund is **DISMISSED**.

Application papers in the above-identified application were filed on June 4, 2003. However, on August 14, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," advising applicants that the application papers had been accorded a filing date; however, figures 3, 5, 6 and 7 described in the specification appeared to have been omitted from the application.

In response, applicants timely filed the instant petition (and petition fee). Applicants assert that the application as filed included 28 pages of drawings, including figures 3, 5, 6 and 7. In support thereof, applicants submit a copy of their return postcard from the USPTO. Applicants also supply copies of figures 3, 5, 6 and 7.

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. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on June 4, 2003; 2) it specifically identifies the items being filed, including "28 Sheets of Drawings" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including at least 28 sheets of drawings, were filed on June 4, 2003.

The PTO file is the official record of the papers originally filed in this application. The sheets of drawings present in the application file were reviewed along with the drawing sheets

containing figures 3, 5-7 supplied on petition. These papers together do not constitute the item described on the postcard receipt as "28 Sheets of Drawings." The only drawing figures present in the application file are those filed with the preliminary amendment submitted on filing (e.g., revised Figures 1, 2 and 4). Moreover, these revised figures are set forth on 71 drawings sheets. Where more sheets of drawings are among the papers being filed than listed on a postcard receipt, Office personnel will not denote that any sheets are missing. Petitioner's postcard evidence does not show that more sheets of drawings were submitted on filing than are present in the application filed. Thus, it is concluded that petitioner has not proved persuasive evidence that figures 3, 5, 6 and 7 were among the items present in the application on the date of deposit and should be included in the original application disclosure.

Nonetheless, petitioners also state that the missing figures were present in the application by virtue of an incorporation by reference statement. A review of the application as filed reveals that it includes in the application transmittal a statement incorporating the entire contents of prior application 09/155,885 and of PCT/EP97/02002. Thus, petitioners may seek relief by way of preliminary amendment. MPEP 201.06(c) provides that:

> If a continuation or divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need not respond to the "Notice of Omitted Item(s)."

Applicants should submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g). (emphasis added).

As petitioner has not shown that the Notice of Omitted Items was mailed in error, the petition fee is not subject to refund.

The application is being returned to the Office of Initial Patent Examination (OIPE) for:

- processing **with a filing date of June 4, 2003** using the application papers received in the Office and presently accorded that date; and
- indication in Office records that figures 3, 5, 6 and 7 were **not** present in the application on filing.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SEP 29 2003

OFFICE OF PETITIONS

In re Application of
Stuyver et al.
Application No. 10/453,792
Filed: June 4, 2003
Attorney Docket No. 2551-120

CORRECTED
DECISION ON PETITION

This is a **corrected** decision on the "PETITION," filed August 27, 2003, requesting that the Office accept Figures 3, 5, 6 and 7 as having been originally-filed with the application on June 4, 2003. Accompanying this petition was a "REFUND REQUEST," requesting refund of the petition fee.

Application papers in the above-identified application were filed on June 4, 2003. However, on August 14, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," advising applicants that the application papers had been accorded a filing date; however, figures 3, 5, 6 and 7 described in the specification appeared to have been omitted from the application. In a decision mailed September 22, 2003, the petition filed August 27, 2003, was dismissed based on a conclusion that the evidence presented did not clearly show that the application as filed included 28 pages of drawings, including figures 3, 5, 6 and 7.

On September 26, 2003, attorney of record B.J. Sadoff met with petitions attorney Nancy Johnson to discuss the dismissal of the petition. Upon review of the file, it was demonstrated that the 28 sheets of drawings referred to on applicants' return postcard receipt were in fact present in the application file with a date of receipt of June 4, 2003 stamped thereon. The original application disclosure included a copy of the application as filed under the Patent Cooperation Treaty, PCT/EP97/02002, including 28 sheets of drawings.

This review of the file revealed that the Office erred in confusing the 71 sheets of drawings filed with the preliminary amendment as the 28 sheets of drawings filed as a part of the original application disclosure, and further erred in issuing the Notice of Omitted Item(s) in a Nonprovisional Application mailed August 14, 2003 citing figures 3, 5, 6 and 7 as appearing to have been omitted. Furthermore, the undersigned erred in not recognizing these errors and dismissing the petition filed August 27, 2003.

In view thereof, the Decision on Petition mailed September 22, 2003 is hereby **VACATED**.

The petition filed August 27, 2003 is **GRANTED**.

The request for refund is **GRANTED**.

The petition fee of $130 is being refunded to Deposit Account No. 14-1140, as authorized.

The application is being returned to the Office of Initial Patent Examination (OIPE) for:

- processing **with a filing date of June 4, 2003** using the application papers received in the Office and presently accorded that date;
- indication in Office records that the application as filed included 28 sheets of drawings (figures 1-7); and
- for scanning of the 28 sheets of drawings (figures 1-7 - copy of drawings from PCT/EP97/02002) and identification of those drawings as the 28 sheets of drawings present on application filing (the 71 sheets of drawings now noted are a part of the preliminary amendment).

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET, SUITE 400
SYRACUSE, NY 13202

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DEC 13 2005

OFFICE OF PETITIONS

In re Application of
William H. Havens et al
Application No. 10/453,796
Filed: June 3, 2003
Attorney Docket No. 283-258.02

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed December 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2876 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of an amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

Paula D. Morris
Paula D. Morris & Associates, P.C.
Suite 930
2925 Briar Park Dr.
Houston TX 77042-3728

In re Application of
Webb et al.
Application No. 10/453,803
Filed: June 3, 2003
For: REMOVAL OF DRAG REDUCER ADDITIVE FROM FUEL BY TREATMENT WITH SELECTED ACTIVATED CARBONS AND GRAPHITES
Attorney Docket No: SwRI-2846-04
Pub. No.: US 2004/0015034 A1
Pub. Date: January 22, 2004

This is a response to the request for corrected patent application publication under 37 CFR 1.221(b), filed on March 31, 2004, because the patent application publication is missing the assignee information on the front page of the publication.

The request is DISMISSED at applicants request in response to a phone call on May 14, 2004.

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]

Inquires concerning this communication should be directed to Shelby Pittman at (703) 305-8169 (voice) or (703) 305-8568 (facsimile).

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

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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Law Offices of Brian Steinberger
101 Brevard Avenue
Cocoa, FL 32922

MAILED

FEB 0 6 2004

REEXAM UNIT

Enclosure: Original letters patent for U.S. Patent 5,989,595

In re Application of	:	
Barry W. Cummins	:	DECISION GRANTING PETITION TO
Appl. No. ~~10/458,805~~ 10/453,805	:	EXPUNGE AND REPLACE DOCUMENTS
Deposited June 3, 2003	:	**AND** NOTICE OF INCOMPLETE
Atty. Dock. No. PC1461RI	:	APPLICATION

This is a decision on applicant's petition of July 16, 2003, taken (1) under 37 CFR 1.59(b) as a request to expunge and return an incorrect original letters patent unintentionally submitted in the present application and (2) under 37 CR 1.182 as a petition to replace the completed Form PTO/SB/50 submitted with the application for reissue, with a corrected Form PTO/SB/50 submitted with the present petition.

This is also a Notice of Incomplete Application.

The Petition and application record are before the Office of Patent Legal Administration.

1) The petition is granted.

2) The present application is incomplete for the reasons set forth below.

DECISION ON PETITION

A review of the record shows that the application papers refer to two U.S. patents - U.S. Patents 5,989,595 and 6,242,011. The record is clear, however, that the patent for which reissue was requested was U.S. Patent 6,242,011, and the letters patent for U.S. Patent 5,989,595 was clearly submitted in error.

Accordingly, it is appropriate to expunge the letters patent for U.S. Patent 5,989,595 from the application and return it to petitioner.

In addition, it is appropriate to replace the Reissue Patent Application Form PTO/SB/50 with a corrected Form PTO/SB/50.

Thus, the petition is granted.

NOTICE OF INCOMPLETE APPLICATION

Pursuant to 37 CFR 1.173(a)(1) [Specification, including claims]:

> "The entire specification, including the claims, of the patent for which reissue is requested must be furnished in the form of a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper."

The instant specification was filed as a re-typed application, and as such, does not comply with 37 CFR 1.173(a)(1), and is not entitled to a filing date. Also, the papers necessary to accord the application a filing date (a proper specification, pursuant to 37 CFR 1.173(a)(1)) have not been submitted with the present petition. Thus, the above-identified application is not entitled to a filing date.

A corrected reissue specification is required in the form of a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper. The date that the corrected specification is filed will be the filing date of the above-identified application. Applicant may, however, submit, along with the corrected specification, a petition under 37 CFR 1.182 (with the fee for same) to accord the above-identified application a filing date as of the date of deposit. The Office of Petitions may be contacted at (703) 305-9282 as to the specifics of filing such a petition. No assurance can be made that any such petition for filing date that is filed will be granted. Further, any decision granting such a petition will not apply to any other matter that may be later discovered during the review of this reissue application that might affect the filing date.

INFORMAL AMENDMENT

The preliminary amendment accompanying the submission of the instant application has been incorrectly drafted to comply with the requirements of 37 CFR 1.121. Pursuant to 37 CFR 1.121(h), "[a]ny amendment to the description and claims in reissue applications must be made in accordance with § 1.173." Thus, amendments in a reissue application must be in compliance with 37 CFR 1.173(b). Accordingly, the preliminary amendment is not a formal amendment, and should be re-submitted to comply with the requirements of 37 CFR 1.173(b). Petitioner is referred to Manual of Patent Examining Procedure § 1453 which is directed to compliance with 37 CFR 1.173.

CONCLUSION

1. The petition under 37 CR 1.59(b) and 37 CFR 1.182 is granted.

2. The original letters patent for U.S. Patent 5,989,595, submitted with the application, is being returned to petitioner with this decision.

3. The application is incomplete. Applicant is being provided with **a period of TWO MONTHS** from the mailing of this Decision to file a reissue specification of the patent for which reissue is requested, in the form of a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper. The filing may be accompanied by a petition under 37 CFR 1.182 to accept the reissue specification and accord the above-identified application a filing date as of the date of deposit.

4. The preliminary amendment submitted with the application is informal for the reasons set forth above. A replacement preliminary amendment in compliance with 37 CFR 1.173 should accompany the filing of the reissue specification.

5. Any reply to this decision and notice must be filed within TWO MONTHS of the date of this decision in order to be considered timely (37 CFR 1.181(f)). Failure to file a timely reply will result in the return of the application to Office of Initial Patent Examination for processing as an incomplete application under 37 CFR 1.53(b). Any such filing should be should be addressed as follows:

By mail: Central Reexamination Unit
Office of Patent Legal Administration
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 305-1013
Central Reexamination Unit
Attn: Kenneth Schor

By HAND: Central Reexamination Unit
Crystal Plaza Three-Four, 3D68
2201 South Clark Place
Arlington, VA

5. The reexamination file is being forwarded to the Central Reexamination Unit (CRU) for:

A. Entry of the corrected Reissue Patent Application Transmittal Form PTO/SB/50 submitted with the petition in place of the Form PTO/SB/50 submitted with the reissue application. The incorrect Form PTO/SB/50 submitted with the reissue application will be placed in the right flap of the file wrapper for storage;

B. Placement in the file of the original letters patent for U.S. Patent 6,242,011 submitted with the petition; and

C. Mailing the instant decision and Notice, and returning the original letters patent for U.S. Patent 5,989,595 to petitioner as an enclosure to the mailing.

6. The application will then be stored in the Office of Patent Legal Administration pending the filing of a petition and replacement amendment as discussed above, or the expiration of the period of time to do so.

7. Any questions regarding this decision should be directed to the undersigned at (703) 308-6710.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

February 6, 2004
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Law Offices of Brian Steinberger
101 Brevard Avenue
Cocoa, FL 32922

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MAR 1 6 2005

OFFICE OF PETITIONS

In re	:	
Barry W. Cummins	:	DECISION
Reissue Application No. 10/453,805	:	GRANTING
Deposited: June 3, 2003	:	PETITION
Attorney Docket No. PC1461RI	:	

This is a decision on the PETITION TO GRANT FILING DATE OF JUNE 3, 2003 UNDER 37 CFR 1.182 which was filed March 1, 2005. In the petition, it is requested that the application papers which were submitted on March 2, 2004, be accorded a filing date of June 3, 2003. It is also requested that the record be corrected, as follows:

1. "37 CFR 1.173(d)" in Applicant's Preliminary Amendment of March 2, 2004, should read -37 CFR 1.173(b); and

2. "Appl. No. 10/458,805" in the USPTO Decision mailed February 6, 2004 Granting Petition to Expunge and Replace Documents and Notice of Incomplete Application.

The petition is before the Office of Patent Legal Administration for decision.

The petition is <u>granted</u> to the extent indicated herein.

REVIEW OF FACTS

1. On June 3, 2003, the application was deposited as an application for reissue of Patent No. 6,242,011. However, the application was filed with an incorrect Reissue Patent Application Transmittal (Form PTO/SB/50) and with a corresponding incorrect letters patent.

2. On July 16, 2003, applicant filed a PETITION TO SUBMIT SUBSTITUTE REISSUE PATENT APPLICATION TRANSMITTAL/PTO/SB/50 AND ORIGINAL PATENT FOR SURRENDER UNDER (37 CFR 1.322(b), to correct their filing errors.

3. On February 6, 2004, the Office of Patent Legal Administration (OPLA) mailed a DECISION GRANTING PETITION TO EXPUNGE AND REPLACE DOCUMENTS AND NOTICE OF INCOMPLETE APPLICATION, returning the letters patent submitted in error and notifying applicant that the reissue application was incomplete. In addition, applicant was advised that the preliminary amendment submitted with the application was informal, and that a replacement preliminary amendment in compliance with 37 CFR 1.173 should accompany the filing of the reissue specification.

4. On March 1, 2005, the present petition was filed. On March 10, 2005, the petition was supplemented with payment of the petition fee at the increased rate of $400. Applicant submits copies of a PETITION TO ENTER CORRECTED COPY OF SPECIFICATION AND PRELIMINARY AMENDMENT, the specification under 37 CFR 1.173(a)(1) and a Preliminary Amendment under 37 CFR 1.173(b). Accompanying these papers is evidence in the form of a postcard receipt that applicant originally responded with the filing of a copy of specification and preliminary amendment received in the Office on March 2, 2004.

DECISION ON PETITION TO ACCORD FILING DATE

Petitioner requests that the application, as supplemented by the papers filed on March 2, 2004 (and resubmitted with the instant petition filed March 1, 2005), be accorded a filing date of June 3, 2003, based on the deposit of application papers made on that date.

Petitioner's evidence has been considered, and it is persuasive to the extent that it shows applicant to have timely responded to the decision mailed February 6, 2004. However, it is not persuasive that the response received March 2, 2004 included the specification and preliminary amendment. 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. However, the postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application, where one of the components or a portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items. See MPEP 503.

