UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JAMES S. FINN
TRACFONE WIRELESS, INC.
8390 NW 25TH STREET
MIAMI, FL 33122

COPY MAILED

FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Sergio Rivera, et al.	:	
Application No. 10/460,098	:	DECISION ON PETITION
Filed: June 12, 2003	:	
Attorney Docket No. JSF05-0004	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 5, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 6, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to Technology Center AU 2618 for appropriate action by the Examiner in the normal course of business on the reply received

Irvin Dingle
Petitions Examiners
Office of Petitions

cc: JAMES S. FINN
1221 BRICKELL AVENUE
MIAMI, FL 33131

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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James S. Finn
TracFone Wireless, Inc.
8390 NW 25th Street
Miami FL 33122

COPY MAILED

JUN 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Rivera, et al. : DECISION
Application No.: 10/460,098 :
Filed: June 12, 2003 :
Docket No.: JSF05-0004 :

This decision is in response to the "PETITION PURSUANT TO 37 C.F.R. § 1.36 (a) and § 1.183," filed October 3, 2007.

The petition requests that "the requirements of 37 C.F.R. §1.36(a) that all owners sign the revocation/new power of attorney be waived, pursuant to 37 C.F.R. § 1.183, and that the enclosed Revocation of Power of Attorney/New Power of Attorney and Change of Correspondence Address be accepted although not signed by both co-owners in order to avoid irreparable harm to Petitioner."

The petition is **DISMISSED**.

Petitioners acknowledge that TracFone Wireless, Inc. is one-half owner of the instant application for patent and that co-inventor Victor Maldonado is the other one-half owner.

Partial assignee TracFone Wireless, Inc. seeks to revoke the current power of attorney to Mr. James Finn and appoint a new legal representative on behalf of the co-owners of the application for patent.

The revocation of power of attorney/appointment of new power of attorney submitted, while signed by the legal representative of TracFone Wireless, Inc., is not signed by co-owner/co-inventor Victor Maldonado or Mr. Maldonado's legal representative. Victor Maldonado has not revoked power of attorney to James Finn.

TracFone Wireless, Inc. is without legal authority to act on behalf of co-owner/co-inventor Victor Maldonado as Mr. Maldonado has not assigned his ownership in the invention to TracFone Wireless, Inc. and Mr. Maldonado has not signed the

revocation of attorney/appointment of new power of attorney/change of correspondence address.

Petitioners indicate that Mr. Maldonado is no longer employed by TracFone Wireless, Inc.

Petitioners also state that attorney James Finn is no longer employed by TracFone Wireless, Inc.

TracFone Wireless, Inc. can revoke any previous power of attorney and appoint new counsel to act on its own behalf, as the partial assignee. TracFone Wireless, Inc. is without authority to revoke and appoint a power of attorney on behalf of co-owner/co-inventor Victor Maldonado. TracFone Wireless, Inc. cannot change the correspondence address without the consent of co-owner/co-inventor Victor Maldonado, or Mr. Maldonado's legal representative. *See*, 37 CFR 1.33(b).

Without a joint power of attorney signed by both co-owners, all submissions would have to be signed by legal representatives for both parties. Submissions signed by legal representatives for both parties would require a waiver under 37 CFR 1.183 of the requirements of 37 CFR 1.32(b)(4). (Petitioners have not submitted a petition to this effect.)

MPEP 402.10 states as follows:

> "Papers giving or revoking a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(f) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney. The petition should be directed to the Office of Petitions. The acceptance of such papers by petition under 37 CFR 1.36(a) or 1.183 will result in more than one attorney, agent, applicant,

> or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. *See In re Goldstein*, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988). In an application filed under 37 CFR 1.47(a), an assignee of the entire interest of the available inventors (i.e., the applicant) who have signed the declaration may appoint or revoke a power of attorney without a petition under 37 CFR 1.36(a) or 1.183. See MPEP § 402.07. However, in applications accepted under 37 CFR 1.47, such a petition under 37 CFR 1.36(a) or 1.183 submitted by a previously nonsigning inventor who has now joined in the application will not be granted. See MPEP § 409.03(i). Upon accepting papers appointing and/or revoking a power of attorney that are signed by less than all of the applicants or owners, the Office will indicate to applicants who must sign subsequent replies. Dual correspondence will still not be permitted. Accordingly, when the acceptance of such papers results in an attorney or agent and at least one applicant or owner prosecuting the application, correspondence will be mailed to the attorney or agent. When the acceptance of such papers results in more than one attorney or agent prosecuting the application, the correspondence address will continue to be that of the attorney or agent first named in the application, unless all parties agree to a different correspondence address. Each attorney or agent signing subsequent papers must indicate whom he or she represents."

A petition under 37 CFR 1.36(a) requires a showing of sufficient cause to accept a revocation of power of attorney signed by less than both owners of the instant application for patent. The revocation of power of attorney provisions of 37 CFR 1.36 cannot be used to circumvent the requirements of 37 CFR 1.32 which govern appointment of power of attorney.

Petitioners argue that TracFone Wireless, Inc. is the real party in interest for the instant application. Petitioners further argue that if TracFone Wireless, Inc. is unable to appoint counsel, there will be no one to complete the prosecution of the application and attend to any remaining issues, including payment of the issue fee, and the application will go abandoned.

The arguments set forth by petitioners have been carefully reviewed, but are not convincing. Petitioners have failed to provide any evidence to establish that co-owner/co-inventor Victor Maldonado assigned, agreed to assign, or would be obligated to assign his interest in the application to TracFone Wireless, Inc., such as a copy of an employment agreement. Petitioners have failed to provide any evidence to establish that effort has been made to procure the signature of the co-owner/co-inventor on the revocation of power of attorney/appointment of new power of attorney/change of correspondence address.

Moreover, petitioners have not utilized the available relief to accomplish a revocation of power of attorney to Mr. Finn. TracFone Wireless, Inc. can revoke the power of attorney to Mr. Finn on its own behalf. Mr. Finn, who in joining the instant petition seems to consent to the revocation, can submit a request to withdraw as counsel for co-owner/co-inventor Victor Maldonado.

James Finn remains of record as the legal representative of co-owner/co-inventor Victor Maldonado in this case. There is no indication in the record that Mr. Finn has sought to withdraw as attorney in accordance with 37 CFR 1.36(b). If Mr. Finn no longer represents co-owner/co-inventor Victor Maldonado, he may not request to change the correspondence address on Mr. Maldonado's behalf, as requested in the petition. Moreover, Mr. Finn cannot revoke himself as attorney of record, but would need to follow the proper procedure and submit a request to withdraw as attorney under 37 CFR 1.36(b).

Petitioners seek waiver under 1.183 to waive the requirements that each applicant for patent execute the power of attorney submitted herewith.

In accordance with 37 CFR 1.183, "in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f)."

Petitioners have failed to establish the existence of extraordinary circumstances within the meaning of 37 CFR 1.183 to warrant the requirement that all amendments and other papers be signed in accordance with 37 CFR 1.33(b). Petitioners have not indicated what steps, if any, have been made to procure the signature of the co-owner/co-inventor on the papers desired to be submitted.

Where an applicant retains an ownership interest, the combination of all partial assignees and the applicant with the ownership interest is needed to conduct the prosecution of an application.

The request to change correspondence address cannot be entered at present as it cannot be determined if the request is properly submitted by representatives of both parties. Clarification as to Mr. Finn's standing in the case is required.

Any renewed petition should be an exhaustive effort to establish the existence of extraordinary circumstances surrounding the submission of appointment of power of attorney/change of correspondence address and/or a showing of sufficient cause to accept the revocation of power of attorney without the signature of each co-owner of the patent application.

The required petition fee of $400.00 has been charged to petitioners' deposit account as authorized.

The requested revocation/appointment of power of attorney/change of correspondence address has not been entered into the record as the documents are not properly executed in accordance with relevant rules and the documents are not accompanied by a grantable petition under 37 CFR 1.183 or 1.36.

The instant decision is being dually mailed to the address indicated on the petition. However, as said address differs from the correspondence address of record, no further correspondence will be dually mailed absent appropriate instruction and supporting documentation to the contrary.

Petitioners are given TWO MONTHS from the mailing date of this decision to reply. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183." Any extensions of time will be governed by 37 CFR 1.136(a).

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

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

By facsimile: (571) 273-8300

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

The application is being directed to the Office of Patent Publication as requested by said division of the agency.

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

/Alesia M. Brown/
Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Manuel R. Valcarcel, Esq.
Greenberg Traurig, P.A.
1221 Brickell Avenue
Miami, Florida 33131

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 4

Lesley A. Hamlin
Textron Systems Corporation
201 Lowell Street
Wilmington, MA 01887

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of:
Richard C. Slater
Application No.10/460,101
Filed: June 12, 2003
Attorney Docket Number:
LASER03-01

DECISION ON PETITION

This is a decision on the Petition to Establish Prior Receipt in the P.T.O. of Item Considered as Omitted by the P.T.O.-Response to "Notice of Omitted Items", filed August 14, 2003, requesting that the above-identified application be accorded a filing date of June 12, 2003, including Figure 1 described in the specification as part of the original disclosure.

The petition is dismissed.

Background

The application was filed on June 12, 2003. However, on August 5, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice"), stating that a filing date had been accorded the application; however, Figure 1 described in the specification appeared to have been omitted from the application.

In response, Petitioner files the instant petition, supplemented by a Statement of Facts and Documentary Evidence; a copy of the return-receipt postcard that does not contain an Official date stamp from this Office; a copy of Express Mail Label No. EL032268805US; a copy of the utility Patent Application Transmittal, a copy of the Fee Transmittal for the above-identified application.

Petitioner avers that drawing Figure 1 was included as part of the original disclosure on June 12, 2003.

The best evidence of what was filed on June 12, 2003, is applicant's postcard receipt. In this case, applicant's postcard receipt fails to demonstrate that drawing Figures 1 was filed with the application.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will

then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

In this instance, Petitioner's postcard does not contain an Official date stamp from this Office.

Moreover, Petitioner's postcard receipt does not identify any drawings filed with the application, but notes only that a Utility Patent Application was filed. Thus, applicant's postcard receipt fails to demonstrate that any drawing Figures were present upon filing the instant application.

The MPEP provides that

> If a new application is being filed, all parts of the application being submitted should be separately listed on the post card, e.g. the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).
>
> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not 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 if one of the components or portions of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard.

MPEP § 503

Finally, the Declaration relied upon contains the Declarant's recall of events which occurred 2 months earlier and are not more persuasive than the record of what was filed as shown by the official file.

<u>Conclusion</u>

If Figure 1 was not present on the June 12, 2003 filing date, it cannot be considered a part of the original disclosure of the application. Petitioner has failed to satisfactorily demonstrate that Figure 1 was present in the Office on June 12, 2003. Therefore, the application cannot be accorded the June 12, 2003 filing date with

Figure 1 as part of the original disclosure. The issue of new matter is one appropriately addressed by the primary examiner during prosecution of the application after the filing date of the application has been determined.

The application is being returned to OIPE for further processing with a filing date of June 12, 2003, using the drawing Figures filed on that date.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Peter Van Diepen
1348 W. Pender Street
Vancouver BC V6E4T-1 CA
CANADA

COPY MAILED

JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Diepen, et al. : DECISION ON PETITION
Application No.. 10/460,103 :
Filed: June 13, 2002 :
For: CUSTOMIZABLE KEYBOARD :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 18, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned July 12, 2004 for failure to timely submit a proper reply to the Office communication mailed June 11, 2004. The Office communication set a one month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely requested. Notice of Abandonment was mailed December 23, 2004 and re-mailed March 3, 2005.

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 fails to satisfy requirement (1) set forth above in that the instant petition and the response to the

restriction requirement has not been signed by all of the named inventors named in the application.

In accordance with 37 CFR 1.33 amendments and other papers submitted before the Office 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.

The petition and response to restriction requirement have only been signed by inventor Van Diepen.

Accordingly, any renewed petition and response to restriction requirement must be signed by each inventor named in the application.

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

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

By facsimile: (703) 872-9306

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 3 1 2005

OFFICE OF PETITIONS

Peter Van Diepen
1348 W. Pender Street
Vancouver BC V6E4T-1 CA CANADA

In re Application of :
Van Diepen, et al : DECISION ON PETITION
Application No. 10/460,103 :
Filed: June 13, 2003 :
For: CUSTOMIZABLE KEYBOARD :

This is a decision on the petition renewed under 37 CFR 1.137(b), filed August 19, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned July 12, 2004 for failure to timely submit a proper reply to the Office communication mailed June 11, 2004. The Notice set a one month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed December 23, 2004 and re-mailed March 3, 2005. A petition under 37 CFR 1.137(b) was filed June 18, 2005 and dismissed June 22, 2005.

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 lacks requirement (1) set forth above. A response to the restriction requirement mailed June 11, 2004 has

not been submitted. As petitioners have alleged non-receipt of the Office communication, a courtesy copy is enclosed herewith.

Any renewed petition must be accompanied by the required reply.

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

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

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Office 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

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JAN 13 2006
OFFICE OF PETITIONS

Peter Van Diepen
1348 W. Pender Street
Vancouver BC V6E4T-1 CA
CANADA

In re Application of	:
Van Diepen, et al.	: DECISION ON PETITION
Application No. 10/460,103	:
Filed: June 13, 2003	:
For: CUSTOMIZABLE KEYBOARD	:

This is a decision on the petition renewed under 37 CFR 1.137(b), filed October 3, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned July 12, 2004 for failure to timely reply to the Office communication mailed June 11, 2004. The Office communication set a one month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed December 23, 2004. A petition under 37 CFR 1.137(b) was filed June 18, 2005 and dismissed June 22, 2005. A renewed petition was filed August 19, 2005 and dismissed August 31, 2005.

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 fails to satisfy requirement (1) set forth above. Petitioners have failed to submit a proper reply to the Office communication. Petitioners have failed to submit a proper reply commencing on a separate sheet that adheres to the required format. See 37 CFR 1.121 and MPEP 714. Enclosed for petitioners' reflection is a sample format. Further inquiries regarding the amendment must be directed to the Technology Center (571-272-2800).

Any renewed petition must include a proper reply to the outstanding Office action. The reply may consist of a proper response to the Office communication.

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

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

By facsimile: (51) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Sample Format for Revised Amendment Practice

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 COLEMAN COMPANY, INC.
LEGAL DEPARTMENT - 702
3600 N. HYDRAULIC
WICHITA KS 67219

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APR 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Andrew T. Metzger	:	DECISION ON PETITION
Application No. 10/460,130	:	UNDER 37 CFR 1.137(b)
Filed: June 12, 2003	:	
Attorney Docket No. ORGTNT2-4198	:	

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

The petition is **GRANTED**.

This application became abandoned on March 14, 2005, for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due, which set a three (3) month statutory period for reply. The present petition precedes the mailing of a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner authorized the Office to charge the Deposit Account for the petition fee, issue fee, and publication fee, and made the proper statement of unintentional delay.

Deposit Account No. 12-1216 will be charged for the petition fee, issue fee, publication fee, and advanced copies fees, totaling $3,233.00.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (888) 786-0101.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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FEB 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Collins et al.	:	
Application No. 10/460,139	:	ON PETITION
Filed: June 12, 2003	:	
Attorney Docket No. 6944US02	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 18, 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 June 29, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 30, 2004.

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

This matter is being referred to Technology Center 1600 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions
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

Jeffrey C. Hood
Meyertons, Hood, Kivlin, Kowert & Goetzel PC
P.O. Box 398
Austin, TX 78767

Mail Date: 04/21/2010

Applicant	: Michael L. Santori	: DECISION ON REQUEST FOR
Patent Number	: 7624375	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/460,147	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1387** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Meyertons, Hood, Kivlin, Kowert, Goetzel/Symantec
P.O. Box 398
Austin, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: John A. Colgrove	: DECISION ON REQUEST FOR
Patent Number	: 7653699	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/460,148	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1521** 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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James J. Kulbaski
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of: MOTOYAMA, T., et. al.
Application No. **10/460,151**
Filed: June 13, 2003
Docket No. 235610US28
Title: METHOD FOR EFFICIENTLY EXTRACTING STATUS INFORMATION RELATED TO A DEVICE COUPLED TO A NETWORK IN A MULTI-PROTOCOL REMOTE MONITORING SYSTEM

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

MAIL

MAY 11 2009
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

This is a decision on the petition filed on March 24, 2009 under 37 CFR § 1.181(a)(3) requesting that the Examiner consider all references listed on the Information Disclosure Statements (IDSs) on September 21, 2007.

The petition is **DISMISSED AS MOOT**.

A review of the file of instant application indicates that on April 03, 2009, the Office considered each of the references listed on the IDS above mentioned and that applicant was informed of such via a PTO-90C communication. Since each of those references listed on the above mentioned IDS has been already considered, this petition is rendered moot.

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

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/bp/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400

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Paper No. 5

REED SMITH, LLP
SUITE 1400
3110 FAIRVIEW PARK DRIVE
FALLS CHURCH, VA 22049

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SEP 26 2003

OFFICE OF PETITIONS

In re Application of :
Okumura, et al. :
Application No. 10/460,154 : ON PETITION
Filed: June 13, 2003 :
Attorney Docket No. NITT.0136 :

This is a decision on the petition filed August 13, 2003, requesting that the above-identified application be accorded a filing date of June 13, 2003, with drawings of Figures 17-22 as a part of the original disclosure of the application.

The application was filed on June 13, 2003 as a continuation application of prior application No. 09/780,492 (now patent No. 6,593,920). However, the drawings of Figures 17-22 described in the specification were omitted.

On August 13, 2003, sixteen (16) sheets of drawings containing Figures 1-22 were filed with the present petition. Furthermore, petitioners state that the drawings containing Figures 17-22 were expressly incorporated by reference on the Utility Patent Application Transmittal of the above-identified application filed June 13, 2003.

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the USPTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional

application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing drawings were actually deposited in the PTO on June 13, 2003, with the other application papers nor request a later filing date. Please note, petitioner states, "a minor administrative error is being corrected."

Instead, applicants seek to add the drawings of Figures 17-22 to the present application on the basis that the drawings were incorporated by reference. However, no petition is necessary for that purpose. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>. (emphasis supplied)

If applicants desire that Figures 17-22 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the drawing. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 13, 2003, including an indication in USPTO records that ten (10) sheets of drawings were present on filing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH, VA 22042

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Kenetsu Yokogawa et al :
Application No. 10/460,155 :
Filed: June 13, 2003 :
Attorney Docket No. HITA.0401 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 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 March 23, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 24, 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 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.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division, Box Issue Fee, within ONE MONTH from the mail date of this decision.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: blank Issue Fee Transmittal Form (PTOL-85b).

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

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JUN 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Kimihiro Ando, et. al.	:	
Application No. 10/460,189	:	DECISION ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. 238976USOX	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on July 26, 2007, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final office action mailed November 20, 2006. A Notice of abandonment was mailed on June 27, 2007.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Margaret S. Millikin appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts.

Additionally, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 with the $790 filing fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is GRANTED.

This application is being revived for consideration of the RCE.

If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The application file is being referred to Technology Center Art Unit 1774 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Margaret S. Millikin
2790 Columbus Road, Bldg. 21-0
Granville, OH 43023-1200

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

MAR - 7 2007

In re Application of	:	
Nobuyuki Hirai	:	DECISION ON REQUEST TO
Application No. 10/460229	:	PARTICIPATE IN PATENT
Filed: June 13, 2003	:	PROSECUTION HIGHWAY
Attorney Docket No. 008625.023082	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed January 22, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

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

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APR 2 9 2005

OFFICE OF PETITIONS

Applicant: Kosaka et al.
Appl. No.: 10/460,233
Filing Date: June 13, 2003
Title: TITANIUM ALLOY AND AUTOMOTIVE EXHAUST SYSTEMS THEREOF
Attorney Docket No.: 04265.0107
Pub. No.: US 2004/0094241 A1
Pub. Date: May 20, 2004

This is in response to the request for a corrected patent application publication under 37 CFR 1.221(b), which was received on July 16, 2004.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the publication contains errors on the front page of the publication in the abstract as the symbol "%" is missing from the end of the paragraph and in claim 14 as the phrase "defined herein" is missing from the end of the sentence after "as."

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The error in the abstract wherein the symbol "%" is missing from the end of the paragraph is not a material Office mistake under 37 CFR 1.221(b), as the symbol "%" does not appear in the abstract as filed with the application.

The error in dependent claim 14, where the part of the phrase "defined herein" is missing from the end of the claim in the phrase "as defined herein" is an Office error, but it is not a material error under 37 CFR 1.221. The mistake is a minor error, as the claim is understandable on itself and

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

the language is used throughout the claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

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

By facsimile: 703-872-9306

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

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

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AUG 19 2004

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
TSONG-MINN HSIEH	:	
Serial No.: 10/460,239	:	DECISION ON REQUEST TO WITHDRAW
Filed: June 13, 2003	:	FROM RECORD
Attorney Docket No.: **AMIP0019USA**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 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 Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

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

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

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

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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/21/2010

Applicant	: David Black	: DECISION ON REQUEST FOR
Patent Number	: 7659922	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/460,240	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/13/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1364** 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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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 05/18/2010

Applicant : David Black
Patent Number : 7659922
Issue Date : 02/09/2010
Application No : 10/460,240
Filed : 06/13/2003

: 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 **1452** 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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NEW YORK NY 10017

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AUG 20 2007

OFFICE OF PETITIONS

In re Patent No. 7,204,986	:	
Ling Yuk Cheung	:	
Issue Date: April 17, 2007	:	DECISION ON
Application No. 10/460,246	:	PATENT TERM ADJUSTMENT
Filed: June 11, 2003	:	
Attorney Docket No. 6100-044-999	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed June 7, 2007. Patentee requests that the patent term adjustment indicated on the patent be corrected from three hundred four (304) days to three hundred fifty-three (353) days.

The application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred sixty (360)** days.

On April 17, 2007, the above-identified application matured into U.S. Patent No. 7,204,986 B2. The instant request for reconsideration filed June 7, 2007 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of three hundred four (304) days.

Patentee states that the patent is subject to a terminal disclaimer.

Patentee asserts that he should not have been assessed applicant delay of fifty-one (51) days for the submission of a paper titled "AMENDMENT UNDER 37 C.F.R. § 1.312" on January 9, 2007. The amendment requested correction of the title of the invention, clarified the record, and included a statement of the substance of a telephone interview.

A review of the record reveals applicant previously filed an amendment on September 7, 2006, changing the title of the invention, in response to the examiner's objection to the title, mailed on April 17, 2006. However, the Notice of Allowance still indicated the old title, the one the examiner previously objected to. Accordingly, as this was the first opportunity for applicants to correct the title, the delay of fifty-one (51) days is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is three hundred sixty (360) days (488 days of PTO delay and 128 days of applicant delay).

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **three hundred sixty (360)** days subject to any disclaimers.

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

Kery A Fries for

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: draft Certificate of Correction (1 page)

Day : Monday
Date: 8/20/2007

PALM INTRANET

Time: 11:14:06

PTA Calculations for Application: 10/460246			
Application Filing Date:	06/11/2003	PTO Delay (PTO):	488
Issue Date of Patent:	04/17/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	179
Post-Issue Petitions:	0	Total PTA (days):	360
PTO Delay Adjustment:	51		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
56	08/20/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	51		
52.5	03/28/2007	PTA 36 MONTHS			
52	04/17/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
51	03/09/2007	EXPORT TO FINAL DATA CAPTURE			
50	03/08/2007	DISPATCH TO FDC			
49	03/08/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
48	03/06/2007	ISSUE FEE PAYMENT VERIFIED			
47	03/06/2007	ISSUE FEE PAYMENT RECEIVED			
46	02/28/2007	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
45	02/21/2007	FINISHED INITIAL DATA CAPTURE			
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43	01/09/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		51	46
42	01/09/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		0	46
41	12/25/2006	EXPORT TO INITIAL DATA CAPTURE			
40	12/20/2006	MAIL NOTICE OF ALLOWANCE			
39	12/20/2006	MAIL EXAMINER'S AMENDMENT			
38	12/18/2006	ISSUE REVISION COMPLETED			
37	12/18/2006	DOCUMENT VERIFICATION			
36	12/18/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	12/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
34	12/15/2006	EXAMINER'S AMENDMENT COMMUNICATION			
		EXAMINER INTERVIEW SUMMARY RECORD			

33	11/08/2006	(PTOL - 413)			
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30	11/22/2006	TERMINAL DISCLAIMER FILED		76	26
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27	09/18/2006	DATE FORWARDED TO EXAMINER			
26	09/07/2006	RESPONSE AFTER NON-FINAL ACTION		52	23
25	09/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	09/07/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	04/17/2006	MAIL NON-FINAL REJECTION			
22	04/14/2006	NON-FINAL REJECTION			
21	04/20/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	03/13/2006	DATE FORWARDED TO EXAMINER			
19	03/01/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
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17	12/12/2005	MAIL RESTRICTION REQUIREMENT	488		-1
16	12/08/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
15	11/29/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	03/28/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	03/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	04/20/2004	REFERENCE CAPTURE ON IDS			
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9	12/01/2003	APPLICATION DISPATCHED FROM OIPE			
8	12/01/2003	APPLICATION IS NOW COMPLETE			
7	10/27/2003	ADDITIONAL APPLICATION FILING FEES			
6	10/27/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	08/27/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	06/26/2003	CLEARED BY OIPE CSR			
2	06/24/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	06/11/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,204,986 B2

DATED : April 17, 2007

INVENTOR(S) : Ling Yuk Cheung

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 (304) days

Delete the phrase "by 304 days" and insert – by 360 days—

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Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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JUL 3 1 2007

OFFICE OF PETITIONS

In re Patent No. 7,214,377	:	
Ling Yuk Cheung	:	
Issue Date: May 8, 2007	:	DECISION ON
Application No. 10/460,247	:	PATENT TERM ADJUSTMENT
Filed: June 11, 2003	:	
Attorney Docket No. 6100-051-999	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed June 7, 2007. Patentee request that the patent term adjustment indicated on the patent be corrected from three hundred four (304) days to three hundred fifty-three (353) days.