Petitioner's receipt lists a "copy of specification" and "preliminary amendment" among the contents of the filing. The receipt does not adequately itemize the contents (e.g., specification _4_ pages). Thus, the receipt is not persuasive evidence of the presence of the items petitioner maintains were filed on March 2, 2004: a 4 page corrected reissue specification in compliance with § 1.173(a)(1); an 8 page replacement preliminary amendment (including cover page); with a 1 page petition to enter corrected copy of specification and preliminary amendment.

Nonetheless, as this is an application for reissue, the content of the specification, claims and drawings and its timeliness for filing are not in question, and were not in question on the date of deposit. This is so, even though the deposited application papers contained a copy of the wrong letters patent. As stated on decision mailed February 6, 2004, the record is clear that the patent for which reissue was requested was U.S. Patent 6,242,011.

In view of the above, this application is accepted as a complete application, and it is accorded a filing date of June 3, 2003.

Moreover, as requested, the copy of record of the PRELIMINARY AMENDMENT under 37 CFR 1.173(d) has been corrected to reference 37 CFR 1.173(b). Likewise, the copy of record in the application of the DECISION GRANTING PETITION TO EXPUNGE AND REPLACE DOCUMENTS mailed February 6, 2004, has been corrected to reference application No. 10/453,805.

The petition fee of $400 has been charged to petitioner's Credit Card, as authorized.

CONCLUSION

1. The petition is **granted**.

2. The application is being returned to the Office of Initial Patent Examination for further processing as a reissue application with a filing date of June 3, 2003, using the application papers deposited on petition filed March 10, 2005.

3. Receipt is acknowledged of the requested specification (copy of Patent No. 6,242,011) and the replacement Preliminary Amendment resubmitted March 1, 2005.

4. Telephone inquiries related to this decision should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

3-16-04
pet5\10453805_FD+correct records+post-card.wpd

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LAW OFFICES OF BRIAN S STEINBERGER
101 BREVARD AVENUE
COCOA FL 32922

COPY MAILED

SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
Barry W. Cummins :
Application No. 10/453,805 : DECISION ON PETITION
Filed: 06/03/2003 :
Attorney Docket No. PC-1461RI :

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2007, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional petition fee is necessary.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of August 9, 2006, which set a three (3) month shortened statutory period for reply. On October 31, 2006, petitioner filed an amendment; however, the Examiner indicated in an Advisory Action that the amendment did not place the application in condition for allowance. On December 8, 2006, petitioner submitted a request for an extension of time for response within the first month and paid the correct fee in the amount of $60.00. On December 28, 2006, petitioner submitted a reply and a second request for an extension of time for response within the first month and a $60.00 fee. Thereafter, on February 1, 2007, petitioner submitted a reply and a third request for an extension of time for response within the first month and a $60.00 fee. Unfortunately, the replies of December 28, 2006, and February 1, 2007, were untimely because petitioner did not pay the correct fee due for an extension of time within the third month (i.e. $510.00 - $180.00= $330.00). Furthermore, the Examiner indicated that neither amendment placed the application in condition for allowance. Therefore, in the absence of a timely and proper reply, the application became abandoned on December 10, 2006. A Notice of Abandonment was mailed on February 22, 2007.

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 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.

The present petition does not satisfy requirement (1) and (3) above.

As to item (1), 37 CFR 1.137(b)(3) requires that petitioner make 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."

As to item (3), the Examiner determined that the amendments of December 28, 2007, and February 1, 2007, did not place the application in condition for allowance. However, it does not appear that petitioner submitted a proper reply to the outstanding final Office action with this petition.

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:

(1) A Notice of Appeal and appeal fee;

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

(3) 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; or

(4) The filing of a continuing application under 37 CFR 1.53(b).

Before the present application can be revived, petitioner must file a renewed petition under 37 CFR 1.137(b), make a proper statement of unintentional delay, and submit an appropriate reply to the outstanding final Office action within TWO MONTHS of the mail date of this decision.

Lastly, petitioner stated that on February 14, 2007, he received a phone call from a USPTO employee regarding insufficient fees. Petitioner indicated that on February 15, 2007, he faxed a Credit Card Payment Form (PTO-2038) in the amount of $900.00 to the USPTO with authorization to pay the

deficit fees for this application. Petitioner stated that the fees were processed on February 19, 2007 with a transaction date of February 15, 2007, as shown on the firm credit card statement, which accompanied the petition.

The Office notes that the $900.00 fee was submitted to the USPTO after the six month statutory period for reply had lapsed. Pursuant to 37 CFR 1.136, a request for an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment (i.e. on or before Monday, December 11, 2006). Therefore, the Office erroneously accepted and charged petitioner's credit card for the $900.00 extension of time fee. Accordingly, the $900.00 extension of time fee, as well as the insufficient extension of time fees paid on December 28, 2006, and February 1, 2007, in the amount of $120.00 (for a total of $1,020.00) will be refunded to petitioner's credit card in due course.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICES OF BRIAN S STEINBERGER
101 BREVARD AVENUE
COCOA FL 32922

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DEC 1 4 2007

OFFICE OF PETITIONS

In re Application of :
Barry W. Cummins :
Application No. 10/453,805 : DECISION ON PETITION
Filed: 06/03/2003 :
Attorney Docket No. PC-1461RI :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of August 9, 2006, which set a three (3) month shortened statutory period for reply. On October 31, 2006, petitioner filed an amendment; however, the Examiner indicated in an Advisory Action that the amendment did not place the application in condition for allowance. On December 8, 2006, petitioner submitted a request for an extension of time for response within the first month and paid the correct fee in the amount of $60.00. On December 28, 2006, petitioner submitted a reply and a second request for an extension of time for response within the first month and a $60.00 fee. Thereafter, on February 1, 2007, petitioner submitted a reply and a third request for an extension of time for response within the first month and a $60.00 fee. Unfortunately, the replies of December 28, 2006, and February 1, 2007, were untimely because petitioner did not pay the correct fee due for an extension of time within the third month (i.e. $510.00 - $180.00= $330.00). Furthermore, the Examiner indicated that neither amendment placed the application in condition for allowance. Therefore, in the absence of a timely and proper reply, the application became abandoned on December 10, 2006. A Notice of Abandonment was mailed on February 22, 2007. On March 21, 2007, petitioner filed a petition under 37 CFR 1.137(b), which was dismissed by the decision of September 17, 2007. On October 12, 2007, petitioner filed the present renewed petition.

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

The Office finance records reveal that petitioner submitted a $770.00 fee for filing the present renewed petition, as well as a $1,115.00 fee for an extension of time for response within the fifth month. The Office notes that a second petition fee is not required. Furthermore, the Office reminds petitioner that 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). In this instance, petitioner submitted the $1,115.00 extension of time fee with the renewed petition after the maximum extendable period for reply. Accordingly, the $1,115.00 extension of time fee and the $770.00 petition fee are unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1616 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

DO NOT SEND TO WAREHOUSE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5205

Paper No.: 03/2005
SN 10/453,810

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction on Patent No.: 6831766

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should the Changes be made?

R Johnson

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

2881
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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

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APR 1 0 2008

OFFICE OF PETITIONS

In re Application of

MACKAY, Gordon
Application No. 10/453,813
Filed: June 02, 2003
Attorney Docket No. **CISCP262C1/7874**

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 07, 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 James E. Austin on behalf of all attorneys of record who are associated with customer No. 22434.

Haruo Yawata has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed February 19, 2005 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

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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SEP 25 2009

OFFICE OF PETITIONS

In re Application of	:	
COOPER, Geoffrey et al.	:	
Application No. 10/453,824	:	DECISION ON PETITION
Filed: June 02, 2003	:	TO WITHDRAW
Attorney Docket No. **SECU0010CIP-2**	:	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, 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 Michael A. Glenn on behalf of all attorneys of record who are associated with customer No. 22862. 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 September 22, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **GEOFFREY COOPER**
2542 WEBSTER
PALO ALTO, CA 94301

cc: **SECURIFY, INC., C/O THOMAS F. BRENNAN,**
SCHWEGMAN, LUNDBERG, WOESSNER, P.A.
1600 TCF TOWER, 121 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402

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DAVID LEE HOLCOMB
11043 CEDARVIEW RD
CHARLOTTE NC 28226

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OFFICE OF PETITIONS

In re Application of	:	
Holcomb, David Lee	:	
Application No. 10/453,837	:	ON PETITION
Filed: August 29, 2003	:	
Title: Applicator Pen	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 21, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fee (previously submitted on January 27, 2005); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No. 4

BEUSSE, BROWNLEE, BOWDOIN & WOLTER, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

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SEP 03 2003

OFFICE OF PETITIONS

In re Application of	:
Jason M. Hendler	:
Application No. 10/453,841	:DECISION GRANTING PETITION
Filed: 3 June, 2003	:
Atty Dckt No. D029/069987-030	:

This is a decision on the petition under 37 CFR 1.10(c) filed on 23 June, 2003, requesting that the above-identified application be accorded a filing date of 3 June, 2003, instead of the presently accorded filing date of 4 June, 2003.

The petition is **GRANTED**.

Petitioner asserts that the application was deposited in Express Mail service on 3 June, 2003. In support, petitioners have provided a copy of USPS Express Mail Customer Online Record No. EO000740333US (the same Express Mail number found on the itemized Utility Patent Application Transmittal sheet filed with the original application papers located in the official file). While the Customer Online Record does not contain a "date-in", it does contains an Official USPS Postmark dated 3 June, 2003. Furthermore, a review of the USPS.com Internet database shows that the Express Mail shipment bearing the above-identified Express Mail number was "Enroute" on 3 June, 2003.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is 3 June, 2003.

In view of the above, the application is entitled to a filing date of 3 June, 2003.

The petition is granted. No petition fee has been submitted and none is due.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of 3 June, 2003,

and for issuance of a corrected Filing Receipt.

Telephone inquiries may be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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TECHNOLOGY CENTER 2600

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

In re application of:
Reza Etemadi
Application No. 10/453,878
Filed: June 3, 2003
For: SYSTEM AND METHOD FOR IMPLEMENTING COMBINED PACKETIZED TDM STREAMS AND TDM CROSS CONNECT FUNCTIONS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on September 27, 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 satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 20350 have been withdrawn.

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

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

cc: Kris V. Kalidindi, Esq.
Potomac Patent Group, PLLC
2010 Corporate Ridge, Suite 700
McLean, VA 22102

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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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KRIS V. KALIDINDI, ESQ.
POTOMAC PATENT GROUP, PLLC
2010 CORPORATE RIDGE
SUITE 700
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Etemadi et al.	:	DECISION ON PETITION
Application No. 10/453,878	:	TO WITHDRAW
Filed: June 2, 2003	:	FROM RECORD
Attorney Docket No. 020510-004300US	:	

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 16, 2005, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **NOT APPROVED.**

A review of the file record indicates that Kris Kalidindi does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the current address of record above until otherwise properly notified by the applicants.

The Revocations/Appointments of Power of Attorney and Authorization of Agents submitted on September 2, 2005 and March 7, 2006 were incomplete, as they did not include the required Statement under 37 CFR 3.73(b).

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

David Bucci
Petitions Examiner
Office of Petitions

cc:

CIENA CORPORATION
1201 WINTERSON ROAD
LINTHICUM, MD 21090

MEREK, BLACKMON & VOORHEES, LLC
673 SOUTH WASHINGTON STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

In re Application of	:	
EVANGELIDES, Stephen G. Jr.	:	
Application No. 10/453,898	:	DECISION ON PETITION
Filed: June 03, 2003	:	TO WITHDRAW
Attorney Docket No. **9005/2**	:	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, 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).

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CHOATE, HALL & STEWART LLP**
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/27/2010

Applicant	: Erwin Hochmair	: DECISION ON REQUEST FOR
Patent Number	: 7587246	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/453,902	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1434** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

COPY MAILED
APR 13 2006
OFFICE OF PETITIONS

In re Application of :
Dimig, et al. : DECISION ON PETITION
Application No. 10/453,903 :
Filed: June 3, 2003 :
Docket No.: 087801-9018-01 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 4, 2006 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed October 3, 2005. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed February 27, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY UT 84111

COPY MAILED
APR 09 2008
OFFICE OF PETITIONS

In re Application of	:	
Kelly, et al.	:	
Application No. 10/453,904	:	ON PETITION
Filed: June 2, 2003	:	
Attorney Docket No. ONS003.PV	:	

This is a decision on the petition filed on March 20, 2008, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to timely respond to the Notice of Non-Compliant Amendment mailed on June 12, 2006. This Office action set an extendable period for reply of one (1) month. No reply having been received, the above-identified application became abandoned on July 13, 2006. The Office mailed a Notice of Abandonment on October 13, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition does not contain a handwritten or S-signature pursuant to 37 CFR 1.4(d). Accordingly, upon request for reconsideration, petitioner must file a petition bearing a signature. No further fee is required on renewed petition.

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

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY UT 84111

COPY MAILED
MAY 27 2008
OFFICE OF PETITIONS

In re Application of	:	
Kelly, et al.	:	
Application No. 10/453,904	:	ON PETITION
Filed: June 2, 2003	:	
Attorney Docket No. ONS003.PV	:	

This is a decision on the renewed petition filed on April 29, 2008, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely respond to the Notice of Non-Compliant Amendment mailed on June 12, 2006. This Office action set an extendable period for reply of one (1) month. No reply having been received, the above-identified application became abandoned on July 13, 2006. The Office mailed a Notice of Abandonment on October 13, 2006. Applicants filed a petition to revive under 37 CFR 1.137(b) on March 20, 2008. However, the petition was dismissed in a decision mailed on April 9, 2008. The petition lacked a signature.

With the instant petition, petitioner made the proper, executed statement of unintentional delay. The other requirements for a grantable petition were previously fulfilled on March 20, 2008.

The application is being forwarded to Group Art Unit 2161 for consideration of the Amendment filed March 20, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 07-06

Paper No:__

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JUL 24 2006
OFFICE OF PETITIONS

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

In re Application of	:	
Yanazaki, et al.	:	DECISION
Application No. 10/453,940	:	
Filing Date: 4 June, 2003	:	
Attorney Docket No.: 0756-7167	:	

This is a decision on the petition filed on 20 April, 2005, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

NOTE:

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.

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 Missing Parts mailed on 11 August, 2003, with reply due under a non-extendable deadline on or before 11 October, 2003;
- the application went abandoned after midnight 11 October 2003;
- the Office mailed the Notice of Abandonment on 13 September, 2004;
- on 24 February, 2005, Petitioner filed a Status Inquiry;
- on 20 April, 2005, Petitioner filed the instant petition and averred, *inter alia*, that Petitioner's office did not receive the Notice (a copy is enclosed), and provided documentary support consistent with the guidance set forth in the Commentary at MPEP §711.03(c);
- thereafter, Petitioner filed Status Inquiries on 12 July and 7 December, 2005.

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and
- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are

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]

---

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) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

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] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

Further, the commentary at MPEP §711.03(c) provides:

* * *

> **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

---

[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).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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). (Emphasis supplied.)

* * *

And the regulation (37 C.F.R. §1.181[9]) requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the requirements described above.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 hereby is **granted**.

The instant application is released to OIPE for further processing, to wit: the re-mailing of the Notice of Missing Parts, 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

---

[9] The regulations at 37 C.F.R. §1.181 provide:
§ 1.181 Petition to the Director.
<>
(a) Petition may be taken to the Director:
(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and
(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.
(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.
(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.
(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.
(e) Oral hearing will not be granted except when considered necessary by the Director.
(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.
(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.
[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/453,940	06/04/2003	Shunpei Yamazaki	0756-7167

CONFIRMATION NO. 8919

FORMALITIES LETTER

OC000000010677472

31780
ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

Date Mailed: 08/11/2003

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ 750 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- Additional claim fees of **$336** as a non-small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$1216** for a Large Entity

- **$750 Statutory basic filing fee.**
- **$130 Late oath or declaration Surcharge.**
- **Total additional claim fee(s) for this application is $336**
  - **$336 for 4 independent claims over 3 .**

A copy of this notice MUST be returned with the reply.

RINH

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

OIPE IAP2
DEC 07 2005
PATENT & TRADEMARK OFFICE

IFW 2818

Docket No.:0756-7167

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of	)	
Shunpei YAMAZAKI, et al.	)	
Serial No. 10/453,940	)	Group Art Unit: 2818
Filed: June 4, 2003	)	Examiner: Dao Nguyen
For: SEMICONDUCTOR DEVICE	)	
	)	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with The United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria VA 22313-1450, on December 5, 2005

Penny L. Chuse

THIRD REQUEST FOR STATUS

Honorable Commissioner of Patents
P. O. Box 1450
Alexandria VA 22313-1450

Sir:

To date the undersigned attorney of record has received no action on the petition to withdraw abandonment filed September 27, 2004 in the above-identified patent application. Please provide the undersigned with a status report of the application in writing.

Respectfully submitted,

Eric J. Robinson
Reg. No. 38,285

Robinson Intellectual Property Law Office, P.C.
PMB 955
21010 Southbank Street
Potomac Falls, Virginia 20165
(571) 434-6789
(571) 434-9499 (Fax)

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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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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OFFICE OF PETITIONS

In re Application of	:	
Bell et al.	:	
Application No. 10/453,966	:	
Filed: June 4, 2003	:	ON PETITION
Attorney Docket Number:	:	
60,130-1582; 02MRA0431	:	

This is a decision in response to the Petition to Change Order of Inventors Under 37 CFR 1.182, filed on August 12, 2005.

Applicant files the instant petition to change the order of the names of the inventors as follows:

1. Stephen Howard Bell
2. Darryl Sendrea

The petition is **granted**.

This application is being referred to Technology Center 3683 via Application Branch Data Input to change the order of inventorship.

Applicant is advised that the fee for a petition filed under 37 CFR 1.182 has increased to $400.00 effective December 8, 2004. Applicant's deposit account has been charged an additional $270.00 as authorized in the instant petition.

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

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STALLMAN & POLLOCK, LLP
Attn: Kathleen A. Frost
Suite 2200
353 Sacramento Street
San Francisco, CA 94111

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NOV 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Terrance Ransbury, et. al.	:	
Application No. 10/453,971	:	ON PETITION
Filed: June 4, 2003	:	
Attorney Docket No. IRM-610	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed March 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3762 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

NOV 16 2004

ALCON RESEARCH, LTD.
R&D COUNSEL, Q-148
6201 SOUTH FREEWAY
FORT WORTH TX 76134-2099

In re Application of	:	
Qun Peng	:	NOTICE OF WITHDRAWAL
Serial No.: 10/453,994	:	FROM ISSUE
Filed: June 4, 2003	:	UNDER 37 CFR 1.313(b)
For: Accommodative Intraocular Lens	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to John E. Kittle at (571)272-2975.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John E. Kittle

John E. Kittle
Director
Technology Center 3700/2900

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-27-07

TO SPE OF : **Technology Center** 1796

10/453998

SUBJECT : Request for Certificate of Correction on Patent No.: 7166672 B2

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

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

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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

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

Comments:

Changes to Claims 10-23 are not approved as these claims were printed correctly

SPE

1796
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

10/27/07

Patent No. : 7166672 B2
Ser. No. : 10/453998
Inventor(s) : Handlin, Jr. et al.
Issued : Jan. 23, 2007
Title : **GELS FROM SILANE-COUPLED BLOCK COPOLYMERS**
Docket No. : W0002C/US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Attached claims 22-35 not provided by patentee.

In view of the foregoing, your request is hereby **denied**.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard, 7th floor
Los Angeles, CA 90025-1026

CBN/eme

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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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Paper No. 4

Connolly Bove Lodge & Hutz LLP
PO Box 2207
Wilmington, DE 19899

COPY MAILED
OCT 2 4 2003
OFFICE OF PETITIONS

In re Application of :
Wojtkun, et al. :
Application No.: 10/454,000 : ON PETITION
Filed: June 4, 2003 :
Attorney Docket No.: 08112-00007-US :

This a decision on the petition filed September 29, 2003, filed under 37 CFR 1.182 to withdraw the Notice of Omitted Items in Nonprovisional Application mailed July 29, 2003.

The petition is dismissed.

The application was filed on June 4, 2003. On July 29, 2003, the Office of Initial Patent Examination mailed the a Notice of Omitted Items in Nonprovisional Application (the "Notice") stating, in pertinent part, that the application had been accorded a filing date of June 4, 2003, but that Figure 21 as described in the specification appeared to have been omitted.

On September 29, 2003, the instant petition was filed in response to the Notice. Petitioner therein argued that Figure 21 was filed on June 4, 2003. In support, the petition is accompanied by a copy of the applicant's Express Mail receipt for the above-cited application, a copy of the itemized postcard (though no date-stamped by the Patent and Trademark Office), a copy of Figure 21 as described in the specification, and declarations from Judith Fetterman and Carol Frantz.

The arguments have been considered, but are not persuasive. The Patent and Trademark Office (the "Office) file is the official record of the papers originally filed in this application. A review of the application file reveals that three sheets of drawings were filed on June 4, 2003, containing Figures 1 through 20, but no figure labeled "21" were found among the three sheets of drawings originally filed. 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 fact that counsel and the other declarants assert that there were four sheets of drawings filed, one of which contained Figure 21, is not more persuasive than the actual drawings shown to have been received by the official file, but revealing no Figure 21. Further, applicant's postcard does not support the allegation that Figure 21 was among the original application papers because the

postcard does not show a date-stamp by the Office acknowledging receipt of those items provided on the postcard.

The petition is dismissed.

Of course, applicant may submit the Figure 21 in the form of an amendment for consideration by the examiner to determine whether the page contains new matter compared to the original specification and drawings filed June 4, 2003. See 37 CFR 1.121.

The petition fee of $130.00 will not be refunded as no figure 21 was found among the application papers and petitioner has not established that Figure 21 was present on filing. Accordingly, the Notice is deemed to have been properly issued and a refund of the petition fee will not be granted.

The application is being returned to the Office of Initial Patent Examination for processing in due course with the presently accorded filing date of June 4, 2003, using the 3 sheets drawings filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL D. STEIN
WOODCOCK WASHBURN LLP
46TH FLOOR
ONE LIBERTY PLACE
PHILADELPHIA PA 19103

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OCT 1 3 2006
OFFICE OF PETITIONS

In re Application of
Marvin R. Young
Application No. 10/454,005
Filed: June 3, 2003
Attorney Docket No.: IVPD-0048

ON PETITION

This is a decision on the petition filed August 11, 2006 to withdraw the holding of abandonment, which is 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 **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

Petitioner argues that the Final Office Action mailed October 31, 2005 was mailed to the previously appointed attorneys of record and thus was not received by the petitioners.

A review of the record indicates no irregularity in the mailing of the Office action. A revocation and power of attorney was filed November 8, 2005 which was after the mailing of the Final Office Action on October 31, 2005. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record. While petitioners have provided copies of their docket and mail log, the evidence presented does not make a showing that the office action was not received at the address to which it is was properly sent by the USPTO.

This application became properly abandoned February 1, 2006 for failure to file a timely

reply to the Final Office Action mailed October 31, 2005 and therefore the Notice of Abandonment mailed August 21, 2006, subsequent to the filing of the instant petiton, was appropriate.

In view thereof, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

[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)).

delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

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
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WOODCOCK WASHBURN LLP
46TH FLOOR
ONE LIBERTY PLACE
PHILADELPHIA PA 19103

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APR 20 2007

OFFICE OF PETITIONS

In re Application of
Marvin R. Young
Application No. 10/454,005
Filed: June 3, 2003
Attorney Docket No.: IVPD-0048

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed April 2, 2007 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 1, 2006 for failure to timely file a response to the Final Office Action mailed October 31, 2005. Accordingly, the Notice of Abandonment was mailed August 21, 2006.

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 1746 for a processing of the RCE.

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

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

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

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

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 3

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

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AUG 1 3 2003

OFFICE OF PETITIONS

In re Application of Barton, Bloodworth, Dudar & Nodar Application No. 10/454,008 Filed: June 3, 2003 Attorney Docket No. TI-34170 / DDM03-006 For: APPARATUS AND METHOD FOR CHARACTERIZING IMPEDANCE PRESENTED TO A WRITE DRIVER IN A WRITE HEAD ASSEMBLY	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 3, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor, James Nodar, has constructively refused to join in the filing of the above-identified application. Specifically, the statement of facts of Attorney Mondul establishes that the inventor has engaged in a pattern of avoidance when it comes to matters pertaining to this application. Attorney Mondul attempted to contact Mr. Nodar at his verified last known address, but Mr. Nodar did not pick up the package pertaining to this application and Mr. Nodar never returned any phone messages left for him by Attorney Mondul. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2600 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

JAMES NODAR
9350 SKILLMAN STREET
APT. 2515
DALLAS TX 75243

In re Application of
Barton, Bloodworth, Dudar & Nodar
Application No. 10/454,008
Filed: June 3, 2003
Attorney Docket No. TI-34170 / DDM03-006
For: APPARATUS AND METHOD FOR CHARACTERIZING IMPEDANCE PRESENTED TO A WRITE DRIVER IN A WRITE HEAD ASSEMBLY

LETTER

COPY MAILED
AUG 13 2003
OFFICE OF PETITIONS

Dear Mr. Nodar:

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: TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

UNITED STATES 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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JUL 20 2005
OFFICE OF PETITIONS

SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA, CA 95054

In re Application of
Mohamed N. Darwish, et al.
Application No. 10/454,031
Filed: June 4, 2003
Attorney Docket No: SCX010-3P US

ON PETITION

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

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before April 13, 2005. Receipt is acknowledged of the requisite issue fee on May 7, 2005.

The application is being forwarded 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

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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SILICON VALLEY PATENT GROUP LLP
2350 MISSIONS COLLEGE BOULEVARD
SUITE 360
SANTA CLARA, CA 95054

COPY MAILED

AUG 19 2005

OFFICE OF PETITIONS

In re Application of	:
Mohamed N. Darwish et al	:
Application No. 10/454,031	: DECISION GRANTING PETITION
Filed: June 4, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SCX010-3P US	:

This is a decision on the petition, filed August 15, 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 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2825 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).*

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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BROUSE MCDOWELL LPA
388 SOUTH MAIN STREET,
SUITE 500
AKRON, OH 44311

COPY MAILED
JAN 15 2009

In re Application of	:	
Don W. COCHRAN, et al	:	
Application No. 10/454,032	:	DECISION ON PETITION
Filed: June 4, 2003	:	TO WITHDRAW
Attorney Docket No. 31355.30004	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 24, 2008.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the certifications listed above at items 1 and 3 have been completed.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: EMERSON, THOMSON & BENNETT
777 WEST MARKET STREET
AKRON, OH 44303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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DEC 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Pande et al. :
Application No. 10/454,037 : DECISION ON PETITION
Filed: June 4, 2003 :
Attorney Docket No. 17625-0046 :

This is a decision on the petition filed August 22, 2006, to withdraw the holding of abandonment for the above-identified application.

On May 5, 2006, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the absence of a timely filed response, the application was held abandoned on August 6, 2006. A Notice of Abandonment was mailed on September 11, 2006, subsequent to the filing of the petition.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the Notice of Allowance, re-mail the Notice, and restart the period for reply.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice of Allowance, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication 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)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. 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 (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the Notice of Allowance would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the Notice of Allowance was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2182 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new Notice of Allowance. The three (3) month statutory time period for responding to the Notice of Allowance will be set to run from the mailing date of the new Notice.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EI DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

COPY MAILED
OCT 28 2008

In re Application of	:	
Joachim C. RITTER	:	
Application No. 10/454,043	:	DECISION ON PETITION
Filed: June 4, 2003	:	
Attorney Docket No. PI1465USNA	:	

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

The petition is **DISMISSED**.

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

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

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and CFR 1.137(b).

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

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

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

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

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 4 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional.

Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on April 24, 2004. If possible, that party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Chyrrea Sebree (Sebree) was the party having the right to reply at the date of abandonment, Simons should explain why this application became abandoned while it was under his control and what efforts he made to further reply and with whom this matter was discussed. When did Sebree become aware of the abandonment of this application?

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), petitioner and whoever else was involved with this application at the time of abandonment. Statements are required from person(s) in the law office and, if possible, the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned

application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 4 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman

Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23.

Statements are required from persons in the law office and, if possible, the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival. An explanation from petitioner as to why the long delay in seeking revival should be excused is required despite this delay, independently of the delay in replying which caused abandonment in the first instance.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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

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.

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).

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.

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Thurman Page
Petitions Examiner
Office of Petitions

cc: JOHN A. HARRELSON, JR.
2929 ARCH STREET,
12TH FLOOR, CIRA CENTRE
PHILADELPHIA, PA 19104

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 16 2004

Paper No. 6

In re Application of	:	
Kenneth Miller	:	
Application No. 10/454,057	:	DECISION ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. PMAI-1-1405	:	

This is a decision on the petition filed on October 18, 2004, by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office action dated February 10, 2004. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did in fact file a timely reply to the Office letter in question. Petitioner supports this allegation by submitting a copy of the reply and a copy of a post card receipt for the filing of the reply. The post card receipt shows that the reply was in received in the Office on March 5, 2004, a date within the period for filing a reply to Office letter in question. Therefore, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply that is attached to the petition. The date to which the reply is entitled is March 5, 2004. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Seed Intellectual Property Law Group PLLC
701 Fifth Avenue
Suite 6300
Seattle, WA 98104-7092

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

10-5-06

Paper No.: _____

DATE : April 21, 2006

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/454071 patent No.: 6,859,330

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: Certificates of Correction filed on 3-31-06 is APPROVED. Certificate of Correction filed on 4-4-06 is APPROVED. Certificate of Correction filed on 6-6-05 is APPROVED. PLEASE SEE ATTACHED.