The application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred fifty-three (353)** days.

On May 8, 2007, the above-identified application matured into U.S. Patent No. 7,214,377 B2. The instant request for reconsideration filed June 7, 2007 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of three hundred four (304) days.

Patentee states that the patent is subject to a terminal disclaimer.

Patentee asserts that he should not have been assessed applicant delay of forty-nine (49) days for the submission of a paper titled "AMENDMENT UNDER 37 C.F.R. § 1.312" on January 9, 2007. The amendment requested correction of the title of the invention, clarified the record, and included a statement of the substance of a telephone interview.

A review of the record reveals applicant previously filed an amendment on September 8, 2006, changing the title of the invention, in response to the examiner's objection to the title, mailed on April 10, 2006. However, the Notice of Allowance still indicated the old title, the one the examiner previously objected to. Accordingly, as this was the first opportunity for applicants to correct the title, the delay of forty-nine (49) days is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is three hundred fifty-three (353) days (488 days of PTO delay and 135 days of applicant delay).

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **three hundred fifty-three (353)** days subject to any disclaimers.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: draft Certificate of Correction (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,214,377 B2

DATED : May 8, 2007

INVENTOR(S) : LIng Yuk Cheung

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 (304) days

Delete the phrase "by 304 days" and insert – by 353 days—

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Paper No. 3

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JUL 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ERNEST BETTON
C/O TIMOTHY ELBERT BETTON
4301 EASTERN AVENUE #4
MOUNT RAINIER MD 20712

In re Application of: Ernest Betton :
Application Serial No.: 10/460,253 : DECISION ON PETITION
Filed: June 13, 2003 :
For: SMALL SCREEN LARGER THAN LIFE 3D TV :

This is a decision on the petition under 37 C.F.R. § 1.102, May 3, 2004, to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item I: Manufacture; item II: Infringement; item III: Applicant's Health; item IV: Applicant's Age or item X: Inventions Relating To HIV/AIDS and Cancer.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item I: Manufacture requires:

> I. MANUFACTURE
> An application may be made special on the ground of prospective manufacture upon the filing of a petition accompanied by the fee under 37 CFR 1.17(h) and a statement by the applicant, assignee or an attorney/agent registered to practice before the Office alleging:
>
> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and
>
> (D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record. [emphasis added]

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item II: Infringement requires:

> II. INFRINGEMENT
> Subject to a requirement for a further showing as may be necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:
>
> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, III: Applicant's Age requires:

> III. APPLICANT'S HEALTH
> An application may be made special upon a petition by applicant accompanied by any evidence showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course, such as a doctor's certificate or other medical certificate. No fee is required for such a petition. See 37 CFR 1.102(c).

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, IV: Applicant's Health requires:

> IV. APPLICANT'S AGE
> An application may be made special upon filing a petition including any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement. No fee is required with such a petition. See 37 CFR 1.102(c).

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item X: Inventions Relating To HIV/AIDS and Cancer requires:

> X. INVENTIONS RELATING TO HIV/AIDS AND CANCER
> In view of the importance of developing treatments and cures for HIV/AIDS and cancer and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord "special" status to patent applications relating to HIV/AIDS and cancer.
> Applicants who desire that an application relating to HIV/AIDS or cancer be made special should file a petition and the fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status

should be accompanied by a statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

Applicant's petition to accord special status to the subject application on the grounds of Manufacture fails to include the petition fee and a statement which includes items A through D of MPEP §708.02 (I) along with a copy of each related reference.

Applicant's petition to accord special status to the subject application on the grounds of Infringement fails to include the petition fee and a statement which includes items A through C of MPEP §708.02 (II) along with a copy of each related reference.

Applicant's petition to accord special status to the subject application on the grounds of Applicant's Health, fails to include evidence as to the state of Applicant's health as required by of MPEP §708.02 (III).

Applicant's petition to accord special status to the subject application on the grounds of Applicant's age, fails to include evidence or a statement by Applicant that they are over the age of 65 as required by of MPEP §708.02 (IV). In fact, the petition specifically states that the Applicant's age is only 51.

Applicant's petition to accord special status to the subject application on the grounds of Invention relating to HIV/AIDS and Cancer fails to include show how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer. Applicant's invention is directed towards a Small Screen Larger Than Life 3D TV. Just by the title, this would neither treat or prevent HIV/AIDS or Cancer. As far as diagnosis, Applicant's petition merely states that the invention has "research possibilities through the coupling of virtual reality and scent therapy". This statement does not satisfy the requirement for a statement explaining how the invention contributes to the diagnosis of HIV/AIDS or cancer.

Accordingly, Applicant's petition to make the subject application special under the grounds of M.P.E.P. § 708.02, item I: Manufacture; item II: Infringement; item III: Applicant's Health; item IV: Applicant's Age or item X: Inventions Relating To HIV/AIDS and Cancer is **DENIED**.

Should applicant desire reconsideration, he or she should supplement this petition by including the information as outlined above and the required fees. Any request for reconsideration must be filed within **TWO MONTHS** from the date of this decision.

A review of the record shows that this application currently has no power of attorney. If the petitioner desires to appoint a power of attorney, the Office website: USPTO.GOV provides a power of attorney form PTO/SB/81 for appointing power of attorney.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/20/2010

Applicant	: Satoshi Noma	: DECISION ON REQUEST FOR
Patent Number	: 7626971	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/460,262	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/13/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1320** 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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FROM DIRECTORS OFFICE

OCT 27 2004

TECHNOLOGY CENTER 3600

John Splawn Page Jr.
25092 Forest Hill
Lake Forest, CA 92630

In re Application of
John Splawn Page Jr.
Application No. 10/460,275
Filed: June 11, 2003
For: AIRCRAFT CONVERTS DRAG TO LIFT

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on September 16, 2004.

The petition is **DISMISSED.**

A review of the file record reveals that an Office action was mailed to applicant on February 19, 2004. The application was held abandoned for failure to timely respond to the Office action mailed on February 19, 2004 and a Notice to that effect was mailed on September 8, 2004.

In the petition, applicant states that the Patent Office sent the correspondence to an incorrect address that does not correspond to the correspondence address filed with the original declaration.

A further review of the file reveals that the original declaration indicates that all correspondence be directed to customer number 28247, which lists the street address of 25092 Forest Hill. This was (and still is) the correspondence address of record.

Because there has never been any record of a change in correspondence address filed with the Office, the Office action sent to the applicant from the Office was properly sent to the address of record; 25092 Forest Hill, Lake Forest, CA. It is furthermore noted that the address from which the petition was sent is different, namely 25092 Farthing Street #61, Lake Forest, CA 29630-4034.

A review of the file indicates that the Office did not receive an appropriate address change notification as indicated in the MPEP 601.03 and that the Office action was mailed to the proper address of record as listed in the declaration filed with the application. The MPEP 601.03 states,

> "Where an attorney or agent of record (or applicant, if he or she is prosecuting the application *pro se*) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP code)..."

"The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record."

While the petition filed September 16, 2004 had listed a different correspondence address than the customer number listed in the declaration, there is nothing provided in the request which **identifies** the address as a change of address or **calls attention** to the fact that a change of address is being requested, as is required, above. Nor is there any earlier filed paper asking for a correspondence address change. Therefore, there is no apparent Patent and Trademark Office error in the mailing of the Office communication and the holding of abandonment will not be withdrawn.

Given that, according to our records, the applicant failed to change the correspondence address, it is not surprising that the applicant failed to receive the above-noted Office action. While MPEP 711.03(c) does give an applicant the ability to petition to show that a communication from the Patent Office was not received, this is predicated on the fact that applicant was at the correspondence address to receive the communication. MPEP 711.03(c) also requires an applicant to show that "due care was taken to adhere to the requirement for prompt notification in each concerned application for the change of address". Since applicant was apparently not at the address of record, and the Office action of February 19, 2004 was correctly mailed to the address of record, absent a showing that the address of record to which the above correspondence was mailed was an actively used address to receive such correspondence, the procedure outlined in 1156 OG 53 is not available to the applicant, and the alleged showing of non-receipt of the Office action is not persuasive to withdraw the holding of abandonment in this application.

Since there still exists no valid request for a change of address in the file, for the purpose of this decision only, a courtesy copy of this decision will be sent to the address from which the petition was mailed, but the correspondence address remains the address corresponding to Customer Number 28247.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (**2**) the petition fee required by 37 CFR 1.17(m); and (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,330. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Deputy Commissioner of Patent Examination Policy
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By Hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries should be directed to the Office of Petitions Staff at (703) 305-9282.

Steven N. Meyers
Special Program Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/vdb: 10/5/04

cc: John S. Page Jr.
25092 Farthing St. #61
Lake Forest, CA 92630-4034

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DEC 27 2004

OFFICE OF THE DIRECTOR
TC 3600

John Splawn Page, Jr.
25092 Farthing Street #61
Lake Forest, CA 92630-4034

In re Application of
John Splawn Page, Jr.
Application No. 10/460,275
Filed: June 11, 2003
For: AIRCRAFT CONVERTS DRAG TO LIFT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on December 2, 2004.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Restriction Requirement mailed February 19, 2004, setting a one month shortened statutory period for response. The application became abandoned on August 19, 2004, and a Notice to that effect was mailed September 8, 2004.

Applicant contends that the Restriction Requirement was never received. Applicant urges that the mailing address placed on the Restriction Requirement of February 19, 2004 was totally incorrect, that he has never given that address to the USPTO as a mailing address, and that his correct mailing address is found in the Declaration filed with the present application on June 11, 2003.

It appears that an incorrect correspondence address did, in fact, become associated with applicant's "Customer Number", and that the above-noted Restriction Requirement was incorrectly mailed to that incorrect address.

Since the Restriction Requirement of February 19, 2004 was mailed to an incorrect address, and in view of all the evidence presented, it is determined that this application became

abandoned as the result of an error on the part of the USPTO. Therefore, applicant's renewed petition to withdraw the holding of abandonment is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment and restore the application to pending status. The Office action, previously mailed on February 19, 2004, is to then be re-dated and re-mailed to the correct correspondence address noted above.

Kenneth J. Dorner
Special Program Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/rwg: 12/06/04

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OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Patent No. 7,220,416	:
Issued: May 22, 2007	: DECISION ON APPLICATION
Application No. 10/460,324	: FOR PATENT TERM ADJUSTMENT
Filed: June 11, 2003	: and NOTICE OF INTENT TO ISSUE
Atty. Dkt. No.: 6100-036-999	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR CONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed June 7, 2007.

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

The above-identified application matured into U.S. Patent No. 7,220,416 on May 22, 2007. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 329 days. Patentee argues that the patent is entitled to an adjustment of 428 days, the adjustment having been improperly reduced 99 days in connection with the "communication" filed January 9, 2007.

The correct PTA at the time of the allowance is 428 days, as argued by patentees.

At the time of issuance, the adjustment totaling 488 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) was reduced a total 159 days.

Patentees, however, contend that the reduction of 99 days in connection with the "communication" filed January 9, 2007 is in error because the "communication" was not an amendment under 37 CFR 1.312. Patentees contend that the "communication" was filed in connection with the examiner's reasons for allowance and to correct an error in the Notice of Allowability.

Patentees arguments have been carefully considered, and found convincing. Despite the fact that the "communication" filed January 9, 2007 was actually styled an "AMENDMENT UNDER 37 C.F.R. § 1.312" and addressed as such by the examiner in the "Response to Rule 312 Communication," mailed April 17, 2007,

review of the document reveals that it is directed toward the reasons for allowability and minor errors, as argued.

In view thereof, in this instance, the Office finds that the communication filed January 9, 2007 is in essence comments on the examiner's statement of reasons for allowance, and, as such, does not constitute a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10). *See*, MPEP 2732. *See, also*, 1247 Off. Gaz. Pat. Off. 111 (June 26, 2001).

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 428 days.

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

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

Kery A. Fries

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

CC: Draft Certificate of Correction

Day : Tuesday
Date: 9/11/2007

PALM INTRANET

Time: 11:09:05

PTA Calculations for Application: 10/460324			
Application Filing Date:	06/11/2003	PTO Delay (PTO):	488
Issue Date of Patent:	05/22/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	159
Post-Issue Petitions:	0	Total PTA (days):	428
PTO Delay Adjustment:	99		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	09/11/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	99		
53.5	05/02/2007	PTA 36 MONTHS			
53	05/22/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
52	04/26/2007	EXPORT TO FINAL DATA CAPTURE			
51	04/25/2007	DISPATCH TO FDC			
50	04/17/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
49	04/17/2007	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
48	04/16/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
47	01/09/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		0	49
46	03/06/2007	ISSUE FEE PAYMENT VERIFIED			
45	03/06/2007	ISSUE FEE PAYMENT RECEIVED			
44	01/09/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		0	49
43	02/16/2007	FINISHED INITIAL DATA CAPTURE			
42	01/09/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		99	49
41	12/25/2006	EXPORT TO INITIAL DATA CAPTURE			
40	12/20/2006	MAIL NOTICE OF ALLOWANCE			
39	12/20/2006	MAIL EXAMINER'S AMENDMENT			
38	12/18/2006	ISSUE REVISION COMPLETED			
37	12/18/2006	DOCUMENT VERIFICATION			
36	12/18/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	12/18/2006	CASE DOCKETED TO EXAMINER IN GAU			

34	12/18/2006	EXAMINER'S AMENDMENT COMMUNICATION			
33	11/08/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
32	12/11/2006	NOTICE OF ALLOWABILITY			
31	09/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	12/04/2006	PARALEGAL TD ACCEPTED			
29	10/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
28	09/08/2006	REFERENCE CAPTURE ON IDS			
27	09/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	25
26	09/19/2006	DATE FORWARDED TO EXAMINER			
25	09/08/2006	RESPONSE AFTER NON-FINAL ACTION		60	23
24	09/08/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	04/10/2006	MAIL NON-FINAL REJECTION			
22	04/03/2006	NON-FINAL REJECTION			
21	03/31/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	03/14/2006	DATE FORWARDED TO EXAMINER			
19	03/01/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
18	03/01/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	12/12/2005	MAIL RESTRICTION REQUIREMENT	488		-1
16	12/08/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
15	11/29/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	03/31/2004	REFERENCE CAPTURE ON IDS			
13	03/31/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	05/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	10/20/2003	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
10	05/05/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	11/20/2003	APPLICATION DISPATCHED FROM OIPE			
8	11/20/2003	APPLICATION IS NOW COMPLETE			
7	10/20/2003	ADDITIONAL APPLICATION FILING FEES			
6	10/20/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

5	08/07/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	07/14/2003	CLEARED BY OIPE CSR			
3	06/25/2003	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	06/19/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/11/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,220,416 B2
DATED	:	May 22, 2007
INVENTOR(S)	:	Cheung

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 329 days

Delete the phrase "by 329 days" and insert – by 428 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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JUL 31 2007
OFFICE OF PETITIONS

In re Patent No. 7,223,401	:	
Ling Yuk Cheung	:	
Issue Date: May 29, 2007	:	DECISION ON
Application No. 10/460,326	:	PATENT TERM ADJUSTMENT
Filed: June 11, 2003	:	
Attorney Docket No. 6100-041-999	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed June 7, 2007. Patentee request that the patent term adjustment indicated on the patent be corrected from two hundred fifty-three (253) days to three hundred fifty-three (353) days.

The application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred fifty-three (353)** days.

On May 29, 2007, the above-identified application matured into U.S. Patent No. 7,223,401 B2. The instant request for reconsideration filed June 7, 2007 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of two hundred fifty-three (253) days.

Patentee states that the patent is subject to a terminal disclaimer.

Patentee asserts that he should not have been assessed applicant delay of one hundred (100) days for the submission of a paper titled "AMENDMENT UNDER 37 C.F.R. § 1.312" on January 9, 2007. The amendment requested correction of the title of the invention, clarified the record, and included a statement of the substance of a telephone interview.

A review of the record reveals applicant previously filed an amendment on October 5, 2006, changing the title of the invention, in response to the examiner's objection to the title, mailed on April 10, 2006. However, the Notice of Allowance still indicated the old title, the one the examiner previously objected to. Accordingly, as this was the first opportunity for applicants to correct the title, the delay of one hundred (100) days is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is three hundred fifty-three (353) days (488 days of PTO delay and 135 days of applicant delay).

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **three hundred fifty-three (353)** days subject to any disclaimers.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: draft Certificate of Correction (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,223,401 B2

DATED : May 29, 2007

INVENTOR(S) : LIng Yuk Cheung

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 (253) days

Delete the phrase "by 253 days" and insert – by 353 days—

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OCT 18 2007

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Patent No. 7,201,906	:
Issued: April 10, 2007	: DECISION ON APPLICATION
Application No.. 10/460,328	: FOR PATENT TERM ADJUSTMENT
Filed: June 11, 2003	: and NOTICE OF INTENT TO ISSUE
Atty. Dkt. No.: 6100-049-999	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR CONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," timely filed June 7, 2007. The patentees request that the PTA be adjusted to a determination of 357 days.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **GRANTED**. The Office will adjust the PTA determination to reflect this decision. In addition, the Office will *sua sponte* issue a certificate of correction to reflect this decision, 357-day PTA.

The above-identified application matured into U.S. Patent No. 7,220,416 on April 10, 2007. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 265 days. Patentee argues that the patent is entitled to an adjustment of 357 days, the adjustment having been improperly reduced 92 days in connection with the "letter" filed January 9, 2007.

The correct PTA at the time of the allowance is 357 days, as argued by patentees.

At the time of issuance, the adjustment totaling 443 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) was reduced a total 178 days.

Patentees, however, contend that the reduction of 92 days in connection with the "letter" filed January 9, 2007 is in error because the "letter" was not an amendment under 37 CFR 1.312. Patentees contend that the "letter" was filed in connection with the examiner's reasons for allowance and to correct an error in the Notice of Allowability.

Patentees arguments have been carefully considered, and found convincing. Despite the fact that the "lettern" filed January 9, 2007 was actually styled an "AMENDMENT UNDER 37 C.F.R. § 1.312" and addressed as such by the examiner in the "Response to Rule 312 Communication," mailed April 17, 2007, review of the document reveals that it is directed toward the reasons for allowability and minor errors, as argued.

In view thereof, in this instance, the Office finds that the communication filed January 9, 2007 is in essence comments on the examiner's statement of reasons for allowance, and, as such, does not constitute a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10). *See*, MPEP 2732. *See*, *also*, 1247 Off. Gaz. Pat. Off. 111 (June 26, 2001).

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 357 days.

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

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor Kery A. Fries at (571) 272-7757.

Kery A. Fries

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

CC: Draft Certificate of Correction
Adjusted PTA determination

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,201,906 B2
DATED	:	April 10, 2007
INVENTOR(S)	:	Cheung

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 (265) days

Delete the phrase "by 265 days" and insert – by 357 days--

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,922,940	2005-08-02	10/460,350	2003-06-11	14112.105002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert E. Richards/	Date (YYYY-MM-DD)	2010-06-10
Name	Robert E. Richards	Registration Number	29105

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6922940
Issue Date: August 2,2005
Application No. 10460350
Filed: June 11,2003
Attorney Docket No. 47368-0101 (47368-286745)

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

This is a decision on the electronic petition, filed June 11,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 11,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 22 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/460,353

Filed: 6/13/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

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

The requester, Mr. Michael Mord Lewis, has satisfied the requirements for successfully requesting withdrawal.

Accordingly, the Request to Withdraw as Attorney is **GRANTED**.

Mr. Winston Hsu remains of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/460,354

Filed: 6/13/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

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

The requester, Mr. Michael Mord Lewis, has satisfied the requirements for successfully requesting withdrawal.

Accordingly, the Request to Withdraw as Attorney is **GRANTED**.

Mr. Winston Hsu remains of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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. 4

DRINKER, BIDDLE & REATH
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

MAILED

JUL 0 1 2004

Technology Center 2100

In re Application of: Pasternak
Application No. 10/460,355
Filed: June 13, 2003
For: LIGHTING CONTROL SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is a response to the petition filed October 24, 2003, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

Applicant's submission filed October 24, 2003 meet all of the criteria set forth above.

SUMMARY: Petition to Make Special **GRANTED**.

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

6/25/04

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

BLJ: 6/25/04

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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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JUL 0 7 2004
OFFICE OF PETITIONS

In re Application of
Masahiko Kanda
Application No. 10/460,411
Filed: June 13, 2003
Attorney Docket No. 238354US2S DIV

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed June 18, 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 December 17, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2823 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 Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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IBM CORPORATION (VE)
C/O VOLEL EMILE
P. O. BOX 162485
AUSTIN, TX 78716

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NOV 06 2008

In re Application of	:	
Jesus Gerardo Ibanez, et al.	:	
Application No. 10/460,429	:	ON PETITION
Filed: June 12, 2003	:	
Attorney Docket No. AUS920030346US1	:	
	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 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 mailed August 29, 2007. A Notice of Abandonment was mailed on April 14, 2008. On August 1, 2008, the present petition was filed.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2141 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 6

PETER A. BUSINGER, ESQ.
344 VALLEYSCENT AVENUE
SCOTCH PLAINS, NJ 07076-1170

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NOV 19 2004

OFFICE OF PETITIONS

In re Application of :
Coleman, John Howard :
Application No. 10/460,436 :
Filed: June 11, 2003 :
Title: **SEMICONDUCTOR FABRICATION AND STRUCTURE FOR FIELD-EFFECT AND BIPOLAR TRANSISTOR DEVICES** :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 29, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 6, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 7, 2003. A Notice of Abandonment was mailed on September 10, 2004.

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

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

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

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PETER A. BUSINGER, ESQ.
344 VALLEYSCENT AVENUE
SCOTCH PLAINS, NJ 07076-1170

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DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Coleman, John Howard	:	
Application No. 10/460,436	:	DECISION ON PETITION
Filed: June 11, 2003	:	
Title: SEMICONDUCTOR FABRICATION AND STRUCTURE FOR FIELD-EFFECT AND BIPOLAR TRANSISTOR DEVICES	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2826 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 12 2006

OFFICE OF PETITIONS

JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of	:
Rolf KORDON	: DECISION ON PETITIONS
Application No. 10/460,441	: UNDER 37 CFR 1.183 AND
Filed: June 12, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2000P14032WOUS	:

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP01/14718, filed December 13, 2001, set forth in the accompanying Application Data Sheet.

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

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

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 3753 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/460,441	06/12/2003	3753	1180	2000P14032WOUS	2	13	2

CONFIRMATION NO. 4506

CORRECTED FILING RECEIPT

OC000000019508707

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

Date Mailed: 07/06/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Rolf Kordon, Giengen, GERMANY;

Assignment For Published Patent Application

BSH Bosch und Siemens Hausgerate Gmbh, Munich, DE

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP01/14718 12/13/2001

Foreign Applications

GERMANY 10062665.3 12/15/2000
If Required, Foreign Filing License Granted: 08/07/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/460,441

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SOLENOID VALVE FOR A COOLANT CIRCUIT

Preliminary Class

137

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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RAY G. WILSON
LOS ALAMOS NATIONAL LABORATORY
LC/IP, MS A187
LOS ALAMOS, NM 87545

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OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Cynthia Rice et al :
Application No. 10/460,452 :
Filed: June 12, 2003 :
Attorney Docket No. S-94,796 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 13, 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 February 24, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 25, 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 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.

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No.

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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SEP 25 2008

In re Application of :
Carter et al. : DECISION ON PETITION
Application No. 10/460,457 :
Filed: June 12, 2003 :
Atty Docket No.AUS920030315US1:

This is in response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT OFFICE ACTION NOT RECEIVED filed April 9, 2008.

The petition is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f). Extensions of time under §1.136(a) are not permitted.

The above-identified application became abandoned for failure to file a response to the final Office action mailed August 2, 2007. This Office communication set a three month period for reply with extensions of time obtainable under § 1.136(a). No response was received and no extension of time was obtained. Accordingly, the application became abandoned effective November 3, 2007. A courtesy Notice of Abandonment was sent on March 21, 2008.