10-23-06

Rick Mach — SPE

2873 — Art Unit

10/24/06

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Bryan W. Bockhop, Esq.
ARNALL GOLDEN GREGORY LLP
2800 One Atlantic Center
1201 West Peachtree Street
Atlanta GA 30309-3450

In re Application of:
Lovick Thomas Kreps
Serial No. 10/454,086
Filed: June 13, 2003
For: INSULATING AND PROTECTIVE WINDOW SHUTTER

DECISION ON PETITION TO MAKE SPECIAL (ENERGY)

This is a decision on the petition filed September 2, 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 VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition states the invention "enables efficient utilization and conservation of energy resources consumed in a building by providing additional insulation to the windows". However, applicant has not provided any facts in support of this statement. The petition should include an explanation describing the features and/or uses of the claimed invention which result in the conservation of energy. The petition itself should provide all the facts necessary to render a decision.

For the above stated reasons, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/mjz: 3/29/04

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Robert A. Kent
Halliburton Energy Services
P.O Box 1431
Duncan OK 73536-0440

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MAY 23 2006

OFFICE OF PETITIONS

In re Application of :
Taylor, et al. :
Application No. 10/454,092 :
Filed: June 3, 2003 :
Attorney Docket No. 98.0270U1P1 :
For: METHODS OF USING INVERTIBLE OIL EXTERNAL-WATER INTERNAL FLUIDS IN SUBTERRANEAN APPLICATIONS

ON PETITION

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

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the June 29, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on September 30, 2005. A Notice of Abandonment was mailed on January 25, 2006.

Applicants have submitted an amendment and a terminal disclaimer in reply to the June 29, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 29, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1712 for consideration of the amendment filed on February 2, 2006 (certificate of mailing date February 1, 2006).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

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SEP 12 2006
OFFICE OF PETITIONS

Patentee	:
Ishikawa et al.	:
Application Number: 10/454,093	: DECISION ON PETITION
Patent: 6,874,870	:
Filing Date: June 3, 2003	:
Issue Date: April 5, 2005	:

This is a decision on the petition filed August 22, 2005 to correct the assignee under 37 CFR 3.81 (b)[1] by way of a Certificate of Correction.

The petition is **Dismissed**.

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

Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must :

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;

---

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(I)

Petitioner has failed to provide (A). A review of the assignment records shows that the assignment (Konica Corporation, Tokyo (JP)) was not recorded prior to the issuance of the patent on April 5, 2005. Assignment information printed on a patent is not updated after a patent is issued, and may not be reflective of the assignment recorded in the Office subsequent to the issuance of the patent. Accordingly, a certificate of correction reflecting the change requested is not in order.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUNG-HUA KUO
ATTORNEY AT LAW
P O BOX 3275
LOS ALTOS, CA 94024

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MAY 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Tien-His Lee	:	
Application No. 10/454,099	:	DECISION ON PETITION
Filed: June 3, 2003	:	TO WITHDRAW
Attorney Docket No. LEEBP001	:	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 19, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). Finally, a proper reason for the withdrawal as enumerated in 37 C.F.R. § 10.40(b) or subsection (1)-(6) of 37 C.F.R. § 10.40(c) must be provided.

The request was signed by Jung-hua Kuo, the sole practitioner of record. As the request satisfies the above requirements, the power of attorney to Mr. Kuo has been withdrawn. Applicant is reminded that there is no attorney of record at this time. All future communications from the Office will be directed to the applicant at the address noted below.

A non-final Office action was mailed on November 28, 2005, which set a three month shortened statutory period for reply. This period is extendable up to and including May 30, 2006 (May 28, 2006, the due date, is a Sunday, and May 29, 2006 is a Federal holiday), under the provisions of 37 C.F.R. § 1.136(a). There is no indication to date that a reply has been received. If no reply was filed within the maximum extendable period, this application is abandoned pursuant to the provisions of 35 U.S.C. § 133.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Tien-His Lee
6527 Knott Avenue
El Cerrito, CA 94530

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TIEN-HSI-LEE
6527 KNOTT AVENUE
EL CERRITO, CA 94530

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APR 07 2008

OFFICE OF PETITIONS

In re Application of
Tien-His Lee
Application No. 10/454,099
Filed: June 3, 2003
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 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, November 28, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 1, 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 $770, and (3) a proper statement of unintentional delay.

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was

unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1722 for appropriate action by the Examiner in the normal course of business on the reply received October 18, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

cc: STANLEY P. FISHER
REED SMITH, LLP
3110 FAIRVIEW PARK DRIVE
SUITE 1400
FALLS CHURCH, VA 22042

UNITED STATES PATENT AND TRADEMARK OFFICE

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STANLEY P. FISHER
REED SMITH LLP
3110 FAIRVIEW PARK DRIVE
SUITE 1400
FALLS CHURCH, VA 22042

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OFFICE OF PETITIONS

In re Application of	:	
Tien-Hsi- Lee	:	
Application No. 10/454,099	:	DECISION ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. CHIP.00006	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 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 September 13, 2008, as required by the Notice of Allowance and Fee(s) Due mailed June 13, 2008. Accordingly, the application became abandoned on September 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

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

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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REED SMITH, LLP
ATTN: PATENT RECORDS
DEPARTMENT
599 LEXINGTON AVENUE, 29TH
FLOOR
NEW YORK NY 10022-7650

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Ilhan Gursel :

Application No. 10/454,118 ON PETITION

Filed: June 4, 2003

:

Attorney Docket No. EURO-226 (501174.20226)

This is a decision on the petition under 37 CFR 1.137(b), filed February 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed August 4, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. An amendment was filed December 8, 2006, with a request for an extension of time within the first month. An Advisory Action mailed January 3, 2007, advised petitioner that the response of December 8, 2006, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on December 5, 2006.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being

mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The Request for Continued Examination filed February 26, 2007, is noted.

The application is being forwarded to Technology Center 3700, GAU 3725 for further processing

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Michael I. Wolfson
200 Park Avenue
34th Floor
New York, NY 10166

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of :
MAZZOCCHI, et al. :
Application No. 10/454,145 :
Filed: June 4,2003 :
Attorney Docket No. **50741-000010/CPA** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **SCHWEGMAN, LUNDBERG & WOESSNER, P.A.** has been revoked by the assignee of the patent application on December 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 the undersigned at (571) 272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

SPE D. Porta

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/454,152

Paper No.: _____

DATE : 9/15/05

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction on Patent No.: 6909095

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

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

Lamonte M. Newsome

Thank You For Your Assistance

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

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

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

Comments:

DAVID PORTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2878
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/454,169	06/04/2003	Stephan Bolz	071308.0440	1754

31625 7590 10/02/2007
BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

EXAMINER
PARRIES, DRU M

ART UNIT	PAPER NUMBER
2836	

MAIL DATE	DELIVERY MODE
10/02/2007	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. BOLZ ET AL.	:	
Issue Date: December 19, 2006	:	**DECISION GRANTING**
Appl No.: 10/454,169	:	**PETITION**
Filed: June 04, 2003	:	*37 CFR 1.324*
For: AUXILIARY POWER SOURCE AND METHOD	:	
FOR OPERATING THE AUXILIARY POWER	:	
SOURCE, AS WELL AS CIRCUIT	:	
ARRANGEMENT FOR SWITCHING A LOAD	:	

This is a decision on the petition filed April 4, 2007 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.

Michael J. Sherry
Supervisory Patent Examiner
Art Unit 2836
Technology Center 2800

BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

UNITED STATES 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: September 26, 2007
TO: Certificates of Correction Branch
FROM: Michael J. Sherry
SPE, Art Unit 2836
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,151,328 as specified on the attached Certificate.

Michael J. Sherry, SPE
Art Unit 2836

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,151,328
Patented: December 19, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Steven Bolz, Pfatter, Germany
Gunter Lugert, Regensburg, Germany
Gerhard Goser, Pentling, Germany

Michael J. Sherry
Supervisory Patent Examiner
Art Unit 2836

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Jan-06

ELI D. EILBOTT
DUNCAN, WEINBERG, GENZER & PEMBROKE, P.C.
1615 M STREET, NW, SUITE 800
WASHINGTON DC 20036

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Meenakshi J. Bove	:	DECISION ON PETITION
Application No. 10/454,177	:	
Filed: 4 June, 2003	:	
For: METHOD FOR PROCESSING A	:	
PRODUCT	:	

This is a decision on the petition, filed on 22 September, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of foreign or international application(s) filed on 28 July, 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.[1]

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;

[1] On 15 September, 2004, a letter was filed stating that a foreign or international application was filed on 28 July, 2004, and stating that notification of the foreign filing was unintentionally delayed. However no petition under 37 CFR 1.137(f) was filed at that time. Accordingly, Notice of Abandonment was mailed on 27 July, 2005, for failure to timely file a Notice of Foreign Filing under 35 U.S.C. § 122. In response, the present petition was filed.

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

A projected publication date will be assigned in due course. Petitioner will be notified of this date in a separate correspondence.

The application is being referred to Technology Center Art Unit 1761 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
David C. Harget, et al. :
Application No. 10/454,205 :
Filed: June 3, 2003 :
Atty Docket No. 09294-014002 :

This is a decision on the petition, filed November 12, 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 October 13, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3742 for further processing of the request for continued examination under 37 CFR 1.114 filed November 12, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : November 12, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : David C. Harget, et al.
Application No. : 10/454,205
Filed : June 3, 2003

The above-identified application has been assigned Patent No. 6,818,870 and an issue date of November 16, 2004.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 16, 2004:

> "All reference to Patent No. 6,818,870 to DAVID C. HARGET, ET AL. of UNITED KINGDOM for HEAT FUSION FITTING appearing in the Official Gazette of November 16, 2004, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite ll00 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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JUN 19 2006

OFFICE OF PETITIONS

CANTOR COLBURN LLP
55 GRIFFIN SOUTH ROAD
BLOOMFIELD CT 06002

In re Application of	:	
Kwang Ho Lee et al	:	
Application No. 10/454,221	:	ON PETITION
Filed: June 4, 2003	:	
Attorney Docket No. YPL-0053	:	

This is a decision on the petition, filed June 13, 2006, and resubmitted on June 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 4, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1636 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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Paper No.

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Patent No. 7,105,168	:	DECISION ON REQUEST
Carmeliet et al.	:	FOR RECONSIDERATION OF
Issue Date: September 12, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/454,242	:	and
Filed: June 4, 2003	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 50304/105001	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed November 15, 2006. Patentees submit that the Patent Term Adjustment shown on the patent should be ONE HUNDRED TEN (110) days, not FORTY-NINE (49) days.

For reasons other than those stated by patentees, 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 one hundred ten (110) days.

On September 12, 2006, the above-identified application matured into U.S. Patent No. 7,105,168. The instant request for reconsideration filed November 15, 2006 (certificate of mailing dated Monday, November 13, 2006) 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 49 days. Patentees dispute the reduction of 61 days associated with the filing of a declaration after the mailing of the notice of allowance. Patentees argue that the declaration (along with the Issue Fee payment) was filed three months and 2 days after it was requested in the Notice of Allowability. Thus, patentees contend a period of reduction of 2 days pursuant to 1.704(b) is

proper for both the delay in submitting the Issue Fee payment and the delay in submitting the declaration.

Patentees' contention is not well taken. Applicant delay in submitting the Issue Fee payment is calculated pursuant to 37 CFR 1.704(b). However, applicant delay with respect to filing papers such as a declaration after the mailing of the notice of allowance is calculated pursuant to 37 CFR 1.704(c)(10). 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; …

In this instance, on June 23, 2006, then applicants filed an amendment under § 1.312 and a supplemental declaration. On July 13, 2006, the examiner mailed a response to both papers. Thus, the period of delay (June 23, 2006 to July 13, 2006) pursuant to 37 CFR 1.704(c)(10) for both papers completely overlaps. Accordingly, a single period of reduction of 21 days should have been entered for both papers. The period of reduction of 61 days associated with the declaration did not recognize that the response mailed July 13, 2006 was responsive to both papers. The reduction of 61 days is being removed.

In view thereof, the patent term adjustment indicated on the patent should be ONE HUNDRED TEN (110) 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 ONE HUNDRED TEN (110) 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 : 7,105,168 B1

DATED : **September 12, 2006**

INVENTOR(S) : Carmeliet 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 (49) days

Delete the phrase "by 49" and insert – by 110 days--

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MAIL

JUN 23 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

James A. Hudak, Esq.
Suite # 304
29425 Chagrin Blvd.,
Cleveland OH 44122-4602

In re application of:
Robert R. Palmerio
Application No. 10/454,244
Filed: June 5, 2003
For: **METHOD AND APPARATUS FOR STORING SURVEILLANCE FILMS**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on May 25, 2004 (copy with date-stamped postcard evidencing PTO receipt of original petition to withdraw as attorney filed March 11, 2004). The original petition was apparently lost after receipt. The Office sincerely regrets the inconvenience to applicant.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents of record listed in the Request 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.

The file is being returned to TC 2600 Central Files to await examination in appropriate turn.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Robert R. Palmerio
5264 Chickadee Lane
Lyndhurst, OH 44124

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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JAN 27 2004

OFFICE OF PETITIONS

In re Application of Anderson et al.	:	
Application No. 10/454,246	:	DECISION REFUSING TO
Filed: June 3, 2003	:	ACCORD STATUS
Attorney Docket No. 21402-589B (Cura-889B)	:	UNDER 37 CFR 1.47(a)
For: Therapeutic Polypeptides, Nucleic Acids	:	
Encoding Same, and Methods of Use	:	

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

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 (1). Diligent effort to locate an inventor requires more than simply sending a letter to the inventor's last known mailing address. For example, petitioner may wish to call Directory Assistance of perform an internet search.

The following information is provided by the undersigned as a courtesy. The Office does not verify that the information is correct nor does the information, if inaccurate, release petitioner from the obligation to exercise diligent effort to find the nonsigning inventors. A brief internet search indicates that Bryan Zerhusen may now reside at 152 Fenn Road, Cheshire, CT 06410. Another search indicates that Weizhen Ji may reside with a Zhuo Shao at the address listed on the declaration with a phone number of 203-483-6029. Petitioner may wish to call the number in an attempt to verify the accuracy of the address.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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AUG 0 2 2004

OFFICE OF PETITIONS

In re Application of Anderson et al.	:	
Application No. 10/454,246	:	DECISION ACCORDING
Filed: June 3, 2003	:	STATUS UNDER
Attorney Docket No. 21402-589B (Cura-889B)	:	37 CFR 1.47(a)
For: Therapeutic Polypeptides, Nucleic Acids	:	
Encoding Same, and Methods of Use	:	

This is a decision on the renewed petition under 37 CFR 1.47(a), filed July 8, 2004.

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 or cannot be located.

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 12

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AUG 0 2 2004

OFFICE OF PETITIONS

LETTER

Weizhen Ji
375 Old Rock Road
Branford, CT 06405

In re Application of :
Anderson et al. :
Application No. 10/454,246 :
Filed: June 3, 2003 :
For: Therapeutic Polypeptides, Nucleic Acids :
Encoding Same, and Methods of Use :

Dear Ms. Ji:

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: MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 13

Bryan Zerhusen
152 Fenn Road
Cheshire, CT 06410

COPY MAILED

AUG 0 2 2004

OFFICE OF PETITIONS

LETTER

In re Application of :
Anderson et al. :
Application No. 10/454,246 :
Filed: June 3, 2003 :
For: Therapeutic Polypeptides, Nucleic Acids :
Encoding Same, and Methods of Use :

Dear Mr. Zerhusen:

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: MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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THOMPSON E. FEHR
SUITE 300
GOLDENWEST CORPORATE CENTER
5025 ADAMS AVENUE
OGDEN, UT 84403

MAILED

FEB 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Chris Roger Sorensen	:	
Application No. 10/454,255	:	ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. PSOREC - PTH	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to properly reply to the non-final Office action mailed May 18, 2006. A courtesy copy of the March 25, 2008 Notice of Abandonment is being mailed with this decision.

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

This petition can not be granted until a proper reply is received from the May 18, 2006 non-final Office Rejection.

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

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

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

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: A courtesy copy of the March 25, 2008 Notice of Abandonment

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.
10/454,255	06/03/2003	Roger Chris Sorensen	PSOREC - PTH	3878

7590 03/25/2008
Thompson E. Fehr
Suite 300
Goldenwest Corporate Center
5025 Adams Avenue
Ogden, UT 84403

EXAMINER
PICO, ERIC E

ART UNIT	PAPER NUMBER
3654	

MAIL DATE	DELIVERY MODE
03/25/2008	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.

Notice of Abandonment	Application No.	Applicant(s)	
	10/454,255	SORENSEN, ROGER CHRIS	
	Examiner	Art Unit	
	ERIC PICO	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *18 May 2006*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☒ A proposed reply was received on *20 November 2006*, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.

   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.

   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

/Peter M. Cuomo/
Supervisory Patent Examiner, Art Unit 3654

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

UNITED STATES PATENT AND TRADEMARK OFFICE

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
11/032,383	01/10/2005	Suzanne Napoleon	NSU-100-B

CONFIRMATION NO. 4038

POWER OF ATTORNEY NOTICE

48980
YOUNG & BASILE, P.C.
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084

OC000000034451881

Date Mailed: 02/09/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/30/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAY 05 2009

OFFICE OF PETITIONS

THOMPSON E. FEHR
GOLDENWEST CORPORATE CENTER
5025 ADAMS AVENUE, SUITE 300
OGDEN, UT 84403

In re Application of	:	
Roger Chris Sorensen	:	
Application No. 10/454,255	:	ON PETITION
Filed: June 3, 2003	:	
Attorney Docket No. PSOREC - PTH	:	

This is a decision on the renewed petition filed April 9, 2009, which is being treated under 37 CFR 41.31(a)(1), to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 20, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 21, 2007. See MPEP 1215.04.

37 CFR 41.31(a)(1) states "Every applicant, any of whose claims has been twice rejected, may appeal from the decision of the examiner to the Board by filing a notice of appeal accompanied by the fee set forth in § 41.20(b)(1) within the time period provided under §1.134 of this title for reply."

A review of the prosecution history indicates that since claims 1-3 were twice rejected, a proper response to an application, abandoned after Notice of Appeals, would be the filing of a petition to revive and an appeal brief. Here the record shows that a claim has been twice rejected. See also Ex Parte Lemoine, 46 USPQ2d 1420 (Bd. Pat. App. & Inter. 1994).

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3654 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OIPE Jun-05

RADER, FISHMAN & GRAUER PLLC
RIVER PARK CORPORATE CENTER ONE
10653 S. RIVER FRONT PARKWAY SUITE 150
SOUTH JORDAN UT 84095

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Mark L. Layton	:	
Application No. 10/454,277	:	DECISION ON PETITION
Filed: 3 June, 2003	:	
Atty Docket No. 40059-0006	:	

This is a decision on the petition filed on 6 May, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 17 January, 2004, for failure to file a proper reply to the non-final Office action mailed on 16 October, 2003, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were obtained in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 28 July, 2004.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the change of correspondence address filed on 6 May, 2005, is acknowledged.

Receipt of the amendment filed on 6 May, 2005, is acknowledged.

The application is being referred to Technology Center Art Unit 1775 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Orrick, Herrington & Sutcliffe, LLP
IP Prosecution Department
4 Park Plaza
Suite 1600
Irvine, CA 92614-2558

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of :
J. Stuart Cumming :
Application No. 10/454,280 : ON PETITION
Filed: June 3, 2003 :
Attorney Docket No. 13533.4032 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

A review of the application shows that the Technology Center mailed a Notice of Non-compliant Amendment (Notice) to applicant on June 30, 2005. However, the application became abandoned on May 2, 2005 (which includes the 2-month extension of time obtained by applicant) for failure to submit an acceptable reply. Therefore, the Technology Center was without authority to mail out such a Notice since the application was abandoned. Nevertheless, this Office will ratify the actions of the Technology Center.

In view the above, applicant should note that the failure to reply to the Notice would again result in the abandonment of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 3700.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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JUL 14 2006

OFFICE OF PETITIONS

DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

In re Application of
PHU VU
Application No.: 10/454,282
Attorney Docket No.: 347269-991180

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2006 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 23, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned at midnight on November 23, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 23, 2005 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period of reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the five month extension of time ($2160) submitted with the petition on May 2, 2006 was subsequent to the maximum extendable period of reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 2871.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3286.

Cynthia M. Kratz
Petitions Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAY - 5 2005

SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE NY 14221-5406

In re Application of:	:	
Joseph D. Calato	:	NOTICE OF WITHDRAWAL
Serial No.: 10/454,284	:	FROM ISSUE
Filed: June 4, 2004	:	UNDER 37 CFR § 1.313
Attorney Docket No.: **JDCP:101US**	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed March 2, 2005, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner in the next Office action.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to David Martin at (571) 272-2107.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard K. Seidel, Director
Technology Center 2800

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WILLIAM H. WRIGHT, ESQ.
HOGAN & HARTSON L.L.P.
BILTMORE TOWER
500 SOUTH GRAND AVENUE, SUITE 1900
LOS ANGELES CA 90071

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OFFICE OF PETITIONS

In re Application of	:	
Seiichi Mori	:	
Application No. 10/454,316	:	ON PETITION
Filed: 3 June, 2003	:	
Att'y Docket No. 81788.0247	:	

This is a decision on the petition under 1.137(b),[1] filed on 20 September, 2004, to revive the above-identified application.

The petition is **GRANTED**.

---

[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)).

This application became abandoned on 2 September, 2004, for failure to file a timely response to the non-final Office action mailed on 1 March, 2004, which set a three (3) month shortened statutory period for reply. On 7 September, 2004 (certificate of mailing date 1 September, 2004), petitioner filed a three (3) month extension of time. No reply was filed with the extension of time on 7 September, 2004, however, so the application became abandoned. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed an amendment as the required reply with the present petition.

The application file is being referred to Technology Center 2800 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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United States Patent and Trademark Office
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FLIESLER MEYER
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO, CA 94111

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Robert M. Carson :
Application No. 10/454,317 :
Filed: June 4, 2003 :
Attorney Docket No. 8531A(TRAC-01004US0) :

ON PETITION

This is a decision on the petition under 37 CFR 1.313, filed August 18, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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 2121 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/454326	06/04/03	PATAPOUTIAN, ARA	3123-506/MAX-003AUS

Patricia A. Sheehan
Cesari and McKenna, LLP
88 Black Falcon Avenue
Boston MA 02210

EXAMINER	
TORRES, JOSEPH	
ART UNIT	PAPER NUMBER
2133	

DATE MAILED: 7/31/07

NOTICE OF RESCINDED ABANDONMENT

☐ **In response to your communication filed** 2/12/07

☒ **Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.**

For Cheryl McGee
Manager, Publications Division
Office of Patent Publication
571-272-4200

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARK MANLEY
DOCKERY SUITE 102
CENTRAL MISSOURI STATE UNIVERSITY
WARRENSBURG MO 64093

COPY MAILED

JAN 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
David L. Von Gunten	:	
Application No. 10/454,341	:	ON PETITION
Filed: June 2, 2003	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 2004, and supplemented on January 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 30, 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 March 31, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

The application file is being referred to Technology Center AU 3749.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090309

DATE : March 9, 2009

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction on Patent No.: US 7,015,260 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The following note is added for completeness of record. With respect to the change at col. 17, line 24 while this requested change was not presented during prosecution, nevertheless, it appears that it is a stylistic correction reflecting that fact that once the weight percentage range was limited to between 40 and 50 weight percent (see the amendment filed 7/1/05), the phrase "any two of" becomes unnecessary. With respect to the change at col. 17, line 25, it would appear that "40" is supported (see, e.g., original claim 1 as recited in the amendment of 7/1/05 and that it was left out at the time of printing the patent.

Vasu Jagannathan
SPE TC 1700

PAGE 2/2 * RCVD AT 3/9/2009 8:53:17 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/0 * DNIS:2709990 * CSID:USPTO * DURATION (mm-ss):00-00

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In re Application of	:
Rudolf H. Aebersold, et al.	:
Serial No.: 10/454,375	: PETITION DECISION
Filed: June 03, 2003	:
Attorney Docket No.: 66661-090	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed June 03, 2003. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

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, Alexandria, VA. 22313-1450, or by telephone at (571) 272-0500 or by facsimile transmission at (571) 273-8300.

Long V. Le
Supervisory Patent Examiner
Art Unit 1641

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

COPY MAILED

SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Neil J. Goldfine et al.
Application No. 10/454,383
Filed: June 3, 2003
Attorney Docket Number: **1884.2108-001**

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed May 18, 2007, to correct the name of the inventor due to a legal name change.

The petition is **DISMISSED**.

Petitioner has requested that the inventor formerly known as Ian C. Shay be listed as Yanko K. Sheiretov as the inventor legally changed his name effected by a civil proceeding. However, with the petition is required either a substitute oath or declaration or an ADS identifying the inventor as Yanko K. Sheiretov, to be in compliance with 37 CFR 1.182.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

NOV 12 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re Application of
James Schaffer
Application No. 10/454,396
Filed: June 03, 2003
For: AUTOMATIC ROUTING AND INFORMATION SYSTEM FOR TELEPHONE SERVICES

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 August 2, 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 associated with Customer Number 20995 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

CC: Richard E. Campbell
Procopio, Cory, Hargreaves & Savitch LLP
530 B Street, 21st Floor
San Diego, CA 92101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 8/3/09

TO SPE OF : ART UNIT 2117

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/454400 Patent No.: 7200787B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Changes are approved, however the change to column 20 line 47 should be to line 46.

[signature] 2117
SPE **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 4

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAIL

MAY 0 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Sirikiat Lek Ariyavisitakul, et al. :
Application No. 10/454,421 :
Filed: June 3, 2003 :
For: FREQUENCY DOMAIN TRAINING OF :
PREFILTERS FOR RECEIVERS :

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 March 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 associated with Customer Number 758 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.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

CC: J. Dennis Moore
c/o Texas Instruments Incorporated
PO Box 655474, MS 3999
Dallas, TX 75265

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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DARREN E. WOLF
7015 ALBERT EINSTEIN DRIVE
COLUMBIA, MD 21046-9400

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MAY 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Jonathan L. Weston-Dawkes et al :
Application No. 10/454,438 :
Filed: June 4, 2003 :
Attorney Docket No. 020604

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 2633.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

BEST AVAILABLE COPY

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 4

Hughes Electronics Corporation
Patent Docket Administration
Bldg. 1, Mail Stop A109
P.O. Box 956
El Segundo CA 90245-0956

MAIL

JAN 23 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Mustafa EROZ, et al.	:	
Application No. 10/454,439	:	DECISION ON PETITION
Filed: June 4, 2003	:	TO MAKE SPECIAL
For: METHOD AND SYSTEM FOR DECODING	:	
LOW DENSITY PARITY CHECK (LDPC) CODES	:	

This is a decision on the petition filed December 23, 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

UNITED STATES 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. 110104

DUANE MORRIS LLP
100 College Rd. West, Suite 100
Princeton, NJ 08540

DEC 1 2004

In re Application of:	:	
Tietjen	:	
Serial No.: 10/454,440	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: June 4, 2003	:	
Attorney Docket No.: **OR-07626**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 6, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton Laballe at (571) 272-1594.

Clayton Laballe, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Plevy & Howard
600 North Easton Rd.
Willow Grove, PA 19090

UNITED STATES 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.

Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

MAILED
MAR 21 2005
Technology Center 2100

In re Application of:
Dorothy Ann Nelson
Application No. 10/454,454
Filed: June 3, 2003
For: METHOD TO IDENTIFY A SUGGESTED LOCATION FOR STORING A DATA ENTRY IN A DATABASE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 22, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed November 22, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Andrea L. Marais
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
1600 TCF TOWER
121 South Eighth Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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STEPHEN HENRY GARLAND
QUEENS BEACH
59 MURROONA STREET
BOWEN
QUEENS LAND 4805 AU AUSTRALIA

COPY MAILED
AUG 2 2 2006
OFFICE OF PETITIONS

In re Application of :
Stephen Henry Garland :
Application No. 10/454,456 :
Filed: June 5, 2003 :
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed on July 29, 2005, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on March 2, 2005, after no response was received to the non-final Office action mailed December 1, 2004, which set a shortened statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on March 2, 2005. A Notice of Abandonment was mailed on June 21, 2005.

In the instant petition, petitioner maintains that the non-final Office action was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires 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.

Although petitioner has offered a statement that petitioner's records where searched, but the Office communication was not found, petitioner did not provide a copy of petitioner's logs showing where the Office communication would have been entered if it had been received. If petitioner does not keep a log, petitioner may file a copy of the contents of the incoming correspondence petitioner has received for this application. Petitioner may also file a copy of

any calendar notations petitioner maintains relative to this patent application that may corroborate petitioner's allegation that the notice was not received. This documentation must accompany any renewed petition filed under 37 CFR 1.181(a).