In response, applicants timely filed the instant petition. Applicants petition to withdraw the holding of abandonment on the basis that the Office action was not received. Practitioner states that a search of the file jacket and the docket records indicates that the Office action was not received. Practitioner states that the petition includes a copy of the docket record where the non-received Office action would have been entered had

it been received and docketed. In support thereof, practitioner submits a statement from paralegal Gamez, who would have docketed the Office action had it been received.

A review of the application file reveals no irregularities in the mailing of the Office action mailed August 2, 2007. Thus, there is a strong presumption that the correspondence was properly mailed to the applicants at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The following showing is required:

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing of nonreceipt is not sufficient. Paralegal Gamez states that when an Office action is received, it is entered in the Firm's master docket and in the Firm's informal docketing system which produces the case history. However, applicants do not supply a copy of the master docket. Rather, applicants submit a copy of the individual case history. As stated above, the showing required requires that a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action, unless

no master docket exists. As one exists, submission of the master docket is required.

If applicants cannot provide persuasive evidence of non-receipt of the Notice, applicants may submit a petition to revive pursuant to § 1.137.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O YEE & ASSOCIATES PC
P.O. BOX 802333
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In re Application of :
Carter et al. : DECISION ON PETITION
Application No. 10/460,457 :
Filed: June 12, 2003 :
Atty Docket No.AUS920030315US1:

This is in response to the RENEWED PETITION TO WITHDRAW HOLDING OF ABANDONMENT OFFICE ACTION NOT RECEIVED filed November 10, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned effective November 3, 2007 for failure to file a response to the final Office action mailed August 2, 2007. A courtesy Notice of Abandonment was sent on March 21, 2008. By decision mailed September 25, 2008, the initial PETITION TO WITHDRAW HOLDING OF ABANDONMENT OFFICE ACTION NOT RECEIVED filed April 9, 2008 was dismissed. The petition was based on nonreceipt of the Office action; however, their showing of nonreceipt was determined not to be sufficient as they did not supply a copy of the master docket.

The following showing is required:

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any

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

On instant renewed petition, petitioner submitted a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action as documentary proof of nonreceipt of the Office action.

Considering this additional showing in combination with the showing made on initial petition, it is concluded that petitioner has now made an adequate showing of nonreceipt of the final Office action mailed August 2, 2007.

In view thereof, the notice of abandonment mailed March 21, 2008, and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2153 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the final Office action mailed August 2, 2007 and for restarting of the period for reply.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK, NY 10020-1105

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FEB 01 2005

OFFICE OF PETITIONS

In re Application of	:
Glenn Joseph Leedy	:
Application No. 10/460,483	: DECISION GRANTING PETITION
Filed: June 11, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ELM-1 CONT.8	:

This is a decision on the petition, filed January 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 8, 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 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL D. BEDNAREK
SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
McLEAN, VA 22102

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DEC 17 2004

OFFICE OF PETITIONS

In re Application of :
Dirk D. Brown et al :
Application No. 10/460,501 : DECISION GRANTING PETITION
Filed: June 11, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. EPC-P103 :

This is a decision on the petition, filed December 6, 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 December 2, 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 2833 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

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60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

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SEP 10 2007

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Menno E. Sluijter et al. :
Application No. 10/460,506 :
Filed: June 12, 2003 :
Attorney Docket No. 203-3148 CONII
(2549CONII

This is a decision on the petition filed August 20, 2007, under 37 CFR 1.181(b), to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before May 21, 2007 as was required by the Notice of Allowance mailed February 21, 2007. This application therefore became abandoned on May 22, 2007. Accordingly, a Notice of Abandonment was mailed July 3, 2007.

The file record discloses that the Notice of Allowance was mailed to the address of record, the same address to which the Notice of Abandonment was mailed and received. However, petitioner contends that the Notice of Allowance was not received. In support, petitioner indicates that a search of the file jacket revealed that the Notice was not received and submits copies of pages from the docketing system, wherein receipt of the Notice would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

This application is being forwarded to the Technology Center 3739 for a remailing of the Notice of Allowance and Notice of Allowability.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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TECHNOLOGY CENTER 2600

THE MAXHAM FIRM
750 "B" STREET, SUITE 3100
SAN DIEGO CA 92101

In re Application of:
John H. Huey, et al.
Application No. 10/460,509
Filed: June 11, 2003
For: COMBINED SYSTEMS USED INTERFACE FOR CENTRALIZED MONITORING OF A SCREENING CHECKPOINT FOR PASSENGERS AND BAGGAGE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed May 14, 2004.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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THE MAXHAM FIRM
750 "B" STREET, SUITE 3100
SAN DIEGO, CA 92101

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DEC 20 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
John H. Huey, et al. :
Application No. 10/460,509 :
Filed: June 11, 2003 :
Attorney Docket No. 1502-167 :

This is a decision on the petition, filed December 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 December 2, 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 2632 for further processing of the request for continued examination under 37 CFR 1.114 filed December 17, 2004.

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

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

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JOHN DRABIK
757 EAST CORNER RIDGE DRIVE
DRAPER, UT 84020

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MAY 09 2005

OFFICE OF PETITIONS

In re Application of :
Drabik :
Application No. 10/460,518 : ON PETITION
Filed: June 12, 2003 :
For: METHOD AND APPARATUS FOR :
AUTOMATIC CONFIGURATION AND :
MANAGEMENT OF A VIRTUAL PRIVATE :
NETWORK :

This is a decision on the petition filed October 8, 2003, requesting entry of Figures 10 and 12 into the record and that the above-identified application maintain a filing date of June 12, 2003.

The petition is **DISMISSED**.

The application was deposited on June 12, 2003. On August 8, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice") indicating, *inter alia*, that the application had been accorded a filing date but that Figures 10 and 12 described in the specification appeared to have been omitted from the application.

The Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the omitted items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the items in question were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h))

requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner indicates the figures in question "were accidentally missing from the submitted application" and has submitted a copy of the figures with the instant petition. Petitioner requests that the figures be accepted "as if filed on the filing date" of the instant application.

As petitioner has acknowledged that the application as filed did not include Figures 10 and 12, entry of said figures would require that the application be accorded a filing date as of the date of submission of the figures. As petitioner has not expressly requested said relief, i.e., accordance of a later filing date upon entry of the figures in question, the figures will not be entered into the record.

As the relief requested by petitioner has been dismissed, petitioner is advised that the instant application is being returned to the Office of Initial Patent Examination with a filing date of June 12, 2003 without entry of Figures 10 and 12 as part of the disclosure. Petitioner is advised to promptly submit a preliminary amendment to amend the specification and the drawings to cancel reference to Figures 10 and 12 prior to the issuance of the first Office action on the merits.

If petitioner desires to have Figures 10 and 12 admitted into the record, a renewed petition expressly requesting a later filing date and entry of Figures 10 and 12 should be promptly filed.

Any petition for reconsideration of this decision must be submitted within **TWO (2) MONTHS** of the mail date of this decision. The time period for requesting reconsideration may not be extended pursuant to 37 CFR 1.136. (37 CFR 1.181(f))

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	U.S. Patent and Trademark Office

Customer Window
Mail Stop Petition
Randolph Building
Dulany Street
Alexandria, VA 22314

This application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 12, 2003 without entry of Figure 10 and 12.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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222 EAST 41ST ST
NEW YORK NY 10017

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OCT 16 2007

OFFICE OF PETITIONS

In re Patent No. 7,223,405	:	
Ling Yuk Cheung	:	
Issue Date: May 29, 2007	:	DECISION ON
Application No. 10/460,530	:	PATENT TERM ADJUSTMENT
Filed: June 11, 2003	:	
Attorney Docket No. 6100-037-999	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed June 7, 2007. Patentee requests that the patent term adjustment indicated on the patent be corrected from two hundred ten (210) days to three hundred nine (309) days.

The application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred nine (309)** days.

On May 29, 2007, the above-identified application matured into U.S. Patent No. 7,223,405 B2. The instant request for reconsideration filed June 7, 2007 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of two hundred ten (210) days.

Patentee states that the patent is subject to a terminal disclaimer.

Patentee asserts that he should not have been assessed applicant delay of ninety-nine (99) days for the submission of a paper titled "AMENDMENT UNDER 37 C.F.R. § 1.312" on January 9, 2007. The amendment requested correction of the title of the invention, clarified the record, and included a statement of the substance of a telephone interview.

A review of the record reveals applicant previously filed an amendment on October 5, 2006, changing the title of the invention, in response to the examiner's objection to the title, mailed on April 11, 2006. However, the Notice of Allowance still indicated the old title, the one the examiner previously objected to. Accordingly, as this was the first opportunity for applicant to correct the title, the delay of ninety-nine (99) days is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is three hundred nine (309) days (443 days of PTO delay and 134 days of applicant delay).

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **three hundred nine (309)** days subject to any disclaimers.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: draft Certificate of Correction (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,223,405 B2

DATED : May 29, 2007

INVENTOR(S) : Ling Yuk Cheung

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 (210) days

Delete the phrase "by 210 days" and insert – by 309 days—

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of
Wei Chen, et al.
Application No. 10/460,531
Filed: June 12, 2003
Attorney Docket No. 5671.049

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 June 2, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, 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 Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2859 for consideration of the amendment, including applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/460,531	06/12/2003	2859	962	5671.049	18	33	1

CONFIRMATION NO. 4659
CORRECTED FILING RECEIPT
OC000000020203255
OC000000020203255

30589
DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73113

Date Mailed: 08/28/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Wei Chen, Stillwater, OK;
Shaopeng Wang, Stillwater, OK;
Sarah Westcott, Stillwater, OK;

Power of Attorney:

Marc Brockhaus--40923

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/388,211 06/12/2002
and is a CIP of 10/166,313 06/06/2002 PAT 7,008,559

Foreign Applications

If Required, Foreign Filing License Granted: 08/06/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/460,531

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Nanoparticle thermometry and pressure sensors

Preliminary Class

374

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).

DATE 8/1/07 APPLICATION NUMBER 10/460531

DOC CODE PET. DEC DOC DATE 8/8/07

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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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Wei Chen, et al. :
Application No. 10/460,531 :
Filed: June 12, 2003 :
Attorney Docket No. 5671.049 :

This is a decision on the petition, filed March 27, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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 September 8, 2006. This decision precedes the mailing of a Notice of Abandonment. On March 27, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/728,908 filed March 27, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

David L. Feigenbaum
FISH & RICHARDSON P.C.
225 Franklin St.
Boston, MA 02110

MAILED

JUN 2 5 2005

Technology Center 2100

In re Application of:
Laurence G. Allen et al.
Application No. 10/460,538
Filed: June 12, 2003
For: SECONDARY TRANSFERS OF RESTRICTED INTERESTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 19, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed May 19, 2005 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: Laurence G. Allen et al.
NYPPE HOLDINGS, LLC
55 Old Field Point Road
Greenwich, CT 06830

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Cathryn Campbell
MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO CA 92122

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MAY 27 2005

OFFICE OF PETITIONS

Applicant: Murat et al.
Appl. No.: 10/460,550
Filing Date: June 11, 2003
Title: NEUROPROTECTIVE SYNERGY OF ERYTHROPOIETIN AND INSULIN-LIKE GROWTH FACTORS
Attorney Docket No.: 066821-0210
Pub. No.: US 2004/0092444 A1
Pub. Date: May 13, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 13, 2004 for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for material errors made by the Office.

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 instant request includes mistakes that are not the fault of the Office, which will not be corrected as requested in a corrected publication.

[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).

Appl. No. 10/460,550

The following material errors alleged by applicant will not be corrected, as they are not apparent from the Office record:

The error at page 32, claim 55 wherein applicant request that "ICF" be replaced with "IGF" will not be corrected, as the errors are not clear from the record. The text in the application is blurry 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 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 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: Mailstop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

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

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

Paper No.

IVAN S. KAVRUKOV
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

COPY MAILED

JUL 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Isamu Moriwaki	:	
Application No. 10/460,551	:	DECISION ON
Filed: June 12, 2003	:	PETITION
Atty Docket No. 2271/63749-Z	:	

This is a decision on the PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO NOTICE OF ALLOWANCE filed May 5, 2006.

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed October 28, 2005. No reply having been received, the above-identified application became abandoned on January 29, 2006. A courtesy Notice of Abandonment was mailed on April 11, 2006.

In response, applicant filed the instant petition, asserting that applicant and applicant's attorney of record never received the Office action.

A review of the application file reveals no irregularities in the mailing of the Office action mailed October 28, 2005. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish

non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed April 11, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2627 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for mailing of a new Notice of Allowance and Fee(s) Due (and mailing of a new Notice of Allowability) mailed October 28, 2005 and for restarting of the period for reply to both Notices.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 021605

FEB 17 2005

GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

In re Application of:	:	
REINHOLD STUMPFL	:	
Serial No.: 10/460,586	:	DECISION ON REQUEST TO WITHDRAW
Filed: June 11, 2003	:	FROM RECORD
Attorney Docket No.: **126391-1000**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed February 04, 2005.

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

The request meets all the above stated requirements. The request was signed by Steven E. Ross, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Reinhold Stumpfl, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

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

cc: REINHOLD STUMPFL
AV STUMPFL GMBH
MITTERWEG 46
WALLERN, A-4702 AUSTRIA

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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EDWARD W. BULCHIS
DORSEY & WHITNEY LLP
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of :
George E. Pax et al :
Application No. 10/460,588 : ON PETITION
Filed: June 11, 2003 :
Attorney Docket No. 501342.01

This is a decision on the petition, filed November 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 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 Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARD W. BULCHIS
DORSEY & WHITNEY LLP
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101

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AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of :
George E. Pax et al :
Application No. 10/460,588 :
Filed: June 11, 2003 :
Attorney Docket No. 501342.01

ON PETITION

This is a decision on the petition, filed August 25, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2819 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).

Pet. Dec. 1732

OIPE JC18
DEC 06 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: Patent Application of Bruce E. Harrington	Group Art Unit: 1732
Serial No.: 10/460,603	Examiner: Colaianni
Filed: 06/12/2003	
For: METHODS AND APPARATUS FOR REPLICATING ORIGINAL OBJECTS	Conf. No.: 5608

Certificate of Mailing

I hereby certify that this paper or fee is being deposited with the United States Postal Service as first class mail under 37 CFR 1.8 on the date indicated below addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

W. Scott Carson
W. Scott Carson, Reg. No. 27,292

December 1, 2004
Date of Deposit

CORRECTION TO THE REQUEST FOR WITHDRAWAL AS ATTORNEY MAILED 11/30/04

NOTED
Jacqueline M. Stone
Director
TC 1700
2/16/05

Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In the Request For Withdrawal As Attorney mailed November 30, 2004 (copy enclosed), it incorrectly indicated there was an outstanding restriction requirement in this case. In fact, there is no outstanding restriction requirement or other action.

Respectfully submitted,

DORR, CARSON, SLOAN, BIRNEY & KRAMER, PC

By: Jack C. Sloan

Jack C. Sloan
Reg. No. 26,806
3010 East 6th Avenue
Denver, Colorado 80206
(303) 333-3010

Pet. Dec.

Certificate of Mailing

I hereby certify that this paper or fee is being deposited with the United States Postal Service as first class mail under 37 CFR 1.8 on the date indicated below addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

W. Scott Carson

W. Scott Carson, Reg. No. 27,292

11/30/04

Date of Deposit

OIPE
DEC 0 3 2004
PATENT & TRADEMARK OFFICE

OIPE JC181
DEC 0 3 2004
PATENT & TRADEMARK OFFICE

Pet. Dec. 1732

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/460,603
Filing Date	06/12/2003
First Named Inventor	Bruce E. Harrington
Art Unit	1732
Examiner Name	Colaianni
Attorney Docket Number	9084/1(b)

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

Approved
Jacqueline M. Stone, Director
Technology Center 1700
2/16/05

Please withdraw me as attorney or agent for the above identified patent application, and

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 23381

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Assignee has terminated the representation by the undersigned attorney and the attorneys of his firm associated with Customer No. 23381 per the enclosed Letter Of Instruction. The new correspondence addresss is the one listed on this Letter Of Instruction. A response to the outstanding restriction requirement is due wihout fee 12/17/04 with extensions of time avaliable to May 17, 2005.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal:
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Christopher Reim				
Address	PolyRock Technologies, LLC 4949 S. Syracuse Street, Suite 460				
City	Denver	State	CO	Zip	80237
Country	USA				
Telephone				Fax	
Signature	Jack C. Sloan				
Name	Jack C. Sloan		Registration No.	26,806	
Date	11/30/04		Telephone No.	303-333-3010	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

Pet. Dec.

OIPE JC181
DEC 0 3 2004
PATENT & TRADEMARK OFFICE

Letter of Instruction

TO: Attn: Julie Visca
Dorr, Carson, Sloan, Birney & Kramer, P.C.
3010 East 6th Avenue
Denver, Colorado 80206
Fax - (303) 333-1470

FROM : PolyRock Technologies, LLC File No(s): 9084/1, 1(a), 1(b), F1, and 2

A. Dorr, Carson, Sloan, Birney & Kramer, P.C. ("Dorr Carson") is hereby instructed to transfer all of my legal files as follows (Please Check):

(1) ____ These files are to be transferred to J. Mark Smith, Esq.

(2) ____ These files are to be transferred to new legal counsel identified below:

Name: _____

Address: _____

_____

(3) ✓ These files are to be returned to me:

Name: CHRISTOPHER REIM

Address: PolyRock Technologies
4949 S. SYRACUSE ST, SUITE 460
DENVER, CO 80237

B. Payment Obligation and Understanding of Responsibility for Legal Work:

If you decide to transfer the files to J. Mark Smith, Esq. or to new legal counsel (or to yourself), then Dorr Carson would expect payment for all outstanding bills.

I have elected to transfer all of my files and legal matters from Dorr Carson. I understand that, following the date of such election, Dorr Carson has no continuing responsibility with respect to future representation and/or any responsibility for any future dates requiring legal action.

Dated: 4/6/04

Signature of Client or Client Representative

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

HENRY H. GIBSON
GE PLASTICS
ONE PLASTICS AVENUE
PITTSFIELD, MA 01201

COPY MAILED

APR 26 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Gaggar, et al.
Application No. 10/460,630
Filed: June 12, 2003
Attorney Docket No. None

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed August 13, 2003, requiring an executed oath or declaration under 37 CFR 1.63 and the surcharge under 37 CFR 1.16(e). A Notice of Abandonment was mailed September 10, 2004. In response, the present petition was filed, as well as an executed declaration and the requisite surcharge.

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.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed December 13, 2004.

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 (703) 308-1202.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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042005

MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, D.C. 20005-3096

MAY 26 2005

In re Application of
Dennis G. Thibedeau et al.
Application No.: 10/460,652
Filed: June 13,2003
Attorney Docket No.: 66396-034

WITHDRAWAL FROM ISSUE
37 C.F.R. § 1.313

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 C.F.R. § 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon 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 Fee(s) 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 and Fee(s) Due in order to prevent abandonment of the application.

Telephone inquiries should be directed Marc S. Hoff, Supervisory Patent Examiner, at (571) 272-2216.

The examiner will notify applicant of the new status of this application in an Office action to be issued promptly.

Howard N. Goldberg, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

COPY MAILED

JUN 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Goodman, et al. :
Application No. 10/460,672 :
Filed: October 31, 2003 :
Attorney Docket No. MERCK-1867C1 :

ON PETITION

This is a decision on the papers styled, "Petition Under 37 CFR 1.53 To Accord Filing Date" filed May 4, 2005, requesting that the above-identified application be accorded a filing date of June 13, 2003. The above-identified application is a continuation of prior application No. 08/987,756.

The application was submitted on June 13, 2003. However, on August 7, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application," (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings, among other things.

In response, on October 31, 2003, applicant submitted a copy of the drawings and a Preliminary Amendment that added the missing drawings and requested the filing date of June 13, 2003 be accorded because the transmittal letter incorporated the drawings from the parent application. Upon receipt of the Preliminary Amendment and drawings, OIPE changed the filing date to October 31, 2003 (the date of submission of the missing drawings).

Petitioner requests the use of the incorporation by reference statement in Box 18 of the Utility Patent Application Transmittal to incorporate-by-reference the drawings of the parent application in order to accord the above-identified application a filing date of June 13, 2003. However, please note MPEP 201.06(c):

> "A. Application NOT Entitled to a Filing Date
>
> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment

> submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered."

It is noted that the required petition under 1.182 still has not been submitted.

As the required petition under 37 CFR 1.182 was not submitted with the Preliminary Amendment on October 31, 2003, the filing date was correctly changed to the date of submission of the missing drawings.

Accordingly, the petition is dismissed.

Any request for reconsideration should be filed within TWO MONTHS of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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

By mail:	Mail Stop Petition Commissioner for Patents Box 1450 Alexandria, VA 22313
By FAX:	(703) 872-9306 Attn: Office of Petitions
By hand	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Goodman, et al. :
Application No. 10/460,672 :
Filed: June 13, 2003 :
Attorney Docket No. MERCK-1867C1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed July 20, 2005, requesting that the above-identified application be accorded a filing date of June 13, 2003, including eight (8) sheets of drawings.

The application was submitted on June 13, 2003. However, on August 7, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application," (Notice) that stated the application had not been accorded a filing date, and, among other items, that the application was deposited without drawings.

In response, on October 31, 2003, applicant submitted a copy of the drawings and a Preliminary Amendment that added the missing drawings and requested the filing date of June 13, 2003 be accorded because the transmittal letter incorporated the drawings from the parent application. Upon receipt of the Preliminary Amendment and drawings, OIPE changed the filing date to October 31, 2003 (the date of submission of the missing drawings).

Petitioner requests the use of the incorporation by reference statement in Box 18 of the Utility Patent Application Transmittal to incorporate-by-reference the drawings of parent application no. 08/987,756, filed December 9, 1997, in order to accord the above-identified application a filing date of June 13, 2003.

MPEP 201.06(c) states:

> "A. Application NOT Entitled to a Filing Date
>
> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment

> submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered."

Petitioner has submitted the required petition, petition fee, and an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement.

The petition is granted.

Based on petitioners' representation that the drawings supplied with the petition are a part of the disclosure of prior application no. 08/987,756 and that the entire disclosure of prior application no. 08/987,756 was specifically incorporated by reference in the present application on June 13, 2003, it appears that the drawings were present in the Office on June 13, 2003, albeit in the file of another application, i.e., application no. 08/987,756. Therefore, on petition, the application may be granted the requested filing date of June 13, 2003.

Of course, the primary examiner is expected to compare the drawings supplied on October 31, 2003, to the disclosure of prior application no. 08/987,756 in order to verify that the drawings are, in fact, part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of June 13, 2003, and issuance of a corrected filing receipt, using the drawings supplied on October 31, 2003.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JUL 20 2009

OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of	:	
Schultz et al.	:	ON APPLICATION FOR
Application No. 10/460,684	:	PATENT TERM ADJUSTMENT
Filed: June 12, 2003	:	
Attorney Docket No. 08-1385-US	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed June 18, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand eight hundred thirteen (1813) days, not one thousand fifteen (1015) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office 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).

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).

---

[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.

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 matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(MBHB 08-1385-US)

In re Application of:	)	
	)	
Schultz et al.	)	Examiner: Brian D. Nguyen
	)	
Serial No. 10/460,684	)	Art Unit: 2616
	)	
Filed: June 12, 2003	)	
	)	
For: Method for Minimizing Receive Packets for a Personal Computer Implementation of a Wireless Local Area Network Adapter	)	

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

REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT

Dear Sir:

Applicant requests reconsideration of the patent term adjustment in light of the recent *Wyeth v. Dudas* decision (D.D.C., Memorandum Opinion for Case No. 07-1492, Sept. 30, 2008).

A. Definition of A Delay and B Delay

According to *Wyeth*, there are three guarantees of patent term under 35 U.S.C. § 154(b). The first, termed "A delay", are extensions due to delays by the PTO beyond statutory deadlines, such as fourteen months for a first response on the merits, four months to issue an office action after a response, and four months to issue a patent after the fee is paid. *Wyeth*, p. 3. The second, termed "B delay", is a "a one-day term extension [that] is granted for every day greater than three years after the filing date that it takes for the patent to issue, **regardless of whether the delay is the fault of the PTO**" *Id.* (emphasis added). The third, termed "C delays", concerning delays due to interferences, secrecy delays and appeals was not substantively addressed by *Wyeth*. *Id.*

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HULBERT & BERGHOFF LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606
(312)913-0001

35 U.S.C. § 154 also reduces patent term adjustment due to delays by the applicant for the period of time where an applicant failed to engage in reasonable efforts to conclude prosecution of the application. 35 U.S.C. § 154(b)(2)(C)(i). Specifically, the statute defines failing to engage in reasonable efforts to conclude prosecution for any periods of time "in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant." 35 U.S.C. § 154(b)(2)(C)(ii).