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other:_____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FEB - 1 2006

Pamela S. Price
1922 Mariner Lane
Woodbridge VA 22192

In re Application of
Pamela S. Price
Application No. 10/454,457
Filed: June 05, 2003
For: DING-STOPPER

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the letters received May 18 2005 and May 19, 2005. These letters are being treated as a Petition to Withdraw the Holding of Abandonment. There is no fee for this petition.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated _____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response, filed June 07, 2004, and inadvertently identified by provisional application serial number 60/387,094. The original copy of the June 07, 2004 response was found in the provisional application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

It is noted that a further response received November 08, 2004 was found in provisional application serial number 60/387,094.

RAR/rjc: 09/22/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 0 9 2004
Technology Center 2100

PAPER #5

Hoffman, Wasson & Gitler, P.C.
Suite 522
2361 Jefferson Davis Highway
Arlington VA 22202

In re application of	:	**DECISION ON PETITION**
Namita Kansal	:	**TO MAKE SPECIAL**
Application No. 10/454,513	:	**(ACCELERATED**
Filed: June 5, 2003	:	**EXAMINATION)**
For: SYSTEM FOR ASSESSING AND RATING VENDOR RISK AND PRICING OF TECHNOLOGY DELIVERY INSURANCE		

This is in response to the petition filed on June 5, 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 delay in deciding this petition is regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/mjz 4/5/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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NOV 11 2003

VP
PAPER NO. ___

In re Application of Joseph W. Coburn, Jr. et al. Serial No. 10/454,519 Filed: June 4, 2003 For: PLASTIC ARTICLE WITH COATING PROVIDINGINCREASED MELTING POINT, ET.	: : : : : : : :	DECISION ON PETITION UNDER M.P.E.P. 708.02 I MANUF.

This is in response to the petition filed August 25, 2003, requesting that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. Section 708.02 I: Manufacture (fee paid).

The petition has been considered and found to comply with the requirements set forth under the above-noted section.

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 case and should state in the official letter of such application that he is taking it out of its turn because of a possible interference.

Should an appeal be taken in this case or should this case become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this case will be given priority for printing. See MPEP 1309.

The petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Moser, Patterson & Sheridan, LLP
595 Shrewsbury Avenue
Shrewsbury, New Jersey 07702

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Hyun-Doo Shin, et al.	:	
Application No. 10/454,524	:	DECISION ON PETITION
Filed: June 5, 2003	:	
Attorney Docket No. Q75117	:	

This is a decision on the petition under 37 CFR 1.182, filed, February 23, 2007, to change the name of inventor "B.S. Manjunath" to – Bangalore S. Manjunath --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correct spelling of the above-named inventor, accompanies this decision on petition.

The issue fee in this case was paid on February 23, 2007. Therefore, the printing of the patent may have progressed to the point where the correct spelling of the inventor's name could not be included on the front page of the Letters Patent. In such event, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of $100.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

The application is being referred to the Office of Publications.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure: 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
10/454,524	06/05/2003	2624	1654	Q75117	19	3

CONFIRMATION NO. 4164

CORRECTED FILING RECEIPT

OC000000024291715

23373
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Date Mailed: 06/08/2007

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)

Hyun-Doo Shin, Sungnam-city, KOREA, REPUBLIC OF;
Yang-Lim Choi, Paldal-gu, KOREA, REPUBLIC OF;
Yining Deng, Santa Barbara, CA;
Bangalore S. Manjunath, Santa Barbara, CA;

Assignment For Published Patent Application

SAMSUNG ELECTRONICS CO., LTD.., UNIVERSITY OF , CALIF. AT SANTA BARBARA

Power of Attorney:

Peter McKenna--38551

Domestic Priority data as claimed by applicant

This application is a DIV of 09/562,077 05/01/2000 PAT 7,212,667
which claims benefit of 60/134,550 05/17/1999

Foreign Applications

If Required, Foreign Filing License Granted: 07/17/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/454,524

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

COLOR IMAGE PROCESSING METHOD

Preliminary Class

382

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 PETITIONS

ON PETITION

In re Application of :
Keiichiro Kata et al :
Application No. 10/454,530 :
Filed: June 5, 2003 :
Attorney Docket No. Q74847 :

This is a decision on the petition, filed January 6, 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 28, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2825 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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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1030 15TH STREET, N.W.
SUITE 400 EAST
WASHINGTON DC 20005-1503

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MAY 20 2009

OFFICE OF PETITIONS

In re Patent No. 7,288,268	:	
Issue Date: October 30, 2007	:	
Application No. 10/454,538	:	DECISION ON PETITION
Filed: June 5, 2003	:	
Attorney Docket No. 2003_0753A	:	

This is a decision on the petition under 37 CFR 1.182, filed April 2, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, South Tower, 8th Floor, Room C23 (Fax No. (571) 270-9753)

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SUITE 400 EAST
WASHINGTON DC 20005-1503

MAILED

MAY 20 2009

OFFICE OF PETITIONS

In re Patent No. 7,288,268	:	
Issue Date: October 30, 2007	:	
Application No. 10/454,538	:	DECISION ON PETITION
Filed: June 5, 2003	:	
Attorney Docket No. 2003_0753A	:	

This is a decision on the petition under 37 CFR 1.182, filed April 2, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of 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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, RSQ 9D-10B (Fax No. (571) 270-9753)

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of
CUMMINGS, et al.
Application No. 10/454,559
Filed: June 3, 2003
Attorney Docket No. DDI-0043NP

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 16, 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 December 28, 2005 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]

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 should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3736 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: **JOHNSON & JOHNSON**
INTERNATIONA PATENT LAW DIVISION
P.O. BOX 1222
NEW BRUNSWICK, NJ 08903

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OCT -7 2004

In re Application of	:
Kenneth Ray Neal	:
Application No. 10/454,560	: DECISION ON PETITION
Filed: June 4, 2003	:
For: Die Cutter Blanket:	:

This is a decision on the petition filed on August 23, 2004 by which petitioner requests supervisory review of the examiner's holding that the reply filed on May 24, 2004 to the restriction requirement that was promulgated on April 20, 2004 was not a *bona* fide response to the restriction requirement. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required. The $130.00 petition fee will be refunded as discussed, *infra*.

The petition is granted.

Initially, it is pointed out that the petition is not being treated as a petition on the merits of the examiner's requirement that petitioner elect a species of the claimed invention in addition to making an election between distinct inventions. So much of the petition that is addressed to that issue will be treated as a request for the examiner to reconsider his position on that issue. See 37 CFR 1.181(c). This decision is confined to the issue of whether the May 24, 2004 reply was a *bona fide* response to the restriction requirement dated April 20, 2004.

While the undersigned can appreciate the examiner's position with respect to petitioner's failure to comply with a clearly stated requirement to elect between species, it is nevertheless difficult to characterize the reply filed on May 24, 2004 as other than a *bona fide* response that, unfortunately, contained an inadvertent omission of the required election of species. The response is otherwise too complete to be characterized as other than a *bona fide* attempt to respond, and it appears to the undersigned that the failure to elect a species was simply an honest mistake. Coupled with the fact that no review of the May 24, 2004 reply to determine whether it was complete appears to have been undertaken at or around the time that the reply was filed, as required by MPEP § 714.05, it appears that petitioner is entitled to the benefit of any doubt here.

Because the May 24, 2004 reply was a *bona fide* attempt to file a response, the fact that it was inadvertently informal or incomplete should have resulted in a letter explaining the informality and also setting of a new shortened statutory period for filing a reply thereto, with the new period being subject to extensions of time under 37 CFR 1.136(a) running from the date of the letter establishing the new period for response. See 37 CFR 1.135 (c) and MPEP § 710.01. Therefore petitioner should have been required to file a reply to Notice of Informality mailed on August 13, 2004 not later than September 13, 2004. Such reply was in fact filed on August 17, 2004. Therefore, no extension of time was necessary.

Accordingly, this application will be brought to the attention of the Head Supervisory Applications Examiner in Technology Center 3700 to credit the $475.00 extension fee paid on August 17, 2004 back to Deposit Account No. 03-0678. The $130.00 petition fee tendered with the instant petition will also be

refunded. The application will then be brought to the attention of the examiner for consideration of the response filed on August 17, 2004.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

William Squire, Esq.
c/o Carella, Byrne, Bain, Gilfillan, Cecchi,
Stewart & Olstein
6 Becker Farm Road
Roseland, NJ 07068

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Paper No. 5

BRADLEY N. RUBEN PC
SUITE 5A
463 FIRST STREET
HOBOKEN, NJ 07030-1859

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OFFICE OF PETITIONS

In re Application of	:	
Stuart Harbron et al	:	
Application No. 10/454,563	:	DECISION ON PETITION
Filed: June 4, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 105SR-002A	:	

This is in response to the communication filed September 29, 2003.

The communication received on September 29, 2003 in response to the Notice to File Missing Parts of Nonprovisional Application mailed July 28, 2003, is accompanied by a copy of the decision granting 37 CFR 1.47(a) status to the prior application (Application No. 09/647,572). 37 CFR 1.63(d)(3) states:

> Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:
>
> (i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c).

The application was not accompanied by a copy of the decision granting the petition under 37 CFR 1.47(a) in the prior application. In view of the communication received on September 29, 2003 submitting a copy of the decision granting 37 CFR 1.47(a) status in the prior application, the above-identified application and papers are now in compliance with 37 CFR 1.47(a). This application is hereby <u>accorded rule 1.47(a) status</u>. As provided in 37 CFR 1.47(c), no notice of this application's

filing will be forwarded to the nonsigning inventor nor will such notice be published in the Official Gazette[1] since notice regarding the filing of the prior application was given to the nonsigning inventor.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being returned to Technology Center AU 1651 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] Note Federal Register, Vol. 65, No. 175; Friday, September 8, 2000.

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Welsh & Katz, Ltd.
120 South Riverside Plaza
22nd Floor
Chicago, IL 60606

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JUN 1 0 2005

OFFICE OF PETITIONS

In re Application of	:
Khashayar Karimian, et. al.	:
Application No. 10/454,586	: DECISION DISMISSING PETITION
Filed: June 5, 2003	: UNDER 37 CFR 3.81(b)
Attorney Docket No. 8898/89944	:

This is a decision on the petition, filed March 18, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the address of the assignee on 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 correct address of the assignee is "Toronto, Canada" and that an incorrect address was unintentionally included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner herein requests that the patent issue to "Apotex, Inc., Toronto, Canada".

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The 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 37 CFR 3.81(a), the request cannot be granted.

---

[1] *See* Official Gazette of June 22, 2004

Office PALM computer database assignment records do not reflect that an assignment in the name of "Apotex, Inc., Toronto, Canada" was ever recorded. Accordingly, if reconsideration of this decision is requested, petitioner must supply either the reel and frame number where the recorded assignment appears or supply a copy of the recorded assignment. If the assignment, in the name of "Apotex, Inc., Toronto, Canada", was not recorded, or submitted for recordation **prior** to issuance of this patent, a certificate of correction would not be in order. Note MPEP Section 307.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Takeda et al.	:	
Application No. 10/454,613	:	DECISION
Filed: 5 June, 2003	:	UNDER 37 CFR 1.28(c)
Atty's Docket No. 030595	:	

This is in response to the paper styled "Request for Change of Entity Status" filed on 30 July, 2004, which is treated as a deficiency fee payment filed pursuant to 37 CFR 1.28(c).

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The current fee due for a large entity is $$1,630.00 (issue fee and publication fee). On 28 July, 2004, $965.00 was paid. Therefore, a deficiency of **$665.00** is due. Petitioners have submitted a check in the amount of $665.00 for the balance of the issue fee due. However, petitioner are ultimately responsible for ensuring that the correct fee is paid and MUST notify the Office if the above calculations are incorrect.

Small entity status will no longer apply.

The file is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ARENT FOX
1050 CONNECTICUT AVENUE, NW
SUITE 400
WASHINGTON, DC 20036

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MAY 0 5 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kenichi Watanabe et al :
Application No. 10/454,667 :
Filed: June 5, 2003 :
Attorney Docket No. 108390-00048 :

This is a decision on the petition under 37 CFR 1.313, filed April 28, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 17, 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 (571) 272-3220.

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of	:	
Mizuki Segawa et al	:	
Application No. 10/454,682	:	DECISION GRANTING PETITION
Filed: June 5, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60188-343	:	

This is a decision on the petition, filed December 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 October 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) 272-3218.

This matter is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Office of the Director
Group 3600

DORR CARSON SLOAN & BIRNEY, PC
3010 EAST 6TH AVENUE
Denver, CO 80206

In re application of
Kenneth R. Friedland et al
Application No. 10/454,704
Filed: June 04, 2003
For: FORK LIFT ATTACHMENT FOR MULTI- PURPOSE BUCKET

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 12, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **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 **APPROVED** although there is no evidence supporting that Mr. Smith is the remaining Attorney of record as stated in your request to withdraw. Mr. Smith is not listed as an Attorney for customer #23381, therefor Mr. Smith is not recognized as the Attorney of record.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/pav: 6/03/04

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WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON, NJ 07940

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of Zimmer :
Application No. 10/454,708 : Decision on Petition
Filing Date: June 4, 2003 :
Attorney Docket No. AM101029 :

This is a decision on the petition under 37 CFR 1.137(a), filed January 11, 2008, and supplemented June 4, 2008, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

This application was held abandoned for failure to timely respond to the final Office action of May 25, 2007, which set a three-month shortened statutory period for reply.

A Notice of Abandonment was mailed on December 13, 2007.

The instant petition was filed January 11, 2008.

Petitioner requests the application be revived pursuant to 37 CFR 1.137(a). However, petitioner alleges the final Office action was never received. Therefore, the petition will be treated initially as a petition under 37 CFR 1.181.

Petitioner has provided sufficient evidence to establish non-receipt of the final Office action.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The final Office action mailed May 25, 2007, is hereby vacated.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee has been credited back to petitioner's deposit account.

If the final Office action had been received, petitioner could have filed a timely response, with payment of the appropriate extension of time, as late as six months after the mailing date of the final Office action. In other words, petitioner would have had up to six months to consider petitioner's next action. A petition to revive should normally be filed within two-months of the mailing date of the Notice of Abandonment. Therefore, petitioner had two months or less to consider the nature of the reply to file in response to the final Office action.

The final Office Action is vacated and will be remailed and the time period for reply will be set from the mailing date thereof. The Notice of Appeal and response submitted January 11, 2008, will not be entered or considered at this time and the Notice of Appeal fee has been credited to petitioner's deposit account. The remailed final Office Action will provide applicant sufficient time to consider all of petitioner's options.

Technology Center Art Unit 1615 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new final Office action. The time period for responding to the new final Office action will be set to run from the mailing date of the new final Office action.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

RAYMOND Y. CHAN
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK CA 91754

In re Application of
WANG
Application No.: 10/454,720
Attorney Docket No.: USP1973A-EE

: 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 March 14, 2006.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed July 21, 2005, which set a shortened statutory period of reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application was abandoned as of midnight on October 21, 2005.

On March 14, 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 "Claims Amendment" included with the RCE satisfies the submission requirement of 37 CFR 1.114). Accordingly, the reply to the final Office action of July 21, 2005 (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 2615.

Telephone inquiries concerning this decision should be directed to the undersigned.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
(571) 272-3286

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Connolly Bove Lodge & Hutz, LLP
1220 N. Market Street
PO Box 2207
Wilmington, DE 19899

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OFFICE OF PETITIONS

In re Application of :
Laycock et al. : DECISION GRANTING PETITION
Application No. 10/454,746 :
Filed: June 2, 2003 :
Attorney Docket No. 10253-00093-US :

This is a decision on the petition under 37 CFR 1.181(a), filed October 20, 2003, requesting that the above-identified application be accorded a filing date of June 2, 2003, with Figures 1 to 5 as part of the original disclosure. The petition is properly treated as a petition under 37 CFR 1.53(e).

On June 2, 2003, applicants deposited the above-identified application. On July 30, 2003, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring, inter alia, drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings.

In response, on October 20, 2003, applicants filed the present petition, the petition fee, and a copy of three sheets of drawings (Figures 1 to 5). Additionally, applicants submitted a copy of the date-stamped postcard receipt, acknowledging receipt of "Drawing(s) 3 sheet(s)" on June 2, 2003.

Upon review of the record, Figures 1 to 5 deposited on June 2, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on June 2, 2003, included Figures 1 to 5, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 1 to 5, was complete on filing and will be granted a filing date of June 2, 2003.

Accordingly, the petition is granted. The requirement for drawings as set forth in the Notice of Incomplete was sent in error and is hereby vacated. Thus, the $130.00 petition fee is unnecessary and will be refunded to Deposit Account No. 03-2775.

The Office of Initial Patent Examination is directed to process the above-identified application with a filing date of June 2, 2003, using Figures 1 to 5 submitted on petition, and to mail a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Ian Mes	:	
Application No. 10/454,750	:	DECISION ON PETITION
Filed: June 3, 2003	:	TO WITHDRAW
Attorney Docket No. 020510-004400US	:	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 27, 2004 and August 16, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request filed on September 27, 2004 cannot be approved because it was not signed.

The request filed on August 16, 2005 signed by Kris (Krishna) Kalidindi who does not have power of attorney in this application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by a registered practitioner given power of attorney in this application, an assignee, or the applicants. See 37 CFR 1.33(a)(2).

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: KRISHNA KALIDINDI
BURNS DOANE SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA, VA 22314

ABIOS.046A ah
AOK/ MHT
KEF

OIPE JC37
OCT 14 2003
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APPL NO.	FILING OR 371 (c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/454,759	~~06/03/2003~~ 06/04/2003	1645	0.00	ABIOS.046A	26	50	4

CONFIRMATION NO. 2625

FILING RECEIPT

OC000000010588063

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 07/29/2003

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)

Kai Yung, Residence Not Provided;
Sylvia Fang, Residence Not Provided;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/386,296 06/04/2002
and claims benefit of 60/411,574 09/16/2002

Foreign Applications

If Required, Foreign Filing License Granted: 07/29/2003

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

System and method for providing a standardized state interface for instrumentation

Preliminary Class
435

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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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).

ABIOS.046A

OIPE JC37 OCT 14 2003 PATENT & TRADEMARK OFFICE

Receipt

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Yung et al.
Appl. No.	:	10/454,759
Filed	:	June 3, 2003
For	:	SYSTEM AND METHOD FOR PROVIDING A STANDARDIZED STATE INTERFACE FOR INSTRUMENTATION

Group Art Unit 1645

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: United States Patent and Trademark Office, PO Box 2327, Arlington VA 22202, on

October 9, 2003
(Date)

Kirk E. Pastorian, Reg. No. 48,756

REQUEST FOR CORRECTED FILING RECEIPT

Commissioner for Patents
P.O. Box 1450
Office of Initial Patent Examination
Customer Service Center
Alexandria, VA 22313-1450

Dear Sir:

In response to the communication mailed September 29, 2003, Applicants hereby request that the Official Filing Receipt, a copy of which is enclosed, be corrected to reflect the true filing date of June 4, 2003. Presently, the Filing Receipt incorrectly shows the filing date as June 3, 2003. Also, enclosed is a copy of the Express Mail label and Certificate of mail indicating that this application was deposited with the U.S. Postal Service on June 4, 2003.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 10-8-2003

By:

Kirk E. Pastorian
Registration No. 48,756
Agent of Record
Customer No. 20,995
(909) 781-9231

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100803

Knobbe Martens Olson & Bear LLP
Intellectual Property Law

2040 Main Street
Fourteenth Floor
Irvine, CA 92614
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Alexandria, VA 22313-1450

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Attorney Docket No.	:	ABIOS.046A
Applicants	:	Kai Yung and Sylvia Fang
For	:	SYSTEM AND METHOD FOR PROVIDING A STANDARDIZED STATE INTERFACE FOR INSTRUMENTATION
Agent	:	Kirk E. Pastorian
"Express Mail" Mailing Label No.	:	EV 318 986 105 US
Date of Deposit	:	June 4, 2003

I hereby certify that the accompanying

Transmittal letter; specification in 33 pages; 26 sheets of drawings; Return Prepaid Postcard

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and are addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Kate Goode

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OCT 14 2003
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Date In Mo. 6 Day 4 Year 03	6-6-03 ☑ 12 Noon ☐ 3 PM	Postage $ 13.65
Time In ☐ AM ☑ PM 4:52	Military ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee
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No Delivery ☐ Weekend ☐ Holiday	Acceptance Clerk Initials mat	Total Postage & Fees $ 13.65

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Delivery Date Mo. Day	Time ☐ AM ☐ PM	Employee Signature

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OLSON & BEAR LLP
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AB105.046A

TO: (PLEASE PRINT) PHONE ( )

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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
10/454,759	06/04/2003	1743	1526	ABIOS.046A	26	50	4

CONFIRMATION NO. 2625

CORRECTED FILING RECEIPT

OC000000015745908

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 04/14/2005

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)

Kai Yung, Livermore, CA;
Sylvia H. Fang, Fremont, CA;

Power of Attorney: The patent practitioners associated with Customer Number **20995**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/386,296 06/04/2002
and claims benefit of 60/411,574 09/16/2002

Foreign Applications

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 US10/454,759

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

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Title

System and method for providing a standardized state interface for instrumentation

Preliminary Class

436

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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APR 09 2010

OFFICE OF PETITIONS

In re Application of :
Marvin Young :
Application No. 10/454,774 : DECISION ON PETITION
Filed: June 3, 2003 :
Attorney Docket No. **PD-0052 :

This is a decision on the petition under 37 CFR 1.181, filed December 17, 2009, requesting correction of an omission in the domestic priority data (claim to priority to provisional application No. 60/386,084) which occurred through PTO error. Applicant further requests that provisional application No. 60/386,084 be reinstated as a separate provisional application.

The petition is **GRANTED**.

No fee is required and no fee has been charged.

Petitioner argues that due to PTO error, provisional application No. 60/386,084 was erroneously converted by the Patent Office to the instant non-provisional application No. 10/454,774 and the contents of 60/386,084 were vacated. Further, this application did not include a priority claim to provisional application No. 60/386,084, because the provisional application was no longer available on PTO records.

The record has been reviewed and it is concluded that the relief requested is warranted. The Office erred in deactivating the provisional application. Receipt of the resubmission of the provisional application filing fee, as requested, on February 3, 2010 is acknowledged. The provisional application No. 60/386,084, with a filing date of June 4, 2002, has been reactivated. On February 18, 2010, the Office of Patent Application Processing, formerly OIPE, issued a corrected filing

receipt reflecting the restoration of the provisional application.

Moreover, the omission in the domestic priority data has been corrected. The claim to provisional application No. 60/386,084 under 35 U.S.C. 119(e) was properly made in the first sentence of the specification on filing of this application. This application was filed within twelve months of the filing date of the provisional application. Due to the error in deactivating the provisional application, this application did not reflect the priority claim. Thus, the claim to the provisional application is both timely and proper.

On February 18, 2010, a corrected Filing Receipt, which includes the priority claim to the provisional application, was mailed in this application.

This application issued as a patent on July 19, 2005. A certificate of correction was issued on August 5, 2008. There is no outstanding request for a certificate of correction. No further action on the part of the Office is required.

Any questions concerning this matter may be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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WILEY, REIN & FIELDING, LLP
ATTN: PATENT ADMINISTRATION
1776 K. STREET N.W.
WASHINGTON DC 20006

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NOV 29 2004

OFFICE OF PETITIONS

Applicant: Jebsen et al.
Appl. No.: 10/454,778
Filed: June 5, 2003
Title: FIREARM WITH ENHANCED RECOIL AND CONTROL CHARACTERS
Attorney Docket No.: 81005-0006
Pub. No.: US 2004/0069137 A1
Pub. Date: April 15, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on June 14, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished deleting the extra text on page 10, page 21 and page 22, as the text was not included in the application as filed.

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 errors on pages 10, 21 and 22 of the publication, wherein the original paragraph numbering and the attorney docket number is inserted at several locations in the publication are Office mistakes, but they are not 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.

The applicant is advised that a "request for republication of an application previously published"

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILEY REIN LLP
1776 K. STREET N.W.
WASHINGTON DC 20006

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MAY 03 2007

OFFICE OF PETITIONS

In re Application of	:	
Jebsen et al.	:	DECISION ON PETITION TO
Application No. 10/454,778	:	WITHDRAW HOLDING OF
Filed: 5 June, 2003	:	ABANDONMENT
Attorney Docket No. 81005-0006	:	

This is a decision on the petition filed on 9 February, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A review of the record reveals that on 11 January, 2006, a final Office action was mailed, setting a three (3) month shortened statutory period for reply.

On 10 July, 2006, a Notice of Appeal and fee and a three (3) month extension of time and fee were filed.

On 29 December, 2006, a Notice of Abandonment was mailed, stating that the application was abandoned for failure to file a proper response to a non-final Office action mailed on 11 January, 2006.

As a final Office action was mailed on 11 January, 2006, and a Notice of Appeal is a proper reply to a final rejection, the showing of record is that a proper and timely reply to the final Office action was filed. As such, the Notice of Abandonment was issued in error.

The holding of abandonment is **withdrawn**, and the Notice of Abandonment is **vacated**.

The Office regrets any inconvenience to petitioners.

Receipt is acknowledged of the Request for Continued Examination (RCE) and submission and five (5) month extension of time filed on 9 February, 2007.

The application is being referred to Technology Center Art Unit 3641 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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OFFICE OF PETITIONS

In re Application of	:	
Jebsen et al.	:	DECISION ON PETITION TO
Application Number: 10/454778	:	WITHDRAW HOLDING OF
Filing Date: 06/05/2003	:	ABANDONMENT
Attorney Docket Number: 81005-0006	:	

This is a decision in reference to the "REQUEST or PETITION TO WITHDRAW HOLDING AND NOTICE OF ABANDONMENT," filed on June 4, 2008, which is treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on November 9, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on March 16, 2008.

Petitioners assert that a proper and timely reply in the form of a three (3)-month extension of time and an amendment in response to the non-final Office action were filed by EFS-Web on May 9, 2008.

A review of the record reveals that the amendment and extension of time request filed on May 9, 2008, are located in the Office's Image File Wrapper system.

As such, the papers filed on May 9, 2008, constituted a complete and timely response to the non-final Office action mailed on November 9, 2007.

Therefore, the showing of record is that a response was timely filed, and there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

The application will be referred to Technology Center Art Unit 3641 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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MAR 25 2009

OFFICE OF PETITIONS

In re Application of :
Gorte et al. : DECISION ON PETITION
Application Number: 10/454783 :
Filing Date: 06/05/2003 :
Attorney Docket Number: UPFF- :
0009 :

This is a decision on the petition under 37 CFR 1.59(b), filed on February 13, 2009, requesting that the papers filed on February 6, 2009, be expunged.

The petition is **GRANTED-IN-PART**.

Petitioners' counsel requests that the papers filed on February 6, 2009, be expunged because the document was sent for the Examiner's review only and was not to be made part of the official record or available on PAIR.

Petitioners therefore seek to have this document expunged from the file.

37 C.F.R. §1.59 sets forth:

§ 1.59 Expungement of information or copy of papers in application file.
(a)
(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section or § 41.7(a) of this title.
(2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.
(b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.
(c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003; para. (a)(1) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004; para. (b) revised, 69 FR 56481, Sept. 21, 2004, effective Nov. 22, 2004]

A review of the papers filed on February 6, 2009, reveals that the papers are marked "DRAFT-FOR DISCUSSION PURPOSES ONLY" at the top of each page. Additionally, the cover page references that the attached pages contain a draft claim set for discussion purposes only.

The matter petitioners wish to have expunged does not form part of the original disclosure. Petitioners have included the fee associated with the filing of petition under 37 C.F.R. §1.59 and has established to the satisfaction of the Director that the expungement of this information is appropriate.

As such, the electronic documents which contain these pages have been closed in the Office's Image File Wrapper software viewing program. The paper documents will not be removed from the physical file however, as the Office does not remove papers from paper files which have been scanned.

The general phone number for the Office of Petitions, which should be used for status requests, is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

WILEYH REIN LLP
1776 K STREET N.W.
WASHINGTON DC 20006

In re Application of	:	
Jan Henrik Jebsen et al	:	
Application No. 10/454,785	:	DECISION ON PETITION
Filed: June 5, 2003	:	
Attorney Docket No. 81005-0007	:	

This is a decision on the petition, filed September 21, 2009, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The application was held abandoned for failure to timely file an Appeal Brief on or before April 17, 2009. A Notice of Abandonment was mailed on September 16, 2007.

The petition states that a reply was timely submitted on September 17, 2009. To support this assertion, the petitioner has submitted a copy of the response, along with a copy of an extension of time for five months. Additionally, Office records show receipt of an Appeal Brief, an amendment and the five month extension of time fee of $1,175.00 on September 17, 2009.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3641 for consideration by the examiner on the reply received September 17, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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PHILADELPHIA, PA 19104-2891

Mail Date: 04/21/2010

Applicant	: Michael H. Eiselt	: DECISION ON REQUEST FOR
Patent Number	: 7603042	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/454,813	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **759** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/05/06

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/454831** Patent No.: **6985210**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

DIANE LEE
SUPERVISORY PATENT EXAMINER

SPE

2851
Art Unit

PTOL-306 (REV. 7/03)

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OFFICE OF PETITIONS

In re Application of
Luis Benici Casco-Arias et al
Application No. 10/454,848
Filed: June 5, 2003
Attorney Docket No. 5577-251

:DECISION GRANTING FILING
:DATE OF JUNE 5, 2003

This is a decision on the petition filed October 2, 2003, under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of June 5, 2003, rather than the presently accorded date of June 6, 2003.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on June 5, 2003 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail Label No. EV 353595738 US showing a stamped date of June 5, 2003. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." Additionally, the other available evidence, the Internet USPS Express Mail Tracking and Delivery Confirmation, discloses that the package was deposited on June 5, 2003.