B. Application Summary

The following table summarizes the prosecution of this application:

Date	Event	A Delay (X = accumulating delay)	B Delay	Applicant Delay
June 12, 2003	Application Filed		Starts the 3 year clock under 37 CFR 1.703(b)	
August 12, 2004	14 months after U.S. Filing Date	X		
June 12, 2006	3 year clock expires	X	X	
May 15, 2007	Non-final Office Action (NFOA) Mailed. Stops 14 month clock.	X	X	
August 14, 2007	Response to NFOA Filed		X	
November 15, 2007	Final Office Action (FOA) mailed		X	
January 14, 2008	Response to FOA Filed		X	
March 3, 2008	Notice of Appeal Filed		X	
May 14, 2008	4 months after filing of response to FOA	X	X	
April 9, 2008	Pre-Appeals	X	X	

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Date	Event	A Delay (X = accumulating delay)	B Delay	Applicant Delay
	Conference Decision - Reopen Prosecution Mailed			
July 23, 2008	NFOA Mailed	X	X	
October 23, 2008	3 months after NFOA Mailed		X	X
December 23, 2008	Response after NFOA Filed		X	X
March 20, 2009	Notice of Allowance mailed		X	
September 29, 2009	Estimated Patent Issuance		X	

A "X" in the A Delay, B Delay, or Applicant Delay column in the table above indicates the Applicant believes the respective delay accrues between consecutive dates with "X" signs.

C. Calculation of the A Delay and Applicant Delay

For the "A delay" and Applicant Delay calculations, the Patent Term Adjustments (PTA) on PAIR for this application indicate:

1. An "A delay" of 1076 days from (i) August 12, 2004 to the May 15, 2007 mailing date of an office action and (ii) May 14, 2008 to July 23, 2008. Applicant agrees with the determination.

2. Applicant Delay of 61 days between October 23, 2008 and December 23, 2008 for a response to the July 23, 2008 office action. Applicant agrees with the determination.

D. Estimated B Delay Calculation

The application was filed on June 12, 2003. The three year anniversary of this filing date is June 12, 2006. Therefore, Applicant submits the B delay period or "B period" is the time from June 12, 2006 until a patent issues for the application.

The Determination of Patent Term states that "if the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issue on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1015 day(s)." Determination of Patent Term Adjustment under 35 U.S.C. § 154. Applicant believes that "the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice" is September 29, 2009. Using September 29, 2009 as an estimated date of issuance, Applicant estimates the B delay to be the **1,205** days between June 12, 2006 and September 29, 2009.

E. Estimated Patent Term Adjustment

The *Wyeth* decision states that "the 'A period' and 'B period' overlap only if they occur on the same calendar day or days." *Wyeth*, p. 8. Thus, according to the *Wyeth* decision, Patentees are entitled to both the "A delay" and the actual "B delay" minus any overlap which occurs on the same calendar days. As shown in the table above, there is an overlap between the A delay and the B delay between (i) June 12, 2006 and May 15, 2007 and (ii) May 14, 2008 and July 23, 2008. There is an overlap of 407 calendar days between the "A delay" minus Applicant Delay (1,015 days) and the estimated "B delay" (1,205 days). Thus, the estimated total Patent Term Adjustment due to both the "A" and "B" delays minus the overlap and Applicant Delay is 1,015 + 1,205 – 407 = **1,813** days.

For these reasons, if a patent for this application issues on September 29, 2009, Applicant submits that the estimated Patent Term Adjustment for this case **should be increased from 1,015 days to 1,813 days**. Applicant further submits that the actual Patent Term Adjustment should be increased from 1,813 days on a day-by-day basis for each day the patent for this application issues after September 29, 2009 and decreased from 1,813 days on a day-by-day basis for each day the patent for this application issues before September 29, 2009.

In light of the foregoing, Applicant respectfully requests that the Patent Term Adjustment be adjusted as indicated above. If a telephone conference would expedite

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the prosecution of this Request for Reconsideration of Patent Term Adjustment, please contact the undersigned attorney at 312-913-0001.

McDonnell Boehnen
Hulbert & Berghoff LLP

Respectfully submitted,

Date: June 18, 2009

By: /Scott M. Miller/
Scott M. Miller
Registration No. 62,967

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Richard Douglas Schultz	: DECISION ON REQUEST FOR
Patent Number	: 7577122	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/460,684	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1771** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 092104

OCT - 5 2004

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

In re Application of:	:	
Lee et al .	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/460,685	:	
Filed: June 11, 2003	:	
Attorney Docket No.: **306812002410**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 26, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Fish & Neave was filed on February 20, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

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

cc: Fish & Neave
1251 Ave. of the Americas
50th Floor
New York, NY 10020-1105

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FAY KAPLUN & MARCIN, LLP
Suite 702
150 Broadway
New York, NY 10038

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of :
Eastland et al. :
Application No. 10/460,688 :
Filed: June 13, 2003 :
Title of Invention: :
HIGH INTENSITY DISCHARGE :
LAMP WITH SINGLE CRYSTAL :
SAPPHIRE ENVELOPE :

ON PETITION

This is a decision on the Petition to the Commissioner of Patents, filed November 18, 2004. The petition is properly treated as a petition under 37 CFR 1.181.

Petitioner, Maurice Levis, a named inventor in the above-identified application, files this petition requesting that the Office withdraw the declaration filed in this application because his execution of the declaration was allegedly obtained by fraud and/or unclean hands. As such, Petitioner asserts that the declaration is false and requests that the declaration be withdrawn.

Petitioner is advised that protests raising fraud or other inequitable conduct issues will be entered in the application file, generally without comment on those issues. 37 CFR 1.291(b).

Petitioner is further advised that, once the inventive entity has been established, by the filing of an executed oath or declaration, correction of the inventive entity must be by way of a petition under 37 CFR § 1.48, Correction of inventorship in a patent application, other than a reissue application, pursuant to 35 U.S.C. 116. That section provides that

> [i]f the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. If the onprovisional application is involved in an interference, the amendment must comply with the requirements of this section and must be accompanied by a motion under § 1.634. Amendment of the inventorship requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Accordingly, this petition is **dismissed as inappropriate.**

The petition has been entered in the application file and made a part of the application record.

Petitioner is further advised that this Office will not engage in double correspondence with an applicant and a registered attorney or agent, or with more than one registered attorney or agent except as deemed necessary by the Director. See, 37 CFR § 1.33. It is also noted that, as a named inventor, Applicant may petition to appoint counsel to represent him in this matter[1].

A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

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

---

[1] Papers giving or revoking a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition and fee under 37 CFR 1.182 giving good and sufficient reasons as to why such papers should be accepted. The petition should be directed to the Office of Petitions. *See*, MPEP § 402.

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

Cc: BOWMAN GREEN HAMPTON & KELLY, PLLC
501 INDEPENDENCE PARKWAY
SUITE 201
CHESAPEAKE, VA 23320

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AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER, CO 80234

Mail Date: 04/21/2010

Applicant	: Akshay Adhikari	: DECISION ON REQUEST FOR
Patent Number	: 7602728	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/460,700	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1588** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JAN 05 2004

Director's Office
Group 3700

John B. Fenn
4909 Cary Street Road
Richmon, VA 23226

In re application of John B Fenn	: : :	**DECISION ON PETITION** **TO MAKE SPECIAL** **UNDER 37 CFR. 1.102(c)**
Serial Number: 10/460725 Filed: June 11, 2003	: :	

For: **ELECTROSPRAY DISPERSION IN AN ALTERNATING CURRENT MODE**

This is a decision on the petition filed on June 11, 2003, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 12/31/03

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PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,146,769 :
Application No. 10/460,739 :
Filed: June 12, 2003 :
Issued: December 12, 2006 :
Attorney Docket No. 3329.28US02 :

This is a decision on the petition filed February 25, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

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PALO ALTO CA 94304

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Stephen Empedocles	:	
Application No. 10/460,746	:	DECISION GRANTING PETITION
Filed: June 12, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 01-000110	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The 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 (amendment previously filed); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of March 1, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3663.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JAN 15 2004

Director's Office
Group 3700

George D. Ezell
P.O. Box 941390
Plano, Texas 75094-1390

In re application of George D. Ezell	: : :	**DECISION ON PETITION** **TO MAKE SPECIAL** **UNDER 37 CFR. 1.102(c)**
Serial Number: 10/460755 Filed: June 12, 2003	: :	

For: **METHOD AND APPARATUS FOR SAMPLING AND CONTROLLING VENTILATION AIRFLOW INTO A STRUCTURE**

This is a decision on the petition filed on June 12, 2003, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 1/6/04

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LYNN B. HEITMAN
P.O. BOX 941390
PLANO, TX 75094-1390

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
George D. Ezell et al :
Application No. 10/460,755 :
Filed: June 12, 2003 :
Attorney Docket No. EZELL 03,001 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 18, 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 final Office action mailed June 16, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provision of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 17, 2004.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on January 18, 2005.

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

The matter is being forwarded to Technology Center AU 3749 for further processing.

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

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Paper No. 7

SCHWEGMAN LUNDBERG WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402-0938

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JUN 1 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert Schuppan et al	:	
Application No. 10/460,759	:	ON PETITION
Filed: June 12, 2003	:	
Attorney Docket No. 984.010US1	:	

This is a decision on the petition under 37 CFR 1.173(b), filed January 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed August 12, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 13, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $2160 extension of time submitted with the petition on January 14, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SEED INTELLECTUAL PROPERTY LAW GROUP
701 FIFTH AVENUE
SUITE 6300
SEATTLE WA 98104-7092

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NOV 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Yukio Sakashita	:	
Application No. 10/460,763	:	ON PETITION
Filed: June 12, 2003	:	
Attorney Docket No. 890050.431	:	

This is a decision on the petition, filed November 19, 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 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2831 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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FISH & RICHARDSON, PC
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MINNEAPOLIS MN 55440-1022

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NOV 08 2007

OFFICE OF PETITIONS

In re Application of

KHAMFALLAH, Kamel
Application No. 10/460,764
Filed: June 11, 2003
Attorney Docket No. 16125-002001

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 15, 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 Jason W. Wolff on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed April 16, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: KAMEL KHAMFALLAH
5 RUE MICHAL
PARIS, FRANCE 75000

cc: CHESLEY HOLT
WAVECOM (USA), INC.
P.O. BOX 13920
RESEARCH TRIANGLE PARK, NC 27709

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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
10/460,766	06/12/2003	2681	547	1039-014US01	6	26	4

CONFIRMATION NO. 3958

UPDATED FILING RECEIPT

OC000000011052344

28863
SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL, MN 55125

Date Mailed: 10/16/2003

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

Applicant(s)

Younggyun Kim, Irvine, CA;
Jaekyun Moon, Plymouth, MN;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/07/2003

Projected Publication Date: 12/16/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

CCK demodulation via symbol decision feedback equalizer

Preliminary Class

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

GRANTED

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

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

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

NOT GRANTED

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

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

Mail Date: 04/21/2010

Applicant	: John J. Sie	: DECISION ON REQUEST FOR
Patent Number	: 7631331	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/460,770	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1351** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/460,788	06/13/2003	Sumathi Paturu		4674

7590 11/03/2009
DR. SUMATHI PATURU, MD.
P.O. BOX - (55934)
BIRMINGHAM, AL 35255

EXAMINER
SEREBOFF, NEAL

ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
11/03/2009	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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DR. SUMATHI PATURU, MD.
P.O. BOX - 55934
BIRMINGHAM, AL 35255

In re Application of Dr. Sumathi Paturu, MD. Application No. 10/460,788 Filed: June 13, 2003 For: SCHEDULING, FILING, AND TRACKING SYSTEM FOR BREAST, PROSTATE, AND COLORECTAL CANCER SCREENING	DECISION ON PETITION UNDER 37 CFR §1.181

This is a decision on applicant's petition under 37 CFR 1.181 filed August 19, 2009 requesting withdrawal of the finality of the Office action mailed May 12, 2009.

The petition is **GRANTED.**

The record reflects that on December 13, 2007, a non-final rejection was mailed, rejecting claims 1 and 2 under 35 U.S.C. 102(b) as being anticipated by Zoorob et al., "Cancer Screening Guidelines," claims 3 and 4 under 35 U.S.C. 102(b) as being anticipated by Mayer et al., U.S. Pre-Grant Publication 2002/0010597, and claims 5-12 under 35 U.S.C. 103(a) as being unpatentable over Zoorob et al., "Cancer Screening Guidelines" in view of Mayer et al., U.S. Pre-Grant Publication 2002/0010597. On February 18, 2009, an amendment after non-final rejection was filed, canceling claims 1-12 and adding new claims 13-26. On May 12, 2009, a final rejection was mailed, rejecting claims 13-26 under 35 U.S.C. 101 as being directed to a method that both lack a tie to a particular machine and fail to execute a transformation of underlying subject matter to a different state or thing, claims 13-25 under 35 U.S.C. 112, second paragraph, claims 13-18 and 20-25 under 35 U.S.C. 103(a) as being unpatentable over Zoorob et al., "Cancer Screening Guidelines" in view of Mayer et al., U.S. Pre-Grant Publication 2002/0010597, claim 19 under 35 U.S.C. 103(a) as being unpatentable over Zoorob et al., "Cancer Screening Guidelines" in view of Mayer et al., U.S. Pre-Grant Publication 2002/0010597 and further in view of Official Notice, and claim 26 under 35 U.S.C. 103(a) as being unpatentable over Mayer et al., U.S. Pre-Grant Publication 2002/0010597. On August 12, 2009, an amendment after final rejection was filed, amending claims 13-26. On August 31, 2009 an Advisory action was mailed denying entry of the amendments.

In the petition filed August 19, 2009 to withdraw the finality of the Office action mailed May 12, 2009, applicant argues that the Office action mailed May 12, 2009 should not have been made final because claims 13-26 were rejected under a new ground of rejection, under 35 U.S.C. 101, that was not necessitated by amendment.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

With regard to the propriety of the finality of the office action mailed May 12, 2009, because previously presented claims 1-12 were directed to a method that both lacked a tie to a particular machine and failed to execute a transformation of underlying subject matter to a different state or thing, the new ground of rejection of claims 13-26 under 25 U.S.C. 101, included in the final Office action mailed May 12, 2009, was not necessitated by amendment. Therefore, the Office action mailed May 12, 2009 should not have been made final.

The finality of the Office action of May12, 2009, but not the action itself, is hereby withdrawn. The amendment after final rejection, filed on August 12, 2009 will be entered as a matter of right. Attached to this decision is a Notice of Non-Compliance, which outlines deficiencies in meeting the requirements of 37 CFR 1.121, and which sets a new period for response.

The petition is **GRANTED.**

Questions concerning this decision should be directed to SPE, Luke Gilligan at (571) 272-6770.

Wynn W Coggins, Director
Patent Technology Center 3600
Telephone No.: (571) 272-5350
clg/sm: 10/26/09

SM

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MAY 0 3 2010

Dr. Sumathi Paturu
P.O. Box 55934
Birmingham, AL 35255

In re application of Sumathi Paturu, et al. Application No. 10/460,788 Filed: October 28, 2008 For: SCHEDULING, FILING AND TRACKING SYSTEM FOR BREAST, PROSTATE AND COLORECTAL CANCER SCREENING	: **DECISION ON PETITION** : **TO MAKE SPECIAL FOR** : **NEW APPLICATION** : **UNDER 37 CFR 1.102**

This is a decision on the petition contained within the body of a response to a Notice of Non-compliance amendment filed on April 7, 2010 to make the above-identified application special for Relating to HIV/AIDS and Cancer under 37 C.F.R. § 1.102(d).

It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines (see Federal Register Notice of June 26, 2006). Since applicant's petition was received on April 7, 2010, the petition must be considered under the new guidelines under 37 CFR 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the field of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more

applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;
6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

REVIEW OF FACTS

The petition to make special for Relating to HIV/AIDS and Cancer under 37 C.F.R. § 1.102(d) is not acceptable at least because the petition was not filed electronically along with the original filing of the application, as is required in the above Federal Register Notice of June 26, 2006. Again, it appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on April 7, 2010, the petition must be considered under the new guidelines and thus is properly **DENIED**.

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 5/2/10

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Paper No. 3

IP Department of Piper Rudnick LLP
3400 Two Logan Square
18th and Arch Streets
Philadelphia, Pennsylvania 19103

MAIL

SEP 0 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Michael Arnouse)
Application No. 10/460,789)
Filed: June 12, 2003)
For: METHOD OF SECURE PERSONAL IDENTIFICATION, INFORMATION PROCESSING, AND PRECISE POINT OF CONTACT LOCATION AND TIMING)

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102 AND M.P.E.P. §708.02(XI)

This is a decision on the petition to make special filed June 12, 2003. In light of the content of the petition, it will be treated under 37 C.F.R. §102(d) in view of M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

The petition is **DISMISSED**.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is generally directed to a method and system of biometric based identification cards with distributed information stores along with GPS location of the presentation location of the identification cards. Implementing on a computer system an

interactive biometric identification and tracking system does not directly prevent "violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State" or activities "that would be a criminal violation if committed within the jurisdiction of the United States or of any State". Furthermore, implementing on a computer system an interactive biometric identification and tracking system does not directly prevent acts that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

Although it can be said that a computer implemented interactive biometric identification and tracking system may limit acts of terrorism, the method disclosed does not teach directly preventing potential terrorist acts by identifying terrorists. The method does not identify an individual as a terrorist or one who will perform a terrorist act. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

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

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

It is suggested that Applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

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IP Department of Piper Rudnick LLP
3400 Two Logan Square
18th and Arch Streets
Philadelphia, Pennsylvania 19103

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Michael Arnouse)
Application No. 10/460,789)
Filed: June 12, 2003)
For: METHOD OF SECURE PERSONAL)
IDENTIFICATION, INFORMATION)
PROCESSING, AND PRECISE)
POINT OF CONTACT LOCATION)
AND TIMING)

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102 AND M.P.E.P. §708.02(XI) AND §708.02(VIII)

This is a decision on the request for consideration filed September 22, 2003 and the petition for accelerated examination under §708.02(VIII) for accelerated examination based on a prior art search. The original petition, was dismissed (Paper No. 3, mail date June 12, 2002) as not adequately explaining how the invention contributes to countering terrorism.

The request for reconsideration provides a persuasive showing that there is a nexus between the disclosed invention and countering terrorism. Accordingly, the petition is **GRANTED**.

The petition (in the alternative)for accelerated examination based on prior art search is defective for at least the following reason: The discussion does not point out how the ***claimed subject matter is patentable over the references***. Accordingly, the petition is **DISMISSED**. A fee of $130.00 for consideration of this petition has been charged to Deposit Account No. 50-2719.

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

Pinchus M. Laufer

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

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MCDERMOTT, WILL & EMERY
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WASHINGTON DC 20005-3096

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OFFICE OF PETITIONS

In re Application of	:
Zehner et al	:DECISION DISMISSING PETITION
Application No. 10/460,792	:UNDER 37 CFR 1.137(b)
Filed: June 12, 2003	:
Attorney Docket No. VIVA1D	:

This is a decision on the petition, filed April 13, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

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

The record discloses that, on June 12, 2003, the date of filing of the present application, a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was filed certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing."

Petitioner now requests under 35 U.S.C. § 122(b)(2)(B)(ii) that the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) be rescinded and the application be revived because this application became abandoned for failure to notify the USPTO within 45 days of the filing of a corresponding international or foreign application. In this regard, petitioner states that an international or foreign application corresponding to the present application was filed on March 22, 2002, which date is prior to the date of filing the present application.

The present nonprovisional application did not become abandoned as a result of the filing of a corresponding application filed in another country, or under a multilateral international agreement, **subsequent** to the filing of the present application. In this regard, 35 U.S.C. § 122((b)(2)(B)(iii) states:

> An applicant who has made a request under clause (I) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (I), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application**. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional (emphasis added).

The facts of this case are that the subject application was filed on June 12, 2003, and the corresponding foreign application was filed on March 22, 2002. The statute does not provide for the situation where a certification under 35 U.S.C. § 122(b)(2)(B)(i) was made, despite the fact that an application was previously filed in another country or under the multilateral international agreement. The provisions of 35 U.S.C. § 122(b)(2)(B)(iii) only provide for revival in the situation where a certification was made under 35 U.S.C. § 122(b)(2)(B)(i) at the time of filing the application and an application was subsequently filed in a foreign country without notifying the Office within 45 days of the filing thereof.

In view of the above and since this application did not become abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii), a petition to revive under the provisions of 37 CFR 1.137(b) is inappropriate. Therefore, the petition must be dismissed.

As requested, the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt indicating a projected publication date of July 29, 2004, accompanies this decision.

The rules and statutory provisions governing the operations of the USPTO require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(c)(7). Accordingly, the petition fee of $665.00 will not be refunded.

This application is being forwarded to Technology Center AU 1623 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
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

MAR -8 2004

In re Application of James Seijas Serial No. 10/460,795 Filed: June 13, 2003 For: DEVICE AND METHOD FOR INDICATING SCHEDULED DOSES	:	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed August 14, 2003, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Thomas L. Adams
P.O. Box 340
120 Eagle Rock Avenue
East Hanover, NJ 07936

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P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED
JUL 27 2006
OFFICE OF PETITIONS

In re Application of
James Seijas :
Application No. 10/460,795 : ON PETITION
Filed: June 13, 2003 :
Attorney Docket No. SEJ :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed June 13, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed January 13, 2005. A shortened statutory period of three months was set for replying to the Final Office Action. No extensions of time having been filed, the application became abandoned April 14, 2005. Accordingly, the Notice of Abandonment was mailed August 23, 2005.

In response to the Final Office Action mailed January 13, 2005, petitioner has submitted

---

[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)).

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 3728 for processing of the RCE and submission.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

John B. Hardaway, III
Nexsen Pruet Jacobs & Pollard, LLC
P.O. Box 10107
Greenville, SC 29601

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OFFICE OF PETITIONS

In re Application of
Jerry Hughes, et al.
Application No. 10/460,827
Filed: June 12, 2003
Attorney Docket No. 30289/001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed August 28, 2003, requiring replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. A Notice of Abandonment was mailed September 14, 2004. In response, on April 8, 2005, the present petition was filed, along with replacement drawings.

The application is being referred to the Office of Initial Patent Examination (OIPE) for review of the drawings provided April 8, 2005.

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 (703) 308-1202.

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

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OCT 15 2007

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Patent No. 7,204,988	:	
Ling Yuk Cheung	:	
Issue Date: April 17, 2007	:	DECISION ON
Application No. 10/460,832	:	PATENT TERM ADJUSTMENT
Filed: June 11, 2003	:	
Attorney Docket No. 6100-045-999	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed June 7, 2007. Patentee requests that the patent term adjustment indicated on the patent be corrected from two hundred ten (210) days to three hundred nine (309) days.

The application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three hundred nine (309)** days.

On April 17, 2007, the above-identified application matured into U.S. Patent No. 7,204,988 B2. The instant request for reconsideration filed June 7, 2007 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of two hundred ten (210) days.

Patentee states that the patent is subject to a terminal disclaimer.

Patentee asserts that he should not have been assessed applicant delay of ninety-nine (99)days for the submission of a paper titled "AMENDMENT UNDER 37 C.F.R. § 1.312" on January 9, 2007. The amendment requested correction of the title of the invention, clarified the record, and included a statement of the substance of a telephone interview.

A review of the record reveals applicant previously filed an amendment on October 2, 2006, changing the title of the invention, in response to the examiner's objection to the title, mailed on March 31, 2006. However, the Notice of Allowance still indicated the old title, the one the examiner previously objected to. Accordingly, as this was the first opportunity for applicant to correct the title, the delay of ninety-nine (99) days is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is three hundred nine (309) days (454 days of PTO delay and 145 days of applicant delay).

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **three hundred nine (309)** days subject to any disclaimers.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: draft Certificate of Correction (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,204,988 B2

DATED : April 17, 2007

INVENTOR(S) : Ling Yuk Cheung

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 (210) days

Delete the phrase "by 210 days" and insert – by 309 days—

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Patent No. 7,208,158	:	
Ling Yuk Cheung	:	
Issue Date: April 24, 2007	:	DECISION ON
Application No. 10/460,833	:	PATENT TERM ADJUSTMENT
Filed: June 11, 2003	:	
Attorney Docket No. 6100-047-999	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed June 7, 2007. Patentee requests that the patent term adjustment indicated on the patent be corrected from four hundred sixty-one (461) days to five hundred eighteen (518) days.

The application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **five hundred eighteen (518)** days.

On April 24, 2007, the above-identified application matured into U.S. Patent No. 7,208,158 B2. The instant request for reconsideration filed June 7, 2007 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of four hundred sixty-one (461) days.

Patentee states that the patent is subject to a terminal disclaimer.

Patentee asserts that he should not have been assessed applicant delay of fifty-seven (57) days for the submission of a paper titled "AMENDMENT UNDER 37 C.F.R. § 1.312" on January 9, 2007. The amendment requested correction of the title of the invention, clarified the record, and included a statement of the substance of a telephone interview.

A review of the record reveals applicant previously filed an amendment on October 5, 2006, changing the title of the invention, in response to the examiner's objection to the title, mailed on June 14, 2006. However, the Notice of Allowance still indicated the old title, the one the examiner previously objected to. Accordingly, as this was the first opportunity for applicant to correct the title, the delay of fifty-seven (57) days is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is five hundred eighteen (518) days (587 days of PTO delay and 69 days of applicant delay).