In view of the evidence in the file, it is concluded that the application was deposited in Express Mail service on June 5, 2003. Accordingly, the instant application is entitled to a filing date of June 5, 2003 and has been so accorded. A filing receipt with the corrected filing date will be mailed in due course.

The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to the Office of Initial Patent Examination for processing with a **filing date of June 5, 2003** and for mailing of a corrected filing receipt.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OVERLAND PARK, KS 66251-2100

Mail Date: 05/11/2010

Applicant	: Ronald E. Lewis	: DECISION ON REQUEST FOR
Patent Number	: 7689223	: RECALCULATION of PATENT
Issue Date	: 03/30/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/454,858	: OF WYETH
Filed	: 06/05/2003	:
		:

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : NOV - 4 '04

Paper No.: _____

TO SPE OF : ART UNIT 1623 - PESELBY

SUBJECT : Request for Certificate of Correction on Patent No.: 6774115

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should the COFC Be Granted?

RoChaun Johnson
308-6803

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:

_____

_____

_____

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_____

SPE — **Art Unit** 1623

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Paper No. 7

VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105

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OFFICE OF PETITIONS

In re Application of	:	GRANT OF PETITION
Marcus et al.	:	UNDER 37 CFR 1.78(a)(3)
Application No. 10/454,868	:	
Filed: June 4, 2003	:	
Attorney Docket No. EDU.022	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 20, 2004, to accept an unintentionally delayed claim for the benefit of priority based on the prior-filed applications set forth in the concurrently filed amendment.

The petition is **granted**.

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on October 4, 2003. The priority claims at issue were not made by this date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3).

37 CFR 1.78(a)(3) states,

If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;
(ii) The surcharge set forth in § 1.17(t); and
(iii) 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. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner has satisfied the above requirements for relief under 37 CFR 1.78(a)(3).

The granting of this petition is not a determination that petitioner is actually entitled to the benefit of the filing date of the prior-filed applications, but is only a determination that the Office will allow petitioner to file untimely claims for priority. The examiner will, in due course, consider any priority claims and determine the extent to which the application is entitled to an earlier filing date.

A corrected Filing Receipt, which includes the priority claims accompanies this decision on petition.

A proper domestic priority claim must be part of the first sentence of the specification or part of an Application Data sheet. **Petitioner may wish to verify that *proper* priority claims were filed in the two previous applications.** Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d).

This application is being forwarded to Technology Center Art Unit 3714 for appropriate action on the amendment submitted January 20, 2004, including consideration by the examiner of the claims for priority. **The examiner should consider the priority claims and determine the extent to which the application is entitled to an earlier filing date based on the prior-filed applications.**

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Pearson
Director
Office of Petitions

Attached: Corrected Filing Receipt

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NOV 16 2004

Paper No. 12 10

In re Application of
Warren S. Heit *et al*
Application No. 10/454,868
Filed: June 4, 2003
Attorney Docket No. EDU.022

: DECISION ON PETITION

This is a decision on the petition filed on June 21, 2004. The petition is being treated as a petition by which petitioners request withdrawal of holding that this application stands abandoned for failure to file a proper and timely reply to the Office letter dated November 10, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did in fact file a proper and timely reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply, a copy of a terminal disclaimer included with the reply, a copy of a petition for a one month extension of time, and a copy of a check for the disclaimer and extension fees.. Petitioners have also submitted a copy of a transmittal letter for the reply. The transmittal letter has affixed thereto a 37 CFR 1.8(a) certificate of transmission/mailing dated March 10, 2004, a date within the period for filing a reply to Office letter in question as extended by one month. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b). Office financial records show that the extension and disclaimer fees have been received and applied.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the papers that are attached to the petition. The date to which the reply is entitled is March 10, 2004. Thereafter, the application will be forwarded to the Special Programs Law Office in Technology Center for 3700 for consideration of the terminal disclaimer, and thereafter, to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Vierra Magen Marcus Harmon & DeNiro LLP
685 Market Street
Suite 540
San Francisco, CA 94105

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Paper No. 3

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND, OR 97204

COPY MAILED

OCT 20 2004

OFFICE OF PETITIONS

In re Application No.	10/454,901	:	
Reissue of Patent No.	6,519,939	:	DECISION
Original Issue Date:	February 18, 2003	:	ON PETITION
Filing Date:	June 4, 2003	:	
Attorney Docket No.	FET 335RI	:	

This is a decision on the petition under 37 CFR 1.55(c), filed July 1, 2004, requesting acceptance of an unintentionally delayed claim under 35 USC 119 for benefit of the filing date of the following foreign application: Canadian Patent Application No. 2,279,435 filed July 30, 1999.

The petition is **granted**.

The instant reissue application was filed to correct a failure to claim foreign priority before the patent was granted. In a situation where it is necessary to submit for the first time both the claim for priority and the certified copy of the priority document in the reissue application and the patent to be reissued resulted from a utility or plant application filed on or after November 29, 2000, the reissue applicant will have to file a petition for an unintentionally delayed priority claim under 37 CFR 1.55(c) in addition to filing a reissue application. See MPEP § 201.14(a).

Petitioner has filed a petition under 37 CFR 1.55(c) which meets all the requirements of the rule.

Petitioner should note that a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet in accordance with 37 CFR 1.76(b)(6). Unless provided in an application data sheet, 37 CFR 1.63 requires that the oath or declaration must identify the foreign application for patent or inventor's certificate for which priority is claimed under 37 CFR 1.55, and any foreign applications having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14. Petitioner may wish to file a supplemental oath or declaration or to submit a supplemental ADS.

This application is being forwarded to Technology Center AU 3745 for prosecution in due course.

Telephone inquiries regarding the instant decision should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-12-06

TO SPE OF : ART UNIT 3681

SUBJECT : Request for Certificate of Correction for Appl. No.: 10454905 Patent No.: 6973847

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**.

V Jackson

Certificates of Correction Branch

703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

C Marn — SPE

3681 — Art Unit

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 27 2004

LERNER AND GREENBERG, PA
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Application	:	
Donald W. Hunter et al	:	
Serial No.: 10/454,920	:	DECISION ON PETITION
Filed: June 5, 2003	:	
For: Methods and Devices for Pumping Fluid	:	
And Performing Surgical Procedures	:	

This is in response to applicants' petition filed June 19, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, 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

John E. Kittle
Director
Technology Center 3700/2900

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARY K. CAMERON
HENKEL CORPORATION
LAW DEPARTMENT
2500 RENAISSANCE BLVD., SUITE 200
GULPH MILLS PA 19406

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DEC 1 5 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kathryn E. Foster et al. :
Application No. 10/454,956 :
Filed: June 5, 2003 :
Attorney Docket No. **H 50042 HST/AUTO/CS** :

This is a decision on the petition filed September 15, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned September 14, 2006 for failure to timely pay the issue fee on or before September 13, 2006. Subsequent to the filing of the instant petition, a Notice of Abandonment was mailed October 27, 2006.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/30/07

Paper No.: ____

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/454956 Patent No.: 7179385 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The deletion of the U.S. patent documents and the insertion of the new list of U.S. patent documents has not been approved.

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE

1724
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/30/07

Paper No.: _____

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/454956 Patent No.: 7179385 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: This supercedes any previous COC, see interview summary

DUANE SMITH
SUPERVISORY PATENT EXAMINER
8-2-07

SPE Art Unit

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CENTURY IP GROUP, INC. [Main]
P.O. BOX 7333
NEWPORT BEACH, CA 92658-7333

MAILED

NOV 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Avi Yitzchak, et al.	:	
Application No. 10/454,967	:	DECISION ON PETITION
Filed: June 4, 2003	:	TO WITHDRAW
Attorney Docket No. 1005-35-01 USP	:	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 3, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by F. Jason Far-Hadian on behalf of all attorneys of record who are associated with customer No. 42698. All attorneys/agents associated with the Customer Number 42698 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The application became abandoned for failure to timely respond to the outstanding Office action mailed January 22, 2009.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA 43665 ISRAEL

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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
10/454,967	06/04/2003	Avi Yitzchak	1005-35-01 USP

CONFIRMATION NO. 2782

POWER OF ATTORNEY NOTICE

42698
CENTURY IP GROUP, INC. [Main]
P.O. BOX 7333
NEWPORT BEACH, CA 92658-7333

OC000000038246528

Date Mailed: 10/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/03/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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NOV 13 2009

OFFICE OF PETITIONS

CENTURY IP GROUP, INC. [Main]
P.O. BOX 7333
NEWPORT BEACH, CA 92658-7333

In re Application of	:	
Avi Yitzchak, et al.	:	
Application No. 10/454,967	:	DECISION ON PETITION
Filed: June 4, 2003	:	TO WITHDRAW
Attorney Docket No. 1005-35-01 USP	:	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 3, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by F. Jason Far-Hadian on behalf of all attorneys of record who are associated with customer No. 42698. All attorneys/agents associated with the Customer Number 42698 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The application became abandoned for failure to timely respond to the outstanding Office action mailed January 22, 2009.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA 43665 ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/454,967	06/04/2003	Avi Yitzchak	1005-35-01 USP

CONFIRMATION NO. 2782

POWER OF ATTORNEY NOTICE

42698
CENTURY IP GROUP, INC. [Main]
P.O. BOX 7333
NEWPORT BEACH, CA 92658-7333

OC000000038246528

Date Mailed: 10/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/03/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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FISH & NEAVE IP GROUP
ROPES & GRAY
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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APR 14 2006

OFFICE OF PETITIONS

In re Application of :
Mark R. Prausnitz et al :
Application No. 10/454,973 : ON PETITION
Filed: June 4, 2003 :
Attorney Docket No. BVTP-P02-538 :

This is a decision on the petition under 37 CFR 1.181(a), filed September 19, 2005, to withdraw of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to reply in a timely manner to the non-final Office action mailed January 24, 2005, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed July 28, 2005.

Petitioner asserts that her reply to the January 24, 2005 non-final Office action was timely mailed via Certificate of Mailing under 37 CFR 1.8 dated July 22, 2005. In support, petitioner has supplied a copy of the original reply with the Certificate of Mailing dated July 20, 2005 with the instant petition.

The original reply bearing a Certificate of Mailing date of July 20, 2005 has been located and matched with the application file.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

This application is being referred to Technology Center AU 3763.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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JJGJr: 09-05

Paper No: __

ERIC B. MEYERTONS ESQ.
MEYERTONS, HOOD, KIVLLIN,
KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

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SEP 21 2005

OFFICE OF PETITIONS

In re Application of
Murphy, et al. :
Application No. 10/454,978 : ON PETITION
Filed: 5 June, 2003 :
Attorney Docket No.: 5838-00902 :

This is a decision on the renewed petition filed (with fee) on 27 April, 2005, but not received into the Office of Petitions until this writing, and considered under 37 C.F.R. §1.182 to correct the name of the named inventor (from Suresh Reddy to Mitta Suresh). (See: MPEP §605.04(c).)

The petition is **GRANTED** (and the petition fee has been charged).

The statement of the co-inventor's name (formerly set forth in a nickname as Suresh Reddy) will be corrected to MITTA SURESH.

Petitioner is reminded to submit to the Assignment Division a corrected assignment document and cover sheet--as well as the appropriate fee--as set forth in 37 C.F.R. §1.21(h) for change of the assignment record.

This application is released to the Office of Initial Patent Examination Division to change Office records to reflect the correct statement of the inventor's name as MITTA SURESH before being forwarded to Publications Branch to issue in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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Gore Enterprise Holdings, Inc.
551 Paper Mill Road
P.O. Box 9206
Newark, DE 19714-9206

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SEP 07 2005

OFFICE OF PETITIONS

In re Application of:
SUZUKI et al.
Application No.: 10/454,994
Filing Date: June 5, 2003
Attorney's Docket No.: MI/223
For: A SEPARATION MEMBRANE MODULE WITH HOLLOW FIBER AND A METHOD OF MAKING THE SAME

DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2005 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed September 14, 2004, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 15, 2004.

37 CFR 1.137(b) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b) (3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.37(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Office action mailed September 14, 2004; (2) the petition fee; and (3) an adequate statement of unintentional delay have been received. Accordingly, the reply to the Office action of September 14, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Attorney-Advisor, Anthony Smith at (571) 272-3298 or in his absence, the undersigned at (571) 272-3217.

The application is being referred back to GAU 1724 further processing.

Brian Hearn
Petitions Examiner
Office Of Petitions

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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Thomas Charles Easley et al :
Application No. 10/455,008 : ON PETITION
Filed: June 5, 2003 :
Attorney Docket No. US 125174-260SD

This is a decision on the petition, filed March 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 March 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 Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 3723 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Jerome L. Jeffers, Esq.
Bayer Healthcare, LLC
P.O. Box 40
Elkhart, IN 46515-0040

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OCT 24 2006
OFFICE OF PETITIONS

In re Application of	:
Vreeke et al.	:
Application No. 10/455,012	: DECISION ON PETITION
Filed: June 6, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. MSE #2653	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 21, 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 June 6, 2003, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/391,108, which was filed on June 25, 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 fails to comply with 37 CFR 1.121. Applicant was so notified in a Notice of Non-Compliant Amendment, mailed March 22, 2006.

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)) 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 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 decision on petition may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

NIXON PEABODY LLP
161 N. CLARK STREET
48TH FLOOR
CHICAGO IL 60601

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DEC 1 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Vreeke et al.	:	
Application No. 10/455012	:	DECISION ON PETITION
Filing Date: 06/06/2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MSE #2653	:	

This is a decision on the "Renewed Petition Under 37 CFR 1.78(a)(3) for the Unintentionally Delayed Claim for Priority," filed October 31, 2007, for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed Amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. 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 **(3).**

As to item (3), a statement that the entire delay between the date the claim was due under 37 CFR 1.78, paragraph (a)(2)(ii), and the date the claim was filed was unintentional. The present renewed petition does not contain a statement of unintentional delay. A petition to accept an unintentionally delayed claim for priority was filed March 21, 2006, and dismissed in a Decision mailed October 24, 2006. Office records reveal that the Petitioner in the March 21, 2006, is not the Petitioner herein. As such, there is a question whether Petitioner herein is in a position to

know whether the entire delay between the date the claim was due and the date the claim was filed was unintentional.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and a statement from a proper party, 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, is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Director 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 attorney Derek Woods at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

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Technology Center 2100

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of:
William E. SOBEL
Application No. 10/455,014
Filed: June 4, 2003
For: OPTIMIZING SIGNATURE BASED SPAM DETECTION BY USING SECONDARY SPAM DETECTION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed September 28, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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Special Program Examiner
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cc: Sonnenschein Nath & Rosenthal LLP
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