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **five hundred eighteen (518)** days subject to any disclaimers.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: draft Certificate of Correction (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,208,158 B2

DATED : April 24, 2007

INVENTOR(S) : Ling Yuk Cheung

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 (461) days

Delete the phrase "by 461 days" and insert – by 518 days—

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Director's Office
Group 3700

Cynthia B. Rothschild
Kilpatric Stockton LLP
1001 W. Fourth Street
Winston-Salem, NC 27101

In re Application of :
Louis C. Argenta :
Serial No.: 10/460,835 :
Filed: June 12, 2003 : DECISION ON PETITION

For: **CORRECTIVE INFANT HEADGEAR**

This is in response to applicants' Petition filed May 04, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on prospective manufacture.

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

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

Should there be any questions with regard to this letter please contact Frederick Schmidt, by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 272-8300.

Richard A. Bertsch

Richard A. Bertsch
Dirctor
Technology Center 3700
571-272-3750

rt 10/05/05

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OFFICE OF PETITIONS

KILPATRICK STOCKTON LLP - 11759
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

In re Patent of Argenta	:	DECISION ON REQUEST
Patent No. 7,566,313	:	FOR RECONSIDERATION OF
Issue Date: July 28, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/460,835	:	AND NOTICE OF INTENT TO
Filing Date: June 12, 2003	:	ISSUE CERTIFICATE OF
Attorney Docket No. 11759-284491	:	CORRECTION

This is a decision on the petition filed on September 25, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the patent be corrected to indicate that the term of the patent is extended or adjusted by one thousand five hundred ten (1,510) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred ten (1,510) days is **GRANTED to the extent indicated herein**.

Patentee asserts the patent term adjustment on the patent should have been increased by 937 days, instead of 445 days, as a result of Office delay under 35 U.S.C. § 154(b)(1)(B). The Office agrees with this assertion.

Patentee asserts a "debit of 30 days is due under § 1.704(c)(10)." The Office respectfully disagrees.

37 C.F.R. § 1.704(c)(10) states,

> [Upon] [s]ubmission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed ... the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
> (ii) Four months.

On June 25, 2008, the Office mailed a Notice of Allowance. On July 25, 2008, patentee filed an amendment under 37 C.F.R. § 1.312. On August 18, 2008, the Office mailed a "Response to Rule 312 Communication" on August 18, 2008.

The Office entered a reduction under 37 C.F.R. § 1.704(c)(10) as a result of the filing of the July 25, 2008 amendment. Specifically, the Office entered a reduction of 25 days. The number of days beginning on July 25, 2008, the date the amendment was filed, and ending on August 18, 2008, the date the Office mailed a response to the amendment, is 25 days. Therefore, the proper reduction was 25 days.

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

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). 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 five hundred fifteen (1,515)** days.

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

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,566,313 B2
ISSUE DATE	:	July 28, 2009
INVENTOR(S)	:	Argenta

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 1023 days.

Delete the phrase "by 1023 days" and insert - by 1515 days--

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2000 MARKET STREET
SUITE 2900
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:
Glenn Anderson et al	:
Application No. 10/460,844	: DECISION ON PETITION
Filed: June 13, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 140-01	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 28, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Additionally, the amendment filed with the instant petition is not signed. However, the signature is ratified by the transmittal letter which reference the amendment.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1723 for appropriate action on the amendment filed March 28, 2005, including consideration by the examiner of applicant's

entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

MILORD & ASSOCIATES, P.C.
10880 WILSHIRE BOULEVARD
SUITE 2070
LOS ANGELES CA 90024

In re Application of	:	
Arlene Alen	:	
Application No. 10/460,861	:	DECISION ON PETITION
Filed: June 12, 2003	:	TO WITHDRAW
Attorney Docket No. ALE02-003P	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 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 Milord A Keshishlan on behalf of all attorneys of record who are associated with customer No. 23635.

All attorneys/agents associated with the Customer Number 23635 have been withdrawn.

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

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

There is an outstanding Office action mailed October 20, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARLENE ALEN
15942 HART STREET, SUITE A
911 WILSHIRE BOULEVARD
8TH FLOOR
LAKE BALBOA, CA 91408

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
10/460,861	06/12/2003	Arlene Alen	ALE02-003P

CONFIRMATION NO. 5507

OC000000023537026

OC000000023537026

23635
MILORD & ASSOCIATES, P.C.
10880 WILSHIRE BOULEVARD
SUITE 2070
LOS ANGELES, CA 90024

Date Mailed: 04/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/08/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,851,375	2005-02-08	10/460,867	2003-06-13	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Howard R. Richman/	Date (YYYY-MM-DD)	2010-02-25
Name	Howard R. Richman	Registration Number	41451

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6851375
Issue Date: February 8,2005
Application No. 10460867
Filed: June 13,2003
Attorney Docket No. DN 3644-CON

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

This is a decision on the electronic petition, filed February 25,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 25,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

COPY MAILED

JUL 23 2007

OFFICE OF PETITIONS

Dr. Shalini Menezes
722 Rushing Creek Place
Thousand Oaks CA 91360

In re Application of	:	
Shalini Menezes	:	
Application No. 10/460,872	:	DECISION ON PETITION
Filed: June 14, 2003	:	UNDER 37 C.F.R. §1.181
Attorney Docket No.: NCIS03	:	
Title: THIN FILM SOLAR CELL	:	
CONFIGURATION AND FABRICATION	:	
METHOD	:	

This is a decision on the petition filed February 26, 2007, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed April 12, 2006, which set a shortened statutory period to reply for one month.

On May 2, 2006, a response was submitted, where applicant elected claims 13-20, and included an amendment. On **May 15, 2006**, a Notice of Non-compliant amendment was mailed, which set a one-month period for response. On May 23, 2006, an amendment was submitted to the Office. A Failure to Acceptably Respond to Notice of Non-Compliant Amendment was mailed on June 30, 2006, and this mailing did not extend the period for response. On **July 11, 2006**, an amendment was filed, however an extension of time was not included. On July 21, 2006, another Failure to Acceptably Respond to Notice of Non-Compliant Amendment was mailed, and this mailing did not extend the period for response. On **August 18, 2006, the requisite one-month extension of time was supplied.** On March 1, 2007, a Letter Withdrawing a Notice of Non-compliant Amendment was mailed, withdrawing the notice of

July 21, 2006. On March 7, 2007, a non-final Office action was mailed.

The extension of time under the provisions of 37 C.F.R. § 1.136(a) was not timely received. Accordingly, the above-identified application became abandoned on June 16, 2006. Consequently, the two communications that were mailed in March of 2007 were improper.

The Office regrets this error.

In short, the mailing of May 15, 2006 set a one-month period for response, a proper response was not submitted within the requisite timeframe, and an extension of time was not timely filed. Therefore, this application went abandoned via operation of law on June 16, 2006.

The extension of time will be refunded via the mailing of a Treasury Check in due course.

Petitioner has not established that the holding of abandonment should be withdrawn. It follows that this petition pursuant to 37 C.F.R. §1.181(a) is **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

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

Alternatively, Petitioner should strongly consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b). The fees associated with the filing of these petitions are $250 and $750, respectively. Petitioner may download information about these petitions here:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[5]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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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).

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.

Dr. Shalini Menezes
722 Rushing Creek Place
Thousand Oaks CA 91360

COPY MAILED

AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of Shalini Menezes Application No. 10/460,872 Filed: June 14, 2003 Attorney Docket No.: NCIS03 Title: THIN FILM SOLAR CELL CONFIGURATION AND FABRICATION METHOD	DECISION ON PETITION UNDER 37 C.F.R. § 1.137(A)

This is a decision on the petition submitted on August 2, 2007 pursuant to 37 C.F.R. § 1.137(a)[1].

PROCEDURAL HISTORY

A petition pursuant to 37 C.F.R. §1.181 was filed on February 26, 2007, and was dismissed via the mailing of a decision on July 23, 2007.

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1 A grantable petition pursuant to 37 C.F.R. §1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. §1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. §1.20(d)) required pursuant to paragraph (d) of this section.

THE RELEVANT STANDARD

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[3]

Nonawarness of a PTO rule will not constitute unavoidable delay[4]

The burden of showing the cause of the delay is on the person seeking to revive the application[5].

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applciant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[6].

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[7].

In addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account." [8] Nonetheless, a

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2 Id.

3 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

4 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

5 Id.
6 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).
7 In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).
8 Smith v. Mossinghoff, 671 F.2d at 538, 213 U.S.P.Q. at 982.

petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[9]

THE COMMISSIONER IS RESPONSIBLE FOR DETERMINING THE STANDARD FOR UNAVOIDABLE DELAY AND FOR APPLYING THAT STANDARD.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[10]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[11]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[12]

"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[13]

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9 Haines v. Quigg, 5 USPQ2d 1130 (N.D. Ind. 1987), 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

10 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

11 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

12 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

13 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, in toto:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

37 C.F.R. § 1.136(a) sets forth, in pertinent part:

> If an applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five months after the time period set for reply, if a petition for an extension of time and the fee set in § 1.17(a) are filed, unless:
> (i) Applicant is notified otherwise in an Office action…

BACKGROUND

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed April 12, 2006, which set a shortened statutory period to reply for one month.

The decision on the previous petition set forth:

> On May 2, 2006, a response [to the restriction requirement] was submitted, where applicant elected claims 13-20, and included an amendment. On **May 15, 2006**, a Notice of Non-compliant amendment was mailed, which set a one-month period for response. On May 23, 2006, an amendment was submitted to the Office. A Failure to Acceptably Respond to Notice of Non-Compliant Amendment was mailed on June 30, 2006, and this mailing did not extend the period for response. On **July 11, 2006**, an amendment was filed,

> however an extension of time was not included. On July 21, 2006, another Failure to Acceptably Respond to Notice of Non-Compliant Amendment was mailed, and this mailing did not extend the period for response. On **August 18, 2006, the requisite one-month extension of time was supplied.** On March 1, 2007, a Letter Withdrawing a Notice of Non-compliant Amendment was mailed, withdrawing the notice of July 21, 2006. On March 7, 2007, a non-final Office action was mailed.
>
> The extension of time under the provisions of 37 C.F.R. § 1.136(a) was not timely received. Accordingly, the above-identified application became abandoned on June 16, 2006. Consequently, the two communications that were mailed in March of 2007 were improper.
>
> The Office regrets this error.
>
> **In short, the mailing of May 15, 2006 set a one-month period for response, a proper response was not submitted within the requisite timeframe, and an extension of time was not timely filed. Therefore, this application went abandoned via operation of law on June 16, 2006.**
>
> Emphasis included

ANALYSIS

With the present petition, Petitioner has asserted that she responded to the Notice of Non-Compliant Amendment prior to the deadline of June 15, 2006. She did not receive the Failure to Acceptably Respond to the Notice of Non-Compliant Amendment until July 5, 2006, and as such, there was "**no way for me to know** (emphasis added) that there was a need for an extension of time, prior to the deadline of June 15, 2006."

Petitioner received the Notice of Non-Compliant Amendment, mailed on May 15, 2006, which set forth that the submission of May 2, 2006 was not compliant. The notice explicitly set forth:

> Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment…**Extensions of time** are available…
>
> Emphasis included.

As such, Petitioner had until June 15, 2006 to submit an amendment which was compliant with the relevant laws, regulations, and procedures as set forth in the MPEP. Petitioner submitted an amendment on May 23, 2006, which was a timely submission, and as such, an extension of time was not required. However, the submission was non-compliant, and as such, a Failure to Acceptably Respond to Notice of Non-Compliant Amendment was mailed on July 21, 2006. This notice explicitly set forth:

> **The period for reply continues to run** from the mailing date of the prior Notice of Non-Compliant Amendment. The corrections listed below must be timely filed to avoid abandonment of the applicaiotn. No new time period for reply is provided in this communication. See the Manual of Patent Examination Procedure (MPEP) § 714.03.
>
> Emphasis included.

The Failure to Acceptably Respond to Notice of Non-Compliant Amendment of July 21, 2006 set forth that the period for reply continued to run from the mailing date of the prior Notice of Non-Compliant Amendment, and the prior Notice of Non-Compliant Amendment of May 15, 2006 had set a one-month period for response.

Consequently, a reasonable and prudent person, acting in relation to her most important business, would have read this and understood that any response submitted after June 15, 2006 had to have included the appropriate extension of time in order for said response to have been considered timely filed.

However, Petitioner submitted a response without the required extension of time, and as such, the present application went abandoned by operation of law pursuant to Rule § 1.135(a).

Petitioner has not established that the abandonment was unavoidable, and consequently, the present petition must be **DISMISSED.**

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "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.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. § 1.137(b). Petitioner may download information about these petitions here:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Any subsequent response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[14], hand-delivery[15], or facsimile[16].

---

14 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[17]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

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

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15 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
16 (571) 273-8300- please note this is a central facsimile number.
17 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Dr. Shalini Menezes
722 Rushing Creek Place
Thousand Oaks CA 91360

COPY MAILED

SEP 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Shalini Menezes	:	
Application No. 10/460,872	:	
Filed: June 14, 2003	:	DECISION ON PETITION
Attorney Docket No.: NCIS03	:	UNDER 37 C.F.R. § 1.137(b)
Title: THIN FILM SOLAR CELL	:	
CONFIGURATION AND FABRICATION	:	
METHOD	:	

This is a decision on the petition filed August 28, 2007, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

PROCEDURAL HISTORY

A petition pursuant to 37 C.F.R. § 1.181 was filed on February 26, 2007, and was dismissed via the mailing of a decision on July 23, 2007.

---

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

A petition pursuant to 37 C.F.R. § 1.137(a) was filed on August 2, 2007, and was dismissed via the mailing of a decision on August 24, 2007.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed April 12, 2006, which set a shortened statutory period to reply for one month.

The decision on the petition pursuant to Rule § 1.181 set forth, *in pertinent part*:

> On May 2, 2006, a response [to the restriction requirement] was submitted, where applicant elected claims 13-20, and included an amendment. On **May 15, 2006**, a Notice of Non-compliant amendment was mailed, which set a one-month period for response. On May 23, 2006, an amendment was submitted to the Office. A Failure to Acceptably Respond to Notice of Non-Compliant Amendment was mailed on June 30, 2006, and this mailing did not extend the period for response. On **July 11, 2006**, an amendment was filed, however an extension of time was not included. On July 21, 2006, another Failure to Acceptably Respond to Notice of Non-Compliant Amendment was mailed, and this mailing did not extend the period for response. On **August 18, 2006, the requisite one-month extension of time was supplied.** On March 1, 2007, a Letter Withdrawing a Notice of Non-compliant Amendment was mailed, withdrawing the notice of July 21, 2006. On March 7, 2007, a non-final Office action was mailed.
>
> The extension of time under the provisions of 37 C.F.R. § 1.136(a) was not timely received. Accordingly, the above-identified application became abandoned on June 16, 2006. Consequently, the two communications that were mailed in March of 2007 were improper.
>
> The Office regrets this error.
>
> **In short, the mailing of May 15, 2006 set a one-month period for response, a proper response was not submitted within the requisite timeframe, and an extension of time was not timely filed. Therefore, this application went abandoned via operation of law on June 16, 2006.**
>
> Emphasis included

Consequently, the required reply has been previously submitted.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition under 37 C.F.R. § 1.137(b) is **GRANTED.**

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on June

6, 2007, in response to the non-final Office action of March 7, 2007, can be processed.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[2].

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

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

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WWW.USPTO.GOV

Paper No. None

Milliken Company
P.O. Box 1927
Spartanburg SC 29304

COPY MAILED

JUN 14 2007

OFFICE OF PETITIONS

In re Application of :
Jusong Xia et al. :
Application No. 10/460,875 :
Filed: June 14, 2003 :
Attorney Docket Number: 5653 :
Title: NOVEL METHOD OF :
PRODUCING POLYESTERIFIED LIQUID :
ANTHRAQUINONE-BASED COLORANTS :

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(A)

This is a decision on the petition filed April 23, 2007, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment, mailed August 4, 2006, which set a one-month period for reply. No further responses were received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on September 5, 2006. A notice of abandonment was mailed on March 13, 2007.

---

1 A grantable petition pursuant to 37 C.F.R. §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.

With the present petition, Petitioner has asserted that the notice of non-compliant amendment was not received.

MPEP §711.03(c)(I)(A) sets forth, in toto:

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

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. In addition, a copy of the

docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[2].

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

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

However, it is noted that the address that Petitioner has listed on the present petition is not the address of record. MPEP 601.03 states, in part:

> Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number.

The present address of record, Milliken Company, **P.O. Box 1927**, Spartanburg SC, 29304, is the same address that appears on Petitioner's non-compliant amendment of August 1, 2006. With the present petition however, Petitioner has listed the address as **P.O. Box 1926, M-495** (emphasis added), Spartanburg SC, 29304.

It is noted that the notice of non-compliant amendment was properly mailed to the address of record. It appears that the Applicant changed its mailing address, without informing the Office of the same. As such, it appears that the notice of non-compliant amendment was not received, due to the fact that the Applicant was utilizing a different PO Box.

Petitioner has not provided any indication as to when the Applicant moved. Therefore, it is not clear whether the Office action was properly mailed by this Office to the correspondence address of record to PO Box 1927 and Petitioner did not receive the Office action, or whether Petitioner had migrated to P.O. Box 1926, M-495 prior to the mailing of the notice of non-compliant amendment, and failed to timely notify this Office of the change of address.

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2 See MPEP 711.03(c).

Petitioner must clarify, on the record, when and if the correspondence address changed, and file the appropriate change of correspondence address, if necessary.

Accordingly, the petition under 37 C.F.R. §1.137(a) is **DISMISSED**. Receipt of the associated fee is acknowledged.

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[6]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

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Paper No.

Milliken Company
P.O. Box 1927
Spartanburg SC 29304

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of :
Jusong Xia et al. :
Application No. 10/460,875 : DECISION ON RENEWED PETITION
Filed: June 14, 2003 : UNDER 37 C.F.R. §1.137(A)
Attorney Docket Number: 5653 :
Title: NOVEL METHOD OF :
PRODUCING POLYESTERIFIED LIQUID :
ANTHRAQUINONE-BASED COLORANTS :

This is a decision on the renewed petition filed August 14, 2007, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment, mailed August 4, 2006, which set a one-month period for reply. No further responses were received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on September 5, 2006. A notice of abandonment was mailed on March 13, 2007.

---

1 A grantable petition pursuant to 37 C.F.R. §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.

An original petition was filed on April 23, 2007, and was dismissed via the mailing of a decision on June 14, 2007.

The decision on the original petition indicated that although Petitioner had met his burden of establishing that the mailing was not received, it was not clear whether Petitioner timely notified the Office of a change of address.

With this renewed petition, Petitioner has set forth, over his registration number, that mailings that are sent to Post Office Boxes 1926 and 1927 are both collected by the same party.

The renewed petition is therefore **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on April 24, 2007 can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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80 SOUTH 8TH ST
MINNEAPOLIS, MN 55402

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of Jon D. Kittelsen, et. al. Application No. 10/460,886 Filed: June 12, 2003 Attorney Docket No. 33116.61	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on January 25, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed May 4, 2006.

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

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 3772, 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
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605 U.S. HIGHWAY 169
SUITE 300
PLYMOUTH, MN 55441

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MAR 05 2009

OFFICE OF PETITIONS

In re Application of	:
Kittelsen et al.	:
Application No. 10/460,886	: DECISION ON PETITION
Filed: June 12, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1080-017	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 20, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/657,421, filed September 8, 2000.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

Although the instant petition itself referenced Application No. 09/657,421 as the application the instant application was claiming benefit of, the amendment to the specification itself, filed concurrently with the instant petition, states, "The present U.S. Patent Application is a continuation-in-part of U.S patent Appl. Ser. No. 10/460,886, filed September 8, 2000, now issued as U.S. Patent No. 6,626,180."

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment to the specification, referencing the proper application number, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 0 9 2009

OFFICE OF PETITIONS

In re Application of	:
Kittelsen et al.	:
Application No. 10/460,886	: DECISION GRANTING PETITION
Filed: June 12, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1080-017	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 19, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/657,421, filed September 8, 2000, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3772 for appropriate action on the amendment filed march 19, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/460,886	06/12/2003	3772	845	1080-017	25	3

CONFIRMATION NO. 5596

CORRECTED FILING RECEIPT

OC000000035350268

44163
CYR & ASSOCIATES, P.A.
605 U.S. Highway 169
Suite 300
Plymouth, MN 55441

Date Mailed: 04/06/2009

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

Applicant(s)

Jon D. Kittelsen, Minneapolis, MN;
Henry D. Cross III, Murrell's Inlet, SC;
Paul C. Belvedere, Edina, MN;
Mark Herman, Minneapolis, MN;

Power of Attorney: The patent practitioners associated with Customer Number 00044163

Domestic Priority data as claimed by applicant

This application is a CIP of 09/657,421 09/08/2000 PAT 6,626,180

Foreign Applications

If Required, Foreign Filing License Granted: 08/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/460,886**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Composite performance enhancing tethered mouthguard

Preliminary Class

128

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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MAY 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Kittelsen et al.	:	
Application No. 10/460,886	:	ON PETITION
Filed: June 12, 2003	:	
Attorney Docket No. 1080-017	:	

This is a decision on the petition under 37 CFR 1.181, filed January 8, 2009, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

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

The above-identified application was held abandoned for failure to timely reply to the final Office action mailed April 16, 2008, which set a shortened statutory period for reply of three (3) months. A reply was due on or before July 16, 2008. A Notice of Abandonment was mailed on December 12, 2008.

Petitioner states that the reply was in fact timely filed. A review of the application file reflects receipt of the Request for Continued Examination (RCE), a Response to Accompany Request for Continued Examination and a Petition for Extension of Time (3 months) on October 20, 2008. The correspondence also bears a certificate of mailing date of October 15, 2008. USPTO financial records also indicate payment of the three (3) month extension of time fee on October 20, 2008.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to Technology Center AU 3772 for further examination on the merits.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

MOORE, HANSEN & SUMNER, PLLP
225 SOUTH SIXTH ST
MINNEAPOLIS, MN 55402

In re Application of :
McCauley : DECISION ON PETITION
Application No. 10/460,903 :
Filed: June 13, 2003 :
Atty. Dkt. No.: P16-016-02-US :

This is a decision on the petition under 37 CFR 1.137(b) filed May 21, 2004.

The application became abandoned October 28, 2003 for failure to timely reply to the Notice to Missing Parts of Nonprovisional Application ("Notice") mailed August 27, 2003. The Notice set a two (2) month shortened statutory period for reply. No petition for extension of time in accordance with 37 CFR 1.136 was timely filed. This decision precedes Notice of Abandonment.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the Notice mailed August 27, 2003 is accepted as having been unintentionally delayed.

The required surcharge for submission of the declaration has been charged to deposit account No. 13-4300 as authorized.

The correspondence address has been changed to Customer No. 22,854 as requested in the change of correspondence address submitted herewith.

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

Telephone inquiries regarding the content of this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6763533	2004-07-20	10460918	2003-06-13	7115-001CON

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Steven M. Greenberg/	Date (YYYY-MM-DD)	2008-08-28
Name	Steven M. Greenberg	Registration Number	44725

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6763533
Issue Date: July 20,2004
Application No. 10460918
Filed: June 13,2003
Attorney Docket No. 7115-5-1

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

This is a decision on the electronic petition, filed August 29,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 29,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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AUG 27 2008

OFFICE OF PETITIONS

JHK LAW
P.O. BOX 1078
LA CANADA, CA 91012-1078

In re Application of
Min-Young Kim et al
Application No. 10/460,951
Filed: June 12, 2003
Attorney Docket No. 12040-02USA

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 16, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $820 extension of time submitted with the petition on May 16, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's credit card.

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

This application is being referred to Technology Center AU 1655 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

12/4/04

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

02/06/04

Fleit, Kain, Gibbons, Gutman,
Bongini & Bianco P.L.
551 NW 77th Street
Suite 111
Boca Raton, FL 33487

Dear Applicant:

The Box PGPub replacement drawings for application number 10/460958 received on 01/30/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication, at 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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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FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1699

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OFFICE OF PETITIONS

In re Application of :
William Bohr :
Application No. 10/460,973 :
Filed: June 13, 2003 :
Attorney Docket No. BLACKMER 20 :

ON PETITION

This is a decision on the petition, filed December 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 July 9, 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 3748 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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DIW Jan-06

DOUGLAS E. DENNINGER
TYCO HEALTHCARE GROUP LP
15 HAMPSHIRE STREET
MANSFIELD MA 02048

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OFFICE OF PETITIONS

In re Application of	:	
Healy et al.	:	
Application No. 10/460,978	:	DECISION ON PETITION
Filed: 13 June, 2003	:	
Atty Docket No. 08830-0029 CT1	:	

This is a decision on the petition filed on 26 September, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 23 December, 2004, for failure to timely file a response to the non-final Office action mailed on 22 September, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time

[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)).

for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 7 April, 2005. Petitioners have submitted an amendment to the claims as the required reply.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. 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.

This application is being referred to Technology Center Art Unit 1615 for further processing.

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[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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

cf: CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 225
MELVILLE NY 11747

UNITED STATES PATENT AND TRADEMARK OFFICE

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DOUGLAS E. DENNINGER
TYCO HEALTHCARE GROUP LP
15 HAMPSHIRE STREET
MANSFIELD, MA 02048

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MAY 27 2008

In re Application of	:	
David Michael HEALY et al.	:	
Application No. 10/460,978	:	DECISION ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. **08830-0029 CT1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 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 timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 14, 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 September 15, 2007.

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

Petitioner failed to provide an amendment that *prima facie* places the application in condition for allowance. (See attached courtesy copy of examiner's advisory action.)

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.

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) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **THOMAS M. ROSSELLI**
CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 225
MELVILLE, NEW YORK 11747

Attachment: Courtesy copy of examiners Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/460,978	HEALY ET AL.	
	Examiner	Art Unit	
	MICHAEL G. HARTLEY	1618	

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

THE REPLY FILED 11 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 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: *1-6,8-13,16-24 and 27-51*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Michael G. Hartley/
Supervisory Patent Examiner, Art Unit 1618

Michael G. Hartley
SPE
Art Unit: 1618

Continuation of 3. NOTE: The proposed amendment would require a new search/consideration due to the new limitation that the glass is in a comminuted particle form as well as, changing containing to "and contains" which makes it unclear if it is the glass or the suture having the phosphorus pentaoxide. Also, this limitation raises new matter issues, as the specification only supports incorporating the phoosphorous pentaoxide into the glass, para. [0018], (but not only into the suture), which does not appear to be the case affter the proposed amendment .

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AUG 18 2008

OFFICE OF PETITIONS

In re Application of	:	
David M. HEALY et al.	:	
Application No. 10/460,978	:	DECISION ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. 08830-0029 CT1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 25, 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 June 14, 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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 15, 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 June 14, 2007 is accepted as having been unintentionally delayed.

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

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

Telephone inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 1618 for processing of the RCE and amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **THOMAS M. ROSSELLI**
CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 225
MELVILLE, NEW YORK 11747

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 4

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON MA 02109

COPY MAILED

SEP 1 1 2003

OFFICE OF PETITIONS

In re Application of Masura Iguchi Application No. 10/460,992 Filed: June 13, 2003 Attorney Docket No. TOW-025	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.53, filed August 18, 2003, to accord the above-identified application a filing date of June 13, 2003, with Figures 1, 2, 3, 4, and 5 of the drawings as a part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on June 13, 2003. However, on August 7, 2003, the Initial Patent Examination Division mailed applicant a "Notice of Incomplete Nonprovisional Application." Applicant was notified that the application papers had not been accorded a filing date because the application appeared to have been deposited without drawings. In response, applicant filed the instant petition.

As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims, namely claims 1-7. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In view of the above, the "Notice of Incomplete Nonprovisional Application" mailed August 7, 2003, was mailed in error and is hereby **WITHDRAWN**.

Moreover, applicant maintains that the application as originally filed was filed with drawing figures. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "Drawings (5 sheets)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of June 13, 2003, and lacking any notation of non receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 12-0080.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of June 13, 2003, using the application papers received in the Office on that date and Figures 1, 2, 3, 4, and 5 of the drawings as resupplied with the petition filed August 18, 2003.

Telephone inquiries specific to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,938,631	2005-09-06	10/461,002	2003-06-13	VIC-P-4

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/WMS/	Date (YYYY-MM-DD)	2010-07-30
Name	William Monty Simmons	Registration Number	53910

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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In re Patent No. 6938631
Issue Date: September 6,2005
Application No. 10461002
Filed: June 13,2003
Attorney Docket No. 07-124-001

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

This is a decision on the electronic petition, filed July 20,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 20,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application No. 10/461,005	:	DECISION ON PETITION
Filed: 06-12-2003	:	
Attorney Docket No. 126066-1	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 1, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the amendment filed on February 26, 2007.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

In this regard, the amendment submitted with the petition references the prior-filed applications by the patent number rather than by the application number. *Note* 35 U.S.C. § 120, which provides, in relevant part:

> No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed **application** is submitted at such time during the pendency of the application as required by the Director. [Emphasis supplied.]

Note also CFR 1.78(a)(2)(i), which states, in relevant part:

> Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications * * * must contain or be amended to contain a reference to each such prior-filed application, **identifying it by application number (consisting of the series code and serial number)** *** and indicating the relationship of the applications. [Emphasis supplied.]

Accordingly, a proper amendment complying with the provisions of 37 CFR 1.121 and satisfying the requirements of 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) must be submitted, along with a renewed petition under 37 CFR 1.78(a)(3).

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

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
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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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JUL 26 2007

OFFICE OF PETITIONS

In re Application of
Wang et al.
Application No. 10/461,005
Filed: 06-12-2003
Attorney Docket No. 126066-1

DECISION ON PETITION

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 1, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the amendment filed on February 26, 2007.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1774 for consideration by the examiner of the claim under 35 U.S.C. §§120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/461,005	06/12/2003	1774	2070	126066-1	70	8

CONFIRMATION NO. 6031

CORRECTED FILING RECEIPT

OC000000025029131

23413
CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

Date Mailed: 07/26/2007

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

Applicant(s)

Hua Wang, Clifton Park, NY;
Kenneth Paul Zarnoch, Scotia, NY;
Joseph Anthony Suriano, Clifton Park, NY;

Assignment For Published Patent Application

General Electric Company

Power of Attorney: The patent practitioners associated with Customer Number **23413**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/908,396 07/18/2001 PAT 6,610,409
which is a CIP of 09/368,706 08/05/1999 PAT 6,306,507
which claims benefit of 60/134,692 05/18/1999

Foreign Applications

If Required, Foreign Filing License Granted: 08/11/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/461,005

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Weatherable multilayer articles and method for their preparation

Preliminary Class

428

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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AARON R. CLEMENTS/HURLEY, REYES & GUINN
1805-13TH ST.
LUBBOCK TX 79401

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OFFICE OF PETITIONS

In re Application of	:	
Larry Shed	:	
Application No. 10/461,011	:	DECISION ON PETITION
Filed: 13 June, 2003	:	
Atty Docket No. LS2002	:	

This is a decision on the petition filed on 14 August, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 8 February, 2005, for failure to timely reply to the Office action requiring restriction or election mailed on 7 January, 2005, which set a one (1) month

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 8 August, 2005.

Petitioner has filed a reply including an election.

This application is being referred to Technology Center Art Unit 3725 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANSEL M. SCHWARTZ
201 N. CRAIG STREET, SUITE 304
PITTSBURGH, PA 15213

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MAR 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Stanley E. **SHACKNEY, et al.**	:	
Application No. 10/461,018	:	DECISION ON PETITION
Filed: June 13, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **AHS-17**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 14, 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 February 15, 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) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center Art Unit 1797 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
Petitions Examiner
Office of Petitions

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ATTENTION: JEFFREY S. WHITTLE
BRACEWELL & PATTERSON, L.L.P.
P. O. BOX 61389
HOUSTON, TX 77208-1389

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OFFICE OF PETITIONS

In re Application of	:	
Brezina et al.	:	
Application No. 10/461,019	:	ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. 0108MC.043929	:	

This is a decision on the petition under 37 CFR §1.102(d), filed May 24, 2006 to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2800 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

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SYNNESTVEDT & LECHNER, LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA PA 19107-2950

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OFFICE OF PETITIONS

In re Application of :
Joseph Gross et al. :
Application No. 10/461,040 : ON PETITION
Filed: February 22, 2002 :
Attorney Docket No.: **E1067/20233** :

The "Response to Notice of Abandonment" filed May 11, 2006 is treated as a petition to withdraw the holding of abandonment for the above-identified application. The petition is being treated under 37 CFR 1.181.

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

The application was held abandoned on September 16, 2005, for failure to timely submit a timely response to the Restriction Requirement mailed August 15, 2005, which set a thirty day period for reply. Accordingly, a Notice of Abandonment was mailed February 28, 2006.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response and a five month extension of time request, both of which bear a certificate of mail dated February 15, 2006, pursuant to 37 CFR 1.8.

A search of the application file and the USPTO records reveals that in fact, a response with a five month extension of time request and a certificate of mail dated February 15, 2006 were received February 21, 2006. Accordingly, the Notice of Abandonment mailed February 28, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 3763 for appropriate action on the amendment filed February 21, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 13

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

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MAY 2 0 2004

OFFICE OF PETITIONS

In re Application of	:
Rodolfo A. Morales et al	:
Application No. 10/461,043	: DECISION GRANTING PETITION
Filed: June 13, 2003	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 16886-000310	:

This is a decision on the petition, filed May 13, 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 should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3731 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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United States Patent and Trademark Office
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KACVINSKY L.L.C.
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Hongjiang Song	:	
Application No. 10/461,061	:	DECISION ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. 41P16724	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 30, 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, October 31, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 1, 2007. A Notice of Abandonment was mailed September 7, 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) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2816 for appropriate action by the Examiner in the normal course of business on the reply received.

Liana Walsh
Petitions Examiner
Office of Petitions

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JONES DAY
77 WEST WACKER
CHICAGO IL 60601-1692

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Odgen R. Olson	:	
Application No. 10/461,081	:	DECISION ON PETITION
Filed: 13 June, 2003	:	
Atty Docket No. 087522-452-423	:	

This is a decision on the petition filed on 31 October, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 14 July, 2005, for failure to timely pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on 13 April, 2005, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 22 September, 2005.

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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)).

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LENOVO (US) IP Law
1009 Think Place
Building One, 4th Floor 4B6
Morrisville, NC 27560

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OFFICE OF PETITIONS

In re Application of :
Yoshihisa Kanada :
Application No. 10/461,087 : ON PETITION
Filed: June 13, 2003 :
Attorney Docket No. JP920020078US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 30, 2006, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to respond to the non-final Office action mailed February 24, 2006. A Notice of Abandonment was mailed on September 21, 2006.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment and thirteen sheets of replacement drawings containing Figures 1-13; (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 2617, 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

CC: JOSEPH LALLY
LALLY & LALLY, L.L.P.
P.O. BOX 684749
AUSTIN, TX 78768-4749

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

PEACOCK MYERS & ADAMS PC
P.O. BOX 26927
ALBUQUERQUE, NM 87125-6927

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NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Wijnand Ludo Dalmijn et al :
Application No. 10/461,103 : NOTICE
Filed: June 13, 2003 :
Attorney Docket No. 30394-1091 :

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 the Office of Initial Patent Examination.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JAMES G ONEILL
KLEIN ONEILL & SINGH LLP
2 PARK PLAZA
SUITE 510
IRVINE CA 92614

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of		
Farley, et al.	:	
Application No. 10/461,104	:	DECISION ON
Filed: June 13, 2003	:	PETITION
Attorney Docket No. 719-07-PA-J	:	

This is in response to the "PETITION TO ACCEPT LOST OR MISPLACED AMEMDMENT [sic] AND REVIVE APPLICATION", filed May 11, 2005, which is being treated as a petition under 37 C.F.R. §1.181 to withdraw the holding of abandonment.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

The above-identified application became abandoned for failure to timely respond to the non-final Office action mailed March 22, 2004. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time were available under 37 C.F.R. §1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on June 23, 2004. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Petitioner states that he did timely file an amendment in response to the March 22, 2004 Office action on May 7, 2004. According to petitioner, the amendment was filed via facsimile transmission to a number given to him by the prior Examiner, Malik N. Drake. That number was (703)746-4968, different from the centralized facsimile number for official correspondence, and the number given in the March 22, 2004 Office action, (703)872-9306.

37 C.F.R. §1.2 states that "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."

MPEP 501.02 states that "effective December 1, 2003, all patent application related correspondence transmitted by facsimile must be directed to the central facsimile number, (703) 872-9306, with a few exceptions...."

The Office file is the official record of papers filed in the application. No amendment filed May 7, 2004 is found in the file. Moreover, petitioner has not established that the amendment was transmitted to the central facsimile number in accordance with 37 C.F.R. §1.8. Accordingly, the holding of abandonment can not be withdrawn.

As no fee is required for a petition to withdraw the holding of abandonment under 37 C.F.R. §1.181, the $130 fee submitted on petition has been refunded to Deposit Account No. 11-1159.

Petitioner may revive the application pursuant to 37 C.F.R. §1.137(b). A grantable petition under 37 C.F.R. 1.137(b) must be accompanied by: (1) the required reply, 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 as set forth in 37 CFR 1.20(d)) required by 37 C.F.R. §1.137(d).

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[1]
Attn: Office of Petitions

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] The new central facsimile number became effective July 15, 2005. See New Patents Central FAX Number and Updated Lists of Exceptions to the Centralized Delivery and Facsimile Transmission Policy for Patent Related Correspondence, 1296 OG 76 (July 12, 2005).

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JAMES G ONEILL
KLEIN ONEILL & SINGH LLP
2 PARK PLAZA
SUITE 510
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of		
Farley, et al.	:	
Application No. 10/461,104	:	DECISION ON
Filed: June 13, 2003	:	PETITION
Attorney Docket No. 719-07-PA-J	:	

This is in response to the petition under 37 CFR 1.137(b), filed August 11, 2005, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely respond to the non-final Office action mailed March 22, 2004. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time were available under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on June 23, 2004. Applicants filed a petition to withdraw the holding of abandonment on May 11, 2005. However, the petition was dismissed in a decision mailed on August 4, 2005.

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

The application file is being forwarded to Group Art Unit 3744 for consideration of the amendment filed August 11, 2005.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

In re Application of	:	
Ruble et al.	:	
Application Number: 10/461113	:	ON PETITION
Filing Date: 06/13/2003	:	
Attorney Docket Number:	:	
60001.0376US01	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.182" and the petition under 37 CFR 1.137(f), both filed on October 8, 2008.

The petition is dismissed as moot.

On October 8, 2008, the subject petitions under 37 CFR 1.182 and 1.137(f) were filed.

On October 27, 2008, however, a supplement to the petition was filed, requesting withdrawal of the prior-filed petitions. Petitioners state that the petitions filed on October 8, 2008, were filed in error.

In view of petitioner's request, the petitions are **dismissed as moot.**

As the petitions were not treated on the merits, the petition fees paid therewith will be credited to counsel's deposit account as requested.

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/461,129	06/12/2003	2124	858	TT5362	3	26	3

CONFIRMATION NO. 5683

CORRECTED FILING RECEIPT

OC000000011505138

29906
INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, STE. 325
SCOTTSDALE, AZ 85251

Date Mailed: 12/16/2003

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

Applicant(s)

Stephen Charles Kromer, Austin, TX;

Domestic Priority data as claimed by applicant

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

Method and data processor with reduced stalling due to operand dependencies

Preliminary Class

708

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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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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES, CA 90013

COPY MAILED

DEC 2 4 2008

In re Application of	:	
Erik A. **SCHEELKE**	:	
Application No. 10/461,142	:	DECISION ON PETITION
Filed: June 12, 2003	:	TO WITHDRAW
Attorney Docket No. **JANJA-00500 (23322)**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 19, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that **MORRISON & FOERSTER LLP** 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.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the 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: **SCULLY SCOTT MURPHY & PRESSER PC**
400 GARDEN CITY PLAZA, SUITE 300
GARDEN CITY, NY 11530

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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In re Patent No. 6822812
Issue Date: November 23,2004
Application No. 10461155
Filed: June 12,2003
Attorney Docket No. 03004.8089US00

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

This is a decision on the electronic petition, filed January 20,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 20,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,822,812	2004-11-23	10461155	2003-06-12	02-0448 (012635)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark D. Elchuk/	Date (YYYY-MM-DD)	2009-01-20
Name	Mark D. Elchuk	Registration Number	33686

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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DANIEL J. O'CONNOR
6720 Buckhorn Drive
Suite 821
INDIANAPOLIS, IN 46254

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JUN 15 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Richard R. Tucker
Application No. 10/461,160
Filed: June 16, 2003
For: MATERIAL HANDLING AND MANUFACTURING SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on September 15, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a birth certificate for Mr. Tucker indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/pav: 5/28/04

#4
DW

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FEB 26 2004

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FEB 26 2004

OFFICE OF THE DIRECTOR
TC 3600

Wendy K. Buskop
Buskop Law Group, P.C.
Suite 500
1717 St. James Place
Houston TX 77056

In re Application of:
Richard L. Krabbendam
Serial No. 10/461,618
Filed: June 13, 2003
For: METHOD FOR LIFTING AND TRANSPORTING A HEAVY LOAD USING A DEEP WATER DEPLOYMENT SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ENERGY/ENVIRONMENT)

This is a decision on the petition filed August 15, 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 V: Environmental Quality, or in the alternative, Section VI: Energy.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by statements by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

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 will materially enhance the quality of the environment or contribute to the conservation of energy by "reducing the number of lift vessels required" to load/unload cargo from seagoing vessels. This reason is not acceptable because it does not directly contribute to the restoration or maintenance of the basic life sustaining elements –air, water and soil as required under Section V. Furthermore, this reason is inadequate under Section VI to establish for the record that the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Applicant has not provided sufficient evidence that the claimed method of lifting and transporting directly results in more efficient utilization and conservation of energy resources.

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.

For the above stated reasons, the petition is **DISMISSED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/mjz: 2/20/04

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Anna M. Vradenburgh
Brull, Piccionelli, Sarno, Braun & Vradenburgh
Suite 2350
1925 Century Park East
Los Angeles CA 90067

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Gregory A. Piccionelli	:	
Application No. 10/461,171	:	ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. 39003.807US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750.00; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/804,054.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

The application file is being forwarded to Files Repository.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Michael M. Gerardi
2801 Townsgate Drive, Suite 200
Westlake Village, CA 91361

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MESMER & DELEAULT, PLLC
41 BROOK STREET
MANCHESTER, NH 03104

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OFFICE OF PETITIONS

In re Application of :
Myron M. Lewoczko :
Application No. 10/461,174 : ON PETITION
Filed: June 11, 2003 :
Attorney Docket No. lew0603cip :

This is a decision on the petition under 37 CFR 1.181, filed July 27, 2006, to withdraw the holding of abandonment.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed July 21, 2005. Accordingly, this application became abandoned on October 22, 2005. A Notice of Abandonment was mailed on June 15, 2006.

Petitioner asserts that an amendment was timely submitted via facsimile transmission on October 19, 2005. In support, petitioner has submitted a copy of the originally filed response. The response includes an executed Certificate of Facsimile Transmission under 37 CFR 1.8 dated October 19, 2005. Additionally, petitioner has submitted a copy of the "Auto-Reply Facsimile Transmission" that confirms transmission and receipt of the documents (14 sheets) on October 19, 2005.

However, a review of application file indicates that the documents submitted on October 19, 2005 were erroneously identified by applicant as papers for application no. 10/4**16**,174, and not 10/4**61**,174. Unfortunately, and as such, only three (3) pages of the October 19, 2005 submission were eventually placed in the correct application file.

Please note MPEP 502:

> "A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number. The failure to give any application number is not a minor error. The Office often experiences difficulty in matching incoming papers with the application file to which they pertain because insufficient or erroneous information is given. This applies especially to amendments, powers of attorney, changes of address, status letters, petitions for extension of time, and other petitions."

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

Petitioner should take care in the identification of papers submitted to the USPTO as errors in the identification may lead to delays in the examination process.

This application is being forwarded to Technology Center 3600, for review of the amendment, filed July 27, 2006, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re application of	:	**DECISION ON PETITION**
Jacob Ofir et al.	:	**TO MAKE SPECIAL**
Application No. 10/461,175	:	**(INFRINGEMENT)**
Filed: June 12, 2003	:	
For: VERSATILE TERMINAL ADAPTER AND NETWORK FOR TRANSACTION PROCESSING		

This is a decision on the petition under 37 C.F.R § 1.102(d) filed March 25, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed March 25, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed concurrently with the petition.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/vdb: 4/26/04

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

In re Application of	:	
JORDAHL, Jena J.	:	
Application No. 10/461,182	:	DECISION ON PETITION
Filed: June 12, 2003	:	TO WITHDRAW
Attorney Docket No. **JJP-008.01**	:	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 01, 2008.

The request is **APPROVED**.

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

The request was signed by Stephen Deutsch on behalf of all attorneys of record who are associated with customer No. 25181. All attorneys/agents associated with the Customer Number 25181 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Jena Jordahl at the address indicated below.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JENA JORDAHL**
26 WILLOW STREET
WELLESLEY, MA 02481

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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JUL 08 2008

OFFICE OF PETITIONS

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

In re Application of :
LARSON, et al. :
Application No. 10/461,183 :
Filed: June 12, 2003 :
Attorney Docket No. **200209619-1** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 7, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not received within sufficient time to avert the issuance of the application into a patent. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue** (Emphasis added).

In this case, the petition was not received in the Office of Petitions for consideration until 6:27 pm on July 7, 2008, after the office had closed. Therefore, as the case has now issued into patent no. 7,398,345, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will not be charged to petitioner's deposit account.

The information disclosure statement has been made of record in the file of the above-identified application without further consideration. *See 37 CFR 1.97(i).*

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MILLIKEN & COMPANY
P.O. BOX 1927
SPARTANBURG SC 29304

In re Application of	:	
K. David Lake et al	:	
Application No. 10/461,184	:	ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. 5185A	:	

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 24, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The 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 the undersigned at (571) 272-3208.

---

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

The examiner of Technology Center AU 1615 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

cc:

MILLIKEN & COMPANY
LEGAL DEPARTMENT (M-405)
920 MILLIKEN ROAD
SPARTANBURG, SC 29304

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COMMISSIONER FOR PATENTS
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Paper No. _____

Date : March 9, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :K. David Lake et al
Application No. :10/461,184
Filed :June 13, 2003

The above-identified application has been assigned Patent No. 6,869,616 and an issue date of March 22, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 22, 2005:

"All reference to Patent No. 6,869,616 to K. David Lake et al of South Carolina for POLYOLEFIN ADDITIVE COMPOSITION COMPRISING 3,4-DIMETHYL DIBENZYLIDENE SORBITOL AND P-METHYL DIBENZYLIDENE SORBITOL appearing in the Official Gazette of March 22, 2005 should be deleted since no patent was granted."

Karen Creasy

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

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

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RESEARCH TRIANGLE PARK, NC 27709

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of	:	
James Gordon Still et al	:	
Application No. 10/461,199	:	DECISION DISMISSING PETITIONS
Filed: June 13, 2003	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 9233-90	:	

This is a decision on the petition treated under the provisions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 15, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed **nonprovisional** and **provisional** applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(iii) and 1.78(a)(5)(i) and 1.78(a)(5)(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 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1). In this regard, the amendment to the specification claiming benefit of priority to Application No. 10/075,092 does not have an inventor in common with this application. Accordingly, the claim for benefit of priority cannot be granted. It appears that petitioner may have meant to claim benefit of priority to Application No. 10/075,097, which does have an inventor in common with this application.

Additionally, the petition does not comply with item (3) above. More specifically, the statement of unintentional delay in the petition is not directed to the above-noted nonprovisional and provisional applications noted in the amendment to the specification. As a claim for benefit of priority to the nonprovisional and provisional applications was not previously made, petitioner must submit a statement that **"the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional."**

If reconsideration of this decision is desired, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) which contains a proper statement of unintentional delay and an amendment or an Application Data Sheet which correctly claims benefit of priority to an application having a common inventor are required.

Upon the filing of the renewed petition, petitioner may wish to contact the undersigned to expedite consideration thereof.

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

Correspondence regarding this matter may also be filed through the Electronic Filing System of the USPTO.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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JUL 24 2007

OFFICE OF PETITIONS

In re Application of	:	
James Gordon Still et al	:	
Application No. 10/461,199	:	DECISION GRANTING PETITION
Filed: June 13, 2003	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 014811-190.90	:	

This is a decision on the renewed petition treated under the provisions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 13, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and (iii) and (a)(5)(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 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed

provisional application(s). It is noted that the filing date for Application No. 10/075,097 in the amendment incorrectly states that the filing date of that application is "February 13, 2003, whereas, the correct filing date is -- February 13, 2002 --.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1654 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/461,199	06/13/2003	1654	916	9233-90	22	2

CONFIRMATION NO. 5344

CORRECTED FILING RECEIPT

OC000000024973093

24239
MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Date Mailed: 07/23/2007

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

Applicant(s)

James Gordon Still, Raleigh, NC;
Gordana Kosutic, Raleigh, NC;

Power of Attorney: The patent practitioners associated with Customer Number **24239**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/075,097 02/13/2002 PAT 7,060,675
which claims benefit of 60/269,198 02/15/2001
and claims benefit of 60/347,713 01/11/2002

Foreign Applications

If Required, Foreign Filing License Granted: 08/07/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/461,199

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods of reducing hypoglycemic episodes in the treatment of diabetes mellitus

Preliminary Class

530

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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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: James Gordon Still	: DECISION ON REQUEST FOR
Patent Number	: 7601688	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/461,199	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/13/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **783** 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 : 6/5/08

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction on Patent No.: 7297685 B2

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

Tracy Wilcomsze
SPE

1635
Art Unit

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JEFFREY C. HOOD
MEYERTONS, HOOD, KIVLIN,
KOWERT & GOETZEL PC
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AUG 2 8 2008

OFFICE OF PETITIONS

In re Application of
Sierer, et al.
Application No. 10/461,206
Filed: 13 June, 2003
Attorney Docket No. 5150-59100

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 22 November, 2006, supplemented on 2 May, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth by amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C.§120 and 37 C.F.R. §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 C.F.R. §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.

Application No. 10/461,206

It is noted that the amendment filed in support of the 22 November, 2006, petition was noted by the Examiner as noncompliant, and Petitioner's supplement of 2 May, 2007, amendment followed.

The requirements above have been satisfied, and the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed. The fee for this petition was charged as authorized to Deposit Account 50-1505.

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

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

Any inquiries concerning this decision may be directed to John Gillon, Attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center AU 2191 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/461,206	06/13/2003	2191	1564	5150-59100	30	4

CONFIRMATION NO. 6001

CORRECTED FILING RECEIPT

Jeffrey C. Hood
Meyertons, Hood, Kivlin, Kowert & Goetzel PC
P.O. Box 398
Austin, TX 78767

OC000000031619008

Date Mailed: 08/18/2008

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

Applicant(s)

Brian H. Sierer, Austin, TX;
Jason D. Sommerville, Austin, TX;
Kristofer J. Klemett, Austin, TX;
Narendrakumar U. Salem, Austin, TX;
Wesley N. Wendland, Pflugerville, TX;

Power of Attorney:

Noel Kivlin--33929
Eric Meyertons--34876
Jeffrey Hood--35198
Robert Kowert--39255
Mark Brightwell--47446
Mark Williams--50658

Domestic Priority data as claimed by applicant

This application is a CIP of 10/346,577 01/17/2003 PAT 7,228,541

Foreign Applications

If Required, Foreign Filing License Granted: 08/06/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/461,206**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Installing software using programmatic component dependency analysis

Preliminary Class

717

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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Stephen C. Glazier
Kirkpatrick & Lockhart Preston Gates & Ellis LLP
1601 K Street, N.W.
Washington, DC 20006-1600

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MAR 2 7 2007

OFFICE OF PETITIONS

In re Application of Himes :
Application No. 10/461,218 :
Filing Date: June 13, 2003 :
Attorney Docket No. 0307091.0164 :

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 November 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to Technology Center Art Unit 3621 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
10/461,218	06/13/2003	3621	3990	0307091.0164	144	15

CONFIRMATION NO. 6025

CORRECTED FILING RECEIPT

OC000000023111107

35602
Stephen C. Glazier
Kirkpatrick & Lockhart Preston Gates & Ellis LLP
1601 K Street, N.W.
Washington, DC 20006-1600

Date Mailed: 03/26/2007

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)

Steven G. Himes, Centerville, OH;

Power of Attorney:

Paul Kokulis--16773
Raymond Lippitt--17519
G Knight Jr--17698
George Sirilla--18221
George Edgell--24238
Donald Bird--25323
Richard Zaitlen--27248
Glenn Perry--28458
Dale Lazar--28872
Mark Paulson--30793

Domestic Priority data as claimed by applicant

This application is a CON of 09/983,174 10/23/2001 PAT 7,016,854
which is a CIP of 09/725,080 11/29/2000 PAT 6,901,374

Foreign Applications

If Required, Foreign Filing License Granted: 08/07/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/461,218

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

LOYALTY LINK METHOD AND APPARATUS WITH AUDIO PERFORMANCE FOR INTEGRATING CUSTOMER INFORMATION WITH DEALER MANAGEMENT INFORMATION

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Orin Paul Reams III	: DECISION ON REQUEST FOR
Patent Number	: 7636314	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/461,228	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/13/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1369** 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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JOSEPH T. GUY PH.D.
NEXSEN PRUET JACOBS & POLLARD LLP
201 W. MCBEE AVENUE
GREENVILLE SC 29603

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:
Luc Struye et al	:
Application No. 10/461,247	: DECISION GRANTING PETITION
Filed: June 13, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 27500-156	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 2, 2007, and resubmitted on February 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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 1.137(b)(3) and 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 an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of March 20, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1775.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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5700

Michael A. Slavin
McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens FL 33410

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FEB 26 2004

OFFICE OF PETITIONS

In re Application of
Shetley
Application No. 10/461,259
Filed: June 12, 2003
For: HYDROGEN AND LIQUID FUEL INJECTION SYSTEM

: ON PETITION

This is a decision on the petition filed January 22, 2004, under 37 CFR 1.182 by or on behalf of Emission Controls Corporation ("ECC") seeking that the USPTO "establish the rights of ECC as owner and assignee of the above--captioned application."

The petition is **dismissed.**

Petitioner (ECC) styles itself as the true assignee of the entire interest, in that *inter alia*, ECC had in fact hired Shetley to develop the product claimed by the instant application and further, Shetley is contractually obligated to assign this application to ECC. ECC complains that since Shetley has not executed an assignment conveying his rights in this application to ECC, ECC will be irreparably harmed if its rights in this application are not established by the USPTO.

Briefly put, the USPTO cannot and does not make independent determinations as to who owns, or is the assignee of, an application or patent.

Inventorship is the starting point for determining ownership, see University Patents, Inc. v. Kligman, 762 F.Supp. 1212, 1218-19, 20 USPQ2d 1401, 1405 (E.D. Pa. 1991), and unless there is an assignment, the USPTO will presume the named inventor to be the owner, see 37 CFR 3.73(a). Since Shetley is named as the sole inventor, and as there is no USPTO record of any assignment of his rights, title or interest to ECC or any other party(s), the USPTO will presume the named inventor is the owner of this application. See 37 CFR 3.73(a). As such, ECC does not own the entire interest, or any part interest in this application. See 37 CFR 3.71. However, only the owner of the *entire* interest in an application has the sole right to control prosecution of an application. See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (e.g., 37 CFR §§ 1.36, 3.71 and 3.73(b)) serve to assure that papers filed with the USPTO in an application or patent are submitted on behalf of the owner(s) of the *entire* interest in the application or patent. See Goldstein, 16 USPQ2d at 1964. 37 CFR 1.182 is not a mechanism for avoiding the requirements of the established rules and procedures, see Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (Comm'r Pat. 1903).

As to petitioner's contention that Shetley was contractually obligated to execute an assignment conveying his rights in any inventions he made during his employment to ECC: an agreement to assign in the future inventions not yet developed may vest the promisee with equitable rights in those inventions once made; however, such an agreement does not by itself vest legal title to patents on the inventions in the promisee. See Arachnid, Inc. v. Merit Industries, Inc. 939 F.2d 1574, 1580 19 USPQ2d 1513, 1518 (Fed. Cir. 1991). As such, given that Shetley was employed by ECC, and assuming *arguendo* that Shetley's employment agreement contractually may have obligated him to assign his inventions to ECC is not in of itself determinative of the issue as to who owns legal title to the instant application. See Arachnid, Id.

ECC's request to have the USPTO make a determination from the proffered documentation and settle any dispute as to the legal title of this application must be declined. Shetley, as a named inventor, has a property right in this application that can be canceled, revoked, or annulled ***only*** by judicial proceedings that afford due process of law. Iowa State University Research Foundation v. Sperry Rand Corp., 444 F.2d. 406, 410, 170 USPQ 374, 377 (4th Cir. 1971). An *ex parte* proceeding in the USPTO is *not* the appropriate forum for the possible extinction of a property right in an application. See Baker Hughes, Inc. v. Kirk, 921 F.Supp. 801 (D.D.C. 1995). Rather, it is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes. See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892).

Indeed, the USPTO has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11 F.3d. 1573, 1581 n.10, 29 USPQ2d 1188, 1194 n.10 (Fed. Cir 1993), cert. denied, 114 S. Ct. (1994). Rather, state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The USPTO cannot settle disputes as to title, or convert whatever equitable title that might exist in this application for petitioner simply by inspection of the documents upon which petitioner relies. Rather, a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2D 1119, 1123 (Fed. Cir. 1997)("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v. Crouch, 24 N.W. 2d 400, 33 USPQ2D 1361 (Iowa 1994) (patent ownership issue properly triable in state court); In re Haines, 1900 C.D. 102, 103 (Comm'r Pat. 1900)(same). Accordingly, the USPTO will not determine whether Shetley's position at ECC operated to convey his rights in the invention of this application to ECC. The petition seeking that the USPTO acknowledge that ECC is the assignee of the entire interest, and, in turn, that ECC as the assignee of the entire interest may herein intervene in the prosecution of this application to the exclusion of Shetley within the meaning of

MPEP 324 and 37 CFR 1.373(b) must be dismissed. Rather, the ownership determination that ECC seeks is more properly made in a court of competent jurisdiction. Regents, Id.; Jim Arnold, Id.

While ECC is, under the circumstances of this case, a third party to this proceeding, nevertheless a courtesy copy of this decision is being mailed to ECC. ECC should note that a mere assertion of a right to have the Office act in accordance with the statutes and regulations does not confer standing upon a third party. The Boeing Company v. Commissioner of Patents and Trademarks, 853 F.2d 878, 7 USPQ2d 1487 (Fed. Cir. 1988). Further, a third party does not have standing to challenge Office decisions made *ex parte*. See, e.g., Godtfredsen v. Banner, 503 F.Supp 642, 647, 207 USPQ 202, 207 (D.D.C. 1980), Syntex v. United States Patent and Trademark Office, 882 F.2d 1570, 1574-1575, 11 USPQ2d 1866, 1870 (Fed. Cir. 1989), Hitachi Metals Ltd. v. Quigg, 776 F.Supp 3, 20 USPQ2d 1920 (Fed. Cir. 1989); Hallmark Cards Inc. v. Lehman, 959 F.Supp. 539, 43 USPQ2d 1134 (D.D.C. 1997). There is nothing in the patent statutes which gives rise to a right in nonapplicants to object to the way in which patent applications of others are treated by the Patent and Trademark Office. Rather, a third party has no right to intervene in a particular patent application. Animal Defense Fund v. Quigg, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 (Fed. Cir. 1991).

ECC is reminded that the USPTO will not undertake dual correspondence, and that the limited ability of a third party to protest a given application is governed by 37 CFR 1.291. Any further attempts by ECC to directly intervene in this application, other than the filing of a *bona fide* protest within the meaning of 37 CFR 1.291, that addresses an issue(s) not already raised in the instant petition, will be returned to the address of the party who filed them.

Telephone inquiries related to this decision should be addressed 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

cc:

Syd Cooke
Emission Controls Corp.
3150 SW 42nd Street
Palm City FL 33490

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Fish & Neave IP Group
Ropes & Gray LLP
1251 Avenue of the Americas FL C3
New York, NY 10029-1105

MAILED
FROM DIRECTORS OFFICE

JAN 05 2007

TECHNOLOGY CENTER 3600

In re application of
Irving I. Dardik
Application No. 10/461,285
Filed: June 13, 2003
For: PULSED ELECTROLYTIC CELL

DECISION ON PETITION FOR SECOND SUSPENSION OF ACTION UNDER 37 CFR 1.103 (a)

This letter is responsive to the petition for a second suspension of action under 37 CFR 1.103(a) received on December 21, 2006.

The petition for suspension of action under 37 CFR 1.103(a) is **GRANTED**.

A grantable petition for suspension of action under 37 CFR 1.103(a) requires:

1) A showing of good and sufficient cause for suspension of action, and
2) The fee set forth in 37 CFR 1.17(g), unless such cause is the fault of the Office.

Applicant filed a petition on June 20, 2005 to suspend action by the examiner until an independent laboratory verification of applicant's experimental findings, as requested by the examiner of record in this case, could be obtained. A decision granting a 6 month suspension was mailed July 27, 2006. In the latest petition filed December 21, 2006, the applicant requests an additional 6 month suspension "in order to more completely present the existing laboratory results obtained by applicant as well as perform additional experiments in an independent laboratory in line with the examiner's request".

There being ongoing experimental verification of applicant's experimental findings which may materially impact a decision on the patentability of applicant's invention, it is deemed that the existence of these endeavors constitute a good and sufficient reason why a second suspension should be granted, and thus applicants' request for an additional period of suspension of six (6) months is reasonable and will be **GRANTED**.

Action by the Office on this application is suspended under 37 CFR 1.103(a) for a period of six (6) months from the date of this letter. At the end of this period applicant is required to notify the examiner and request commencement of prosecution or a further suspension. See MPEP 709. If applicant wishes to commence prosecution earlier than the expiration of the 6 month period, the examiner should be so notified.

The period for suspension will be six (6) months from the date of this letter.

Any questions surrounding this decision should be directed to Quality Assurance Specialist Steven Meyers at (571) 272-6611.

Donald Hajec, Director
Technology Center 3600
(571) 272-5150

snm: 12/31/06
SM

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FROM DIRECTOR'S OFFICE

JUL 23 2007

TECHNOLOGY CENTER 3600

Greenberg Traurig, LLP
1750 Tysons Boulevard, 12th Floor
McLean, VA 22102

In re application of	:	**DECISION ON PETITION**
Irving I. Dardik	:	**FOR THIRD SUSPENSION**
Application No. 10/461,285	:	**OF ACTION UNDER**
Filed: June 13, 2003	:	**37 CFR 1.103 (a)**
For: PULSED ELECTROLYTIC CELL		

This letter is responsive to the petition for a third suspension of action under 37 CFR 1.103(a) received on July 5, 2007.

The petition for suspension of action under 37 CFR 1.103(a) is **GRANTED**.

A grantable petition for suspension of action under 37 CFR 1.103(a) requires:

1) A showing of good and sufficient cause for suspension of action, and
2) The fee set forth in 37 CFR 1.17(g), unless such cause is the fault of the Office.

Applicant filed a petition on June 20, 2005 to suspend action by the examiner until an independent laboratory verification of applicant's experimental findings, as requested by the examiner of record in this case, could be obtained. A decision granting a 6 month suspension was mailed July 27, 2006. In a second petition filed December 21, 2006, the applicant requested an additional 6 month suspension "in order to more completely present the existing laboratory results obtained by applicant as well as perform additional experiments in an independent laboratory in line with the examiner's request". A decision granting a second 6 month suspension was mailed on January 5, 2007. In the latest petition filed July 5, 2007, the applicant requests an additional 6 month suspension because the independent laboratory verification the examiner requested has not yet been completed.

There being ongoing experimental verification of applicant's experimental findings which may materially impact a decision on the patentability of applicant's invention, it is deemed that the existence of these endeavors constitute a good and sufficient reason

why a second suspension should be granted, and thus applicants' request for an additional period of suspension of six (6) months is reasonable and will be **GRANTED**. However, at the conclusion of this latest period of suspension, applicant will have had 18 months of time to complete the experimental testing. Suspensions of action cannot go on indefinitely. As a result, applicant should not expect to receive another suspension at the conclusion of this latest 6 month suspension period. Any such future request will need to go into specific detail as to what experimental procedures have taken place, when they occurred, and why they could not have been completed by the end of this suspension period. Specific evidence would need to be provided as to why non-completion of the required testing by the end of 18 months was unavoidable.

Action by the Office on this application is suspended under 37 CFR 1.103(a) for a period of six (6) months from the date of this letter. At the end of this period applicant is required to notify the examiner and request commencement of prosecution or a further suspension. See MPEP 709. If applicant wishes to commence prosecution earlier than the expiration of the 6 month period, the examiner should be so notified.

The period for suspension will be six (6) months from the date of this letter.

Any questions surrounding this decision should be directed to Quality Assurance Specialist Steven Meyers at (571) 272-6611.

Donald Hajec, Director
Technology Center 3600
(571) 272-5150

snm: 7/12/07
SM

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JAN 29 2008

TECHNOLOGY CENTER 3600

Greenberg Traurig, LLP
1750 Tysons Boulevard, 12th Floor
McLean, VA 22102

In re application of	:	**DECISION ON PETITION**
Irving I. Dardik	:	**FOR FOURTH SUSPENSION**
Application No. 10/461,285	:	**OF ACTION UNDER**
Filed: June 13, 2003	:	**37 CFR 1.103 (a)**
For: PULSED ELECTROLYTIC CELL		

This letter is responsive to the petition for a fourth suspension of action under 37 CFR 1.103(a) received on January 11, 2008.

The petition for suspension of action under 37 CFR 1.103(a) is **DENIED**.

A grantable petition for suspension of action under 37 CFR 1.103(a) requires:

1) A showing of good and sufficient cause for suspension of action, and
2) The fee set forth in 37 CFR 1.17(g), unless such cause is the fault of the Office.

Applicant filed a petition on June 20, 2006 to suspend action by the examiner until an independent laboratory verification of applicant's experimental findings, as requested by the examiner of record in this case, could be obtained. A decision granting a 6 month suspension was mailed July 27, 2006. In a second petition filed December 20, 2006, the applicant requested an additional 6 month suspension "in order to more completely present the existing laboratory results obtained by applicant as well as perform additional experiments in an independent laboratory in line with the examiner's request". A decision granting a second 6 month suspension was mailed on February 20, 2007. In a third petition filed July 25, 2007, the applicant requested an additional 6 month suspension because the independent laboratory verification the examiner requested has not yet been completed. A decision granting a third 6 month suspension was mailed August 1, 2007. In this last decision, applicant was put on notice regarding what would be required to receive any further suspensions. The decision stated "at the conclusion of this latest period of suspension, applicant will have had 18 months of time to complete the experimental testing. Suspensions of action cannot go on indefinitely. As a result, applicant should not expect to receive another suspension at the conclusion of this latest 6 month suspension period. Any such future request will need to go into specific detail as to what experimental procedures have taken place, when they occurred, and why they could not have been completed by the end of this suspension

period. Specific evidence would need to be provided as to why non-completion of the required testing by the end of 18 months was unavoidable".

In this latest petition applicant indicates that he is continuing to work to complete the laboratory verification of applicant's experimental findings. Applicant also indicates that attached reports are provided as a partial response under 37 CFR 1.105 which provides documentation of testing conducted which support the claimed invention. Applicant then explains what future testing is being planned.

However, in the last decision, applicant was required to specifically outline what experimental procedures have taken place, and when they occurred. It would appear that no actual testing has yet been completed by the applicant. The exhibits provided appear to be papers completed by 3rd parties related to the claimed subject matter, and are not the laboratory testing desired by the applicant that has been the reason for the numerous suspensions of prosecution. Applicant was also required to show specific evidence as to why, after 18 months, the non-completion of the desired laboratory testing was unavoidable. There does not appear to be any unavoidable justification for why the desired testing has not yet been completed.

Given that there appears to be no clear end in sight for completion of the desired testing, and that applicant has not supplied the necessary justification for why completion has not yet occurred, no further suspension is seen as being warranted at this time.

In view of the above facts, the petition for a fourth suspension of action is **DENIED.** The application will be forwarded to the examiner of record to treat applicant's June 20, 2006 response to the non-final Office action of December 20, 2005.

Any questions surrounding this decision should be directed to Quality Assurance Specialist Steven Meyers at (571) 272-6611.

Donald Hajec, Director
Technology Center 3600
(571) 272-5150

snm: 1/23/08

SM

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Katsuyoshi Suzuki et al.
Application No. 10/461,292
Filed: June 13, 2003
For: STORAGE APPARATUS AND CONTROL METHOD THEREFOR

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 22, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
571-272-2986

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IP Department of Piper Rudnick LLP
One Liberty Place, Suite 4900
1650 Market Street
Philadelphia, Pennsylvania 19103

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AUG 2 6 2004

Technology Center 2100

In re Application of: Michael Arnouse)
Application No. 10/461,303)
Filed: June 13, 2003)
For: SYSTEM AND METHOD OF)
ELECTRONIC SIGNATURE)
VERIFICATION)

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102 AND M.P.E.P. §708.02(XI)

This is a decision on the petition to make special filed June 13, 2003 under 37 C.F.R. §102(d) in view of M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

The petition is **DISMISSED**.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is generally directed to a method and system of biometric based identification cards with distributed information stores along with GPS location of the presentation location of the identification cards. Implementing on a computer system an interactive biometric identification and tracking system does not directly prevent "violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State"

or activities "that would be a criminal violation if committed within the jurisdiction of the United States or of any State". Furthermore, implementing on a computer system an interactive biometric identification and tracking system does not directly prevent acts that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

Although it can be said that a computer implemented interactive biometric identification and tracking system may limit acts of terrorism, the method disclosed does not teach directly preventing potential terrorist acts by identifying terrorists. The method does not identify an individual as a terrorist or one who will perform a terrorist act. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

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

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

It is suggested that Applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

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Technology Center 2100

IP Department of Piper Rudnick LLP
One Liberty Place, Suite 4900
1650 Market Street, Suite 4900
Philadelphia, PA 19103

In re Application of:
Michael Arnouse
Application No. 10/461,303
Filed: June 13, 2003
For: SYSTEM AND METHOD OF ELECTRONIC SIGNATURE VERIFICATION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the September 15, 2004, request for reconsideration of the petition to make special filed June 12, 2003, which was denied on August 26th, 2004, under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

The original Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The August 26th, 2004 dismissal stated that the claimed invention is generally directed to a method and system of biometric based identification cards with distributed information stores along with GPS location of the presentation location of the ID cards. Implementing on a computer system an interactive biometric id and tracking system does not directly prevent "violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or any State" or activities "that would be a criminal violation

if committed within the jurisdiction of the United States or of any State". Furthermore, implementing on a computer system an interactive biometric id and tracking system does not directly prevent acts that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

Although it can be said that a computer implemented interactive biometric id and tracking system may limit acts of terrorism, the method disclosed does no teach directly preventing potential terrorist acts by identifying terrorists. The method does not identify an individual as a terrorist or one who will perform a terrorist act. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

The September 15, 2004, request for reconsideration points out that how authentication may be used to prevent illegal activity, such as the introduction of a computer virus into a government or bank computer by identifying the originator of the document that introduced the virus thereby curtailing the acts and by tracking the location and identity of US citizens and foreign nationals and thus preventing them from gaining entry into high profile locations.

The specification and the claimed invention fails to indicate countering terrorism. Moreover, "identifying" and "tracking" do not equate to "countering". Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering" is found in the disclosure. As a result, no advancement in the technology of countering terrorism has been persuasively shown

Accordingly, the petition is **Denied**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date. Any request for reconsideration must be filed within two months of the mailing date of this decision.

Tod R Swann
Quality Assurance Specialist
Technology Center 2100
Computer Security, Architecture and Software
571-272-3612

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

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OFFICE OF PETITIONS

In re Application of	:	
SCHWINDT, Jeffrey	:	
Application No. 10/461,315	:	DECISION ON PETITION
Filed: June 13, 2003	:	TO WITHDRAW
Attorney Docket No. 15452-73005	:	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 28, 2006.

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

A review of the file record indicates that the power of attorney to James R. Sweeney II of BARNES & THORNBURG LLP has been revoked by the applicant of the patent application on September 14, 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: **IPADVISORS**
2038 N. CLARK STREET, SUITE 105
CHICAGO, IL 60614

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

In re Application of: Schwindt, Jeffrey Serial No.: 10/461,315 Filed: June 13, 2003 Docket: 15452-73005 Title: PNEUMATIC CIRCUIT	DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TREATED AS A 37 C.F.R. § 1.291 PROTEST OR 37 C.F.R. § 1.99 SUBMISSION

This is a decision on the petition filed on January 24, 2005 under 37 C.F.R. § 1.181(a)(3) by a third party not having any standing to act in the subject application. In view thereof, the petition papers, hereafter papers, are being treated as a protest under 37 C.F.R. § 1.291 or, alternatively, as a submission under 37 C.F.R. § 1.99.

The protest/submission is **DISMISSED**.

37 C.F.R. § 1.291(b) and a portion of (c) state:

> (b) The protest will be entered into the record of the application if, in addition to complying with paragraph (c) of this section, the protest has been served upon the applicant in accordance with § 1.248, or filed with the Office in duplicate in the event service is not possible; and, except for paragraph (b)(1) of this section, the protest was filed prior to the date the application was published under § 1.211, or a notice of allowance under § 1.311 was mailed, whichever occurs first:
>
> (1) If a protest is accompanied by the written consent of the applicant, the protest will be considered if the protest is matched with the application in time to permit review during prosecution.
>
> (2) A statement must accompany a protest that it is the first protest submitted in the application by the real party in interest who is submitting the protest;
> or the protest must comply with paragraph (c)(5) of this section. This section does not apply to the first protest filed in an application.
>
> (c) In addition to compliance with paragraphs (a) and (b) of this section, a protest must include.
>
> (1) A listing of the patents, publication, or other information relied upon;
>
> (2) A concise explanation of the relevance of each item listed pursuant to paragraph (c)(1) of this section;
>
> (3) A copy of each listed patent, publication, or other item of information in written form, or at least the pertinent portions thereof;

37 C.F.R. § 1.99 (b), (c), and (e) state:

(b) A submission under this section must identify the application to which it is directed by application number and include:

(1) The fee set forth in § 1.17(p);

(2) A list of the patents or publications submitted for consideration by the Office, including the date of publication of each patent or publication;

(3) A copy of each listed patent or publication in written form or at least the pertinent portions; and

(4) An English language translation of all the necessary and pertinent parts of any non-English language patent or publication in written form relied upon.

(c) The submission under this section must be served upon the applicant in accordance with § 1.248.

(e) A submission under this section must be filed within two months from the date of publication of the application (§ 1.215(a)) or prior to the mailing of a notice of allowance (§ 1.311), whichever is earlier. Any submission under this section not filed within this period is permitted only when the patents or publications could not have been submitted to the Office earlier, and must also be accompanied by the processing fee set forth in § 1.17(i). A submission by a member of the public to a pending published application that does not comply with the requirements of this section will not be entered.

The application was published on October 23, 2003. The papers were filed on January 24, 2005.

Under 37 C.F.R. § 1.291, the papers were not timely since they are required to be filed before the application is published (37 C.F.R. § 1.291(b)), the requisite fee has not been provided, and there is no evidence of service upon applicant in accordance 37 C.F.R. § 1.248.

Under 37 C.F.R. § 1.99, the requisite fee has not been provided and there is no evidence of service upon applicant in accordance with 37 CFR § 1.248. With respect to prior art, prior art has not been submitted. The third party is arguing inventorship and suggesting a possible rejection of claims under 35 U.S.C. § 102(f). However, this is not an appropriate prior art submission or proper subject matter for a 37 C.F.R. § 1.99 submission.

In summary, the papers fail to comply with either 37 C.F.R. § 1.291 or 37 C.F.R. § 1.99.

PROTEST/SUBMISSION DISMISSED.

A copy of the papers filed by the third party is being included with this decision for applicant's review. The papers are otherwise not part of the official record because they constitute an improper petition. Accordingly, while this decision will be of record in the file, the third party petition papers and the included attachment to this decision will be closed from public view.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Program Examiner, at (571) 272-4514.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

Attachment: Copy of Third Party Papers

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OFFICE OF PETITIONS

In re Application of
SCHWINDT, JEFFREY
Application No. 10/461,315
Filed: June 13, 2003
Attorney Docket No. **15452-73005**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 05, 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 Christopher Haigh, the sole attorney of record. Christopher Haigh has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed September 16, 2009 that requires a reply from the applicant.

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

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **JEFFREY SCHWINDT**
6359 BROKENHURST ROAD
INDIANAPOLIS IN 46220

cc: **IPXTRACT**
150 N. MICHIGAN, STE 2800
CHICAGO, IL 60601

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SCHWEITZER CORNMAN GROSS & BONDELL LLP
292 MADISON AVENUE, 19TH FLOOR
NEW YORK, NY 10017

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Director's Office
Group 3700

In re application of Jean-Guy Dube	:	**NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313**
Serial Number: 10/461,317 Filed: June 13, 2003	:	

For: **VENTILATION BARRIER**

The above-identified application is withdrawn from issue after payment of the issue fee to reopen prosecution.

The above-identified applicant is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the applicant.

Telephone inquiries should be directed to Monica Carter at (571) 272-4475.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Richard A. Bertsch

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

rt/ 5/26/05

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Paper No. 4

Dennison, Schultz & Dougherty
612 Crystal Square 4
1745 Jefferson Dvis Highway
Arlington, VA 22202-3417

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OFFICE OF PETITIONS

In re Application of
Wang, et al.
Application No. 10/461,366
Filed: June 16, 2003
Attorney Docket No. 00250

DECISION GRANTING PETITION

This is a decision on the petition filed September 8, 2003, to retain the filing date of June 16, 2003, for the above-identified application.

On June 16, 2003, the application was deposited.

On August 15, 2003, the Office of Initial Patent Examination mailed a Notice stating that Figures 5-8 as described in the specification appeared to have been omitted.

In response, the present petition was filed along with a copy of Figures 5 through 8 .

The Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[1] A review of the record reveals that Claims 16-19 is a method claims and Claim 15 is a process claim. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

In view of the above, the petition is **granted.**

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 16, 2003, using the application papers filed on June 16, 2003.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] MPEP 601.01(f).

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Dickstein Shapiro LLP
1825 Eye Street, NW
Washington, DC 20006

Mail Date: 04/21/2010

Applicant	: Daniel Strittmatter	: DECISION ON REQUEST FOR
Patent Number	: 7634376	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/461,413	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **103** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 5

ARENT FOX KINTNER PLOTKIN & KAHN
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, D.C. 20036

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Samir M. Hanash	:	
Application No. 10/461,424	:	
Filed: June 16, 2003	:	
Attorney Docket No. 108140-08009	:	

This is a decision on the petition under 37 CFR 1.53, filed on August 22, 2003, requesting that the above-identified application be accorded a filing date of June 16, 2003, including the specification, declaration and drawings.

The application was filed on June 16, 2003 as a continuation of prior application number 09/022,527. The "Continuing Application Transmittal" states the prior application is incorporated by reference. However, on August 12, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" that stated the application had not been accorded a filing date, and that the specification and declaration were missing, and that the application was deposited without drawings.

In response, on August 22, 2003, the instant petition and copies of the specification and drawings from prior application 09/616,781 were submitted. A copy of the declaration from the prior application was submitted on October 28, 2003. Petitioner contends the entire disclosure of prior application 09/022,527 was incorporated by reference.

Based on petitioner's representation that the specification, declaration and drawings supplied with the petition are part of the disclosure of prior application number 09/022,527 and that the entire disclosure of application number 09/022,527 was specifically incorporated by reference in the present application

on June 16, 2003, it appears that the specification, drawings and declaration were present in the Office on June 16, 2003, albeit in the file of another application, i.e., application no. 09/022,527. Therefore, on petition, the application may be accorded the requested filing date.

The petition is granted.

However, the petition fee will not be refunded, since the petition was required to accord the application the requested filing date.

Of course, the primary examiner is expected to compare the specification, and drawings supplied August 22, 2003 and the declaration supplied October 28, 2003, to the disclosure of prior application No. 09/022,527 in order to verify that the specification, declaration and drawings are, in fact, part of the disclosure of the prior application.

Please note, 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. The postcard submitted with the petition on August 22, 2003 for the application filed on June 16, 2003 does not identify a specification, declaration or drawings as papers filed on June 16, 2003. Therefore, the postcard is not persuasive as an indicator of what was actually filed on June 16, 2003. See MPEP 503.

Additionally, the $130.00 surcharge set forth in 37 CFR 1.16(e) is required, since the application was filed on June 16, 2003, without an oath or declaration in compliance with 37 CFR 1.63. The $130.00 surcharge will be charged to deposit account no. 01-2300, as authorized in the instant petition filed August 22, 2003, 2003.

This application will be returned to OIPE for further processing with a filing date of June 16, 2003, using the specification, and drawings, supplied on August 22, 2003, and the declaration, supplied October 28, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

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OFFICE OF PETITIONS

In re Application of	:	
Kazuyoshi Sasaki	:	
Application No. 10/461,444	:	ON PETITION
Filed: June 16, 2003	:	
Attorney Docket No. 04329.3073	:	

This is a decision on the petition under 37 CFR 1.314, filed September 2, 2004, to defer issuance of the above-identified application.

The petition is granted.

Since issuance has been deferred for a period of one month, the application is being referred to the Publishing Division to be processed into a patent.

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

Karen Creasy

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

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

In re Patent No. 6,935,865	:
Issued: August 30, 2005	: LETTER REGARDING PTA AND
Application No. 10/461,444	: CERTIFICATE OF CORRECTION
Filed: June 16, 2003	:
Atty. Dkt. No.: 04329.3073	:

This letter is in response to the "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT," filed October 6, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

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

The above-identified application matured into U.S. Pat. No. 6,935,865 on August 30, 2005. The patent issued with a PTA of 120 days. Patentee, however, indicates that an error appears in the adjustment and requests that the PTO identify how it arrived at its determination.

The application was filed June 16, 2003. A Notice of Allowance was mailed June 3, 2004 within the time period proscribed at 37 CFR 1.702(a)(1). A response to the Notice was submitted September 2, 2004 within the time period proscribed at 37 CFR 1.704(b). The response consisted of the issue fee, a petition to withdraw from issue, and an Information Disclosure Statement (IDS). A decision on the petition was mailed December 14, 2004.

In accordance with 37 CFR 1.702(a)(4), an adjustment of 240 days can be attributed to the Office for failure to issue the patent within four months of receipt of the issue fee. In accordance with 37 CFR 1.703(a)(6), the adjustment began January 3, 2004, the day after the date that is four months after the date the issue fee was received, and ended August 30, 2005, the date the patent issued.

The adjustment of 240 days, however, is reduced 363 days in accordance with 37 CFR 1.704(c)(2). The adjustment began on September 2, 2004, the date the deferral request under 37 CFR

1.314 was filed, and ended August 30, 2005, the date the patent issued.

Accordingly, at the time of issuance, the application was entitled to zero days of PTA.

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

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by zero days.

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 Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,935,865 B2
DATED	:	August 30, 2005
INVENTOR(S)	:	Sasaki

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 120 days

Delete the phrase "by 120 days" and insert – by 0 days--

Day : Tuesday
Date: 8/22/2006

PALM INTRANET

Time: 10:15:36

PTA Calculations for Application: 10/461444			
Application Filing Date:	06/16/2003	PTO Delay (PTO):	240
Issue Date of Patent:	08/30/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	120
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-363		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
33	08/22/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		363	
29	08/30/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	240		21
28	08/05/2005	WORKFLOW - QUERY REQUEST - FINISH			
27	08/04/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
26	07/27/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
25	04/29/2005	WORKFLOW - QUERY REQUEST - BEGIN			
24	04/19/2005	RECEIPT INTO PUBS			
23	04/19/2005	DISPATCH TO FDC			
22	04/19/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
21	09/02/2004	ISSUE FEE PAYMENT VERIFIED			
20	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
19	03/28/2005	RECEIPT INTO PUBS			
18	09/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		120	27
17	01/28/2005	RECEIPT INTO PUBS			
16	09/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	27
15	12/14/2004	RECORD A PETITION DECISION OF GRANTED TO DEFER ISSUANCE OF PATENT			
14	09/02/2004	PETITION ENTERED			
13	09/02/2004	ISSUE FEE PAYMENT RECEIVED			
12	07/26/2004	RECEIPT INTO PUBS			
11	06/16/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
10	06/03/2004	MAIL NOTICE OF ALLOWANCE			

9	06/01/2004	ISSUE REVISION COMPLETED			
8	06/01/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
7	06/01/2004	NOTICE OF ALLOWABILITY			
6	12/19/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
5	11/04/2003	CASE DOCKETED TO EXAMINER IN GAU			
4	09/04/2003	APPLICATION DISPATCHED FROM OIPE			
3	09/05/2003	APPLICATION IS NOW COMPLETE			
2	06/23/2003	CLEARED BY OIPE CSR			
1	06/16/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-2200

MAR - 7 2007

In re Application of	:	
HITOSHI SAITO	:	DECISION ON REQUEST TO
Application No. 10/461481	:	PARTICIPATE IN PATENT
Filed: June 16, 2003	:	PROSECUTION HIGHWAY
Attorney Docket No. 03500.017334	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 22, 2006, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fail to include:

Item (6) above. The IDS filed only listed the document used in the refusal. However, the IDS failed to list and provide copies of JP 10-308863 and JP 10-248006 cited in the JPO office action.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to John Peng at 571-273-7272 (RightFax) or 571-273-0308.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

John Peng
TC 2600
Quality Assurance Specialist

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NEW YORK NY 10112-2200

MAIL

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
HITOSHI SAITO	:	DECISION ON REQUEST TO
Application No. 10/461481	:	PARTICIPATE IN PATENT
Filed: June 16, 2003	:	PROSECUTION HIGHWAY
Attorney Docket No. 03500.017334	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 22, 2006, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fail to include:

Item (4) above. After the PPH decision mailed on 3/7/06, there was an Office Action mailed on 3/12/07. Thus, the PPH petition is again dismissed for the reason set forth in the item (4) that the examination of the US application has begun.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to John Peng at 571-273-7272 (RightFax) or 571-273-0308.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

John Peng
TC 2600
Quality Assurance Specialist

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GOODWIN PROCTER LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20001

Mail Date: 04/20/2010

Applicant	: Shane P. Pederson	: DECISION ON REQUEST FOR
Patent Number	: 7606727	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/461,499	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1870** 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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FALLS CHURCH, VA 22040-0747

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Takayuki Hattori et al :
Application No. 10/461,505 : ON PETITION
Filed: June 16, 2003 :
Attorney Docket No. 2927-0147P

This is a decision on the petition, filed March 29, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 27, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1713 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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MIAMI FL 33131-1714

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OFFICE OF PETITIONS

In re Application of	:	
Rosen	:	
Application No. 10/461,523	:	ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. 130403	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 17, 2006 and June 1, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed January 27, 2006. Accordingly, this application became abandoned on April 28, 2006 The filing of the present petition precedes the mailing of A Notice of Abandonment.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the January 27, 2006 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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A DIVISION OF TYCO HEALTHCARE GROUP LP
150 GLOVER AVENUE
NORWALK, CT 06856

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OFFICE OF PETITIONS

In re Application of :
David M. Garrison :
Application No. 10/461,550 : ON PETITION
Filed: June 12, 2003 :
Attorney Docket No. 2907 :

This is a decision on the papers styled, "Reply To Response To Request For Corrected Filing Receipt," filed November 24, 2003, which has been treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of June 13, 2003, rather than the presently accorded filing date of June 12, 2003. The papers were recently forwarded to this office for review. The Office sincerely apologizes for the delay.

The petition is **dismissed**.

Petitioners allege that the application was deposited in USPS Express Mail service on June 13, 2003. In support, the petition is accompanied by a copy of "Express Mail" mailing label no. ET710030142US (the same Express Mail number found on the original application papers located in the official file).

Paragraph (c) of 37 CFR 1.10 states that:

> "Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that 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."

A grantable petition under 37 CFR 1.10(c) must include "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."

The petition filed November 24, 2003, is accompanied by a true copy of the "Express Mail" receipt. However, the "date-in" on the copy of the "Express Mail" receipt submitted with the instant petition is not clear. The "date-in" as written appears to be "6-17-03", however it is impossible to ascertain whether the "date-in" is "6-12-03", "6-13-03" or even "6-17-03".

As it is impossible to ascertain the actual "date-in" on the Express Mail mailing label, the petition must be dismissed.

Petitioner should submit a copy of the Express Mail label that clearly shows the "date-in", if at all possible, or other documentary evidence that includes other official notation by the USPS that may be relied upon to show the date of deposit.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES SURGICAL,
A DIVISION OF TYCO HEALTHCARE GROUP LP
150 GLOVER AVENUE
NORWALK, CT 06856

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AUG 29 2006
OFFICE OF PETITIONS

In re Application of	:	
David M. Garrison	:	
Application No. 10/461,550	:	ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. 2907	:	

This is a decision on the papers styled, "Reply To Decision On Petition," filed March 21, 2006, which has been treated as a request for reconsideration of petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of June 13, 2003, rather than the presently accorded filing date of June 12, 2003.

Petitioners allege that the application was deposited in USPS Express Mail service on June 13, 2003. In support, the petition is accompanied by a copy of "Express Mail" mailing label no. ET710030142US (the same Express Mail number found on the original application papers located in the official file).

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. 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 U.S. Postal Service on June 13, 2003.

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

Accordingly, the application is entitled to a filing date of June 13, 2003.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of June 13, 2003 and issuance of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Martin Khang Nguyen :
Application No. 10/461,556 : ON PETITION
Filed: June 12, 2003 :
Attorney Docket No.: 6841P00X2

This is a decision on the petition filed December 23, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed February 8, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned May 9, 2005. Accordingly, a Notice of Abandonment was mailed on September 9, 2005.

This matter is being referred to Technology Center 3622 for appropriate action on the amendment filed December 23, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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SEP 17 2003

#4

Obi I. Iloputaife
THE HECKER LAW GROUP
1925 Century Park East
Suite 2300
Loa Angeles, California 90067

In re application of	:	
Yolanda Halston	:	Decision on Petition
Serial No.: 10/461,565	:	
Filed: June 13, 2003	:	
Attorney Docket No.: 12500.911C		

This is in response to applicants' Petition to Make Special under 37 CFR 1.102(d) filed August 18, 2003.

Applicants' statement has been considered and requirements of MPEP 708.02(II) have been met. Accordingly, the petition is granted.

The prosecution of the instant application will proceed according to the procedure set forth in MPEP 708.02, VIII. There is no provision for "withdrawal" from this special status.

Petition Granted.

Cecilia Tsang
Special Program Examiner, TC1600

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

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

COPY MAILED

JAN 16 2004

OFFICE OF PETITIONS

In re Application of :
Gross et al. :
Application No. 10/461,576 : REQUEST FOR INFORMATION
Filed: June 13, 2003 :
Attorney Docket No.: P50669C2 :

This Request For Information is in response to the petition filed October 28, 2003 (certificate of mailing October 24, 2003), requesting in effect, that the Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed August 26, 2003 be withdrawn.

A review of the record reveals in addition to page 29 of the specification, it appears that pages 47 and 48 have been omitted. If petitioner has received a stamped postcard since the petition was filed, a copy of the stamped postcard should be submitted to establish prima facie evidence omitted pages 29, 47 and 48 were received in the Office.

In the alternative, petitioner should submit a supplement to the petition filed on October 28, 2003, indicating whether pages 47 and 48 were part of the original disclosure and if the incorporation by reference indicated on the Application Transmittal form included pages 47 and 48 of the specification.

Page 47 and 48 of the specification should be submitted via mail or hand delivery. Petitioner is given **One Month** to respond to the Request for Information.

Further correspondence should be directed to :

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

By delivery service:
(FedEx, UPS, DHL, etc.)
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this letter may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

OIPE JC66 FEB 12 2004 PATENT & TRADEMARK OFFICE

Best Available Copy.

DOCKET No. P50669C0 Date Mailed 6/13/03 Atty/Secy EJH/dlp

MAILING: CERTIFICATE/ EXPRESS MAIL # EV 332 944 146 US

U.S. Serial No. .: To Be Assigned Filing Date: Herewith
Int'l App. No.: Int'l Filing Date:

RECEIPT IS ACKNOWLEDGED FOR THE FOLLOWING:

- ☒ Appln. Trans. (+ 1 copy) for: ☐ Provisional ☐ CIP
- ☒ Utility/Continuation ☐ CPA ☐ RCE ☐ Divisional
- ☒ Specification 71 pages ☒ Abstract 1 pgs
- ☒ Dec. & Power of Atty 3 pages (copy)
- ☒ Drawings 21 Sheet(s)/Figs 1 to 11
- ☐ Assignment ___ pages & Recordation Cover Sheet
- ☐ Trans. Ltr Natl Stage Entry (3pgs.)
- ☐ Information Disclosure Statement
- ☒ Form PTO-1449 2 pgs. & 0 References
- ☐ Amendment ☐ Response ___ pages
- ☐ Petition for Extension of Time plus 2 copies
- ☐ Issue Fee Trans. (Part B) + 1 copy
- ☐ Copy of Notice to File Missing Parts
- ☐ Request for Nonpublication (1 pg)
- ☒ Authorization to Charge Dep. Acct. # 19-2570
- ☒ Preliminary Amendment; Request for Extension filed in IDUS 207
- ☐ Statement to Support Filing
- ☐ Copy of Notice to Comply
- ☐ Diskette ☐ Paper Seq.Listing
- ☐ Appeal Brief ___ pages
- ☐ Petition ___ pgs.
- ☐ Status Request
- ☐ Trans. Nat'l Stage (2nd sub)
- ☐ Resp. to Writtten Opinion
- ☐ Priority Document
- ☐ Notice of Appeal/Brief
- ☐ Resp. to Rest. Req. ___ pgs.
- ☐ Req. to Correct Filing Recpt
- ☐ Copy of Filing Receipt
- ☐ Correct Defects ___ pages
- ☒ Postcard

EV 332944146 US

Mailing Label
Label 11-F June 2002

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Post Office To Addressee

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PO ZIP Code	Day of Delivery ☐ Next ☐ Second	Flat Rate Envelope ☐	
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Time In ☐ AM ☐ PM	Military ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee	
Weight lbs. ozs.	Int'l Alpha Country Code	COD Fee	Insurance Fee
No Delivery ☐ Weekend ☐ Holiday	Acceptance Clerk Initials	Total Postage & Fees $	

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Delivery Attempt Mo. Day	Time ☐ AM ☐ PM	Employee Signature
Delivery Date Mo. Day	Time ☐ AM ☐ PM	Employee Signature

☐ WAIVER OF SIGNATURE (Domestic Only) Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

NO DELIVERY ☐ Weekend ☐ Holiday

Customer Signature

CUSTOMER USE ONLY
METHOD OF PAYMENT:
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Federal Agency Acct. No. or Postal Service Acct. No.

FROM: (PLEASE PRINT) PHONE ( )

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CORPORATE INTELLECTUAL
PROPERTY UW2220
PO BOX 1539
KING OF PRUSSIA PA 19406-0939

P50669C2/EJH

TO: (PLEASE PRINT) PHONE ( )

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ALEXANDRIA VA 22313-1450

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Paper No.7

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FEB 23 2005

OFFICE OF PETITIONS

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

In re Application of :
Gross et al. :
Application No. 10/461,576 : ON PETITION
Filed: June 13, 2003 :
Attorney Docket No.: P50669C2 :
Title of Invention: HUMAN :
MONOCLONAL ANTIBODY :

This is a decision on the petition filed October 28, 2003 (certificate of mailing October 24, 2003), requesting in effect, that the Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed August 26, 2003 be withdrawn. A supplemental petition was filed on February 12, 2004 in response to the Request For Information.

The application was filed on June 13, 2003. However, on August 26, 2003, the Office of Initial Patent Examination mailed the Notice of Omitted Item(s) stating that the application had been accorded a filing date of June 13, 2003 but page 29 of the specification appeared to have been omitted.

In response, page 29 of the specification and the present petition were filed on October 28, 2003. Petitioner contends page 29 of the specification was included in the original application papers filed on June 13, 2003. In support petitioner has provided a copy of the postcard which states 77 pages of specification were being supplied as part of the initial disclosure. Petitioner further states a review of counsel's record of an as-filed copy of the specification contains page 29 of the specification. The petition further states the transmittal letter submitted on June 13, 2003 indicated the present application as a continuation application and incorporated by reference the entire disclosure of a prior application.

The petition is dismissed.

The evidence has been considered but it is not persuasive. A review of the papers filed on June 13, 2003, confirms that page 29 of the specification was not found amongst the total pages filed. A second review of the specification shows that in addition to page 29, pages 47 and 48 of the specification also can not be located in the application file. An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of evidence.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the

Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

The postcard submitted with the petition will not serve as prima facie evidence because there is no office stamp affixed to the postcard. Furthermore, counsel's as-filed copy of the specification can not overcome that which is present in the Official record.

Applicants seek to add the pages of the specification to the present application on the basis that the pages are not new matter. However, no petition is necessary for that purpose. Additional pages of the specification may be entered by the primary examiner without a petition so long as the pages contain no new matter. MPEP 201.06(c) states that:

> ... an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

In view of the incorporation by reference of the prior application, pages 29, 47 and 48 of the specification supplied on October 28, 2003 and February 12, 2004 respectively, would not constitute new matter if it was part of the original disclosure of the prior application (10/163,207).

If applicants desire that pages 29, 47 and 48 of the specification be added to the application, the appropriate procedure is by way of amendment requesting the entry of the pages. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is dismissed.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

However, deposit account 19-2570 was inadvertently charged twice for the petition. As such the duplicate $130.00 petition fee will be refunded.

Obviously, in view of the incorporation by reference of the prior application, page 29, 47 and 48 of the specification is not new matter if it was a part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a **filing date of June 13, 2003** using the application papers received in the Office on that date.

Application 10/461,576

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

#4
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 26 2004

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FEB 26 2004

OFFICE OF THE DIRECTOR
TC 3600

Wendy K. Buskop
Buskop Law Group, P.C.
Suite 500
1717 St. James Place
Houston TX 77056

In re Application of:
Richard L. Krabbendam
Serial No. 10/461,162 ?
Filed: June 13, 2003
For: METHOD FOR LIFTING AND TRANSPORTING A HEAVY LOAD USING A FLY-JIB

DECISION ON PETITION TO MAKE SPECIAL (ENERGY/ENVIRONMENT)

This is a decision on the petition filed August 15, 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 V: Environmental Quality, or in the alternative, Section VI: Energy.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by statements by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

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 will materially enhance the quality of the environment or contribute to the conservation of energy by "reducing the number of lift vessels required" to load/unload cargo from seagoing vessels. This reason is not acceptable because it does not directly contribute to the restoration or maintenance of the basic life sustaining elements –air, water and soil as required under Section V. Furthermore, this reason is inadequate under Section VI to establish for the record that the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Applicant has not provided sufficient evidence that the claimed method of lifting and transporting directly results in more efficient utilization and conservation of energy resources. Any energy or environmental benefits derived from the invention are at best peripheral and minimal. Virtually any invention makes an operation more efficient, but unless the invention directly and primarily contributes to energy efficiency or environmental improvements any such peripheral benefits arising from the increased efficiency are insufficient to qualify for special status.

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.

For the above stated reasons, the petition is **DISMISSED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/mjz: 2/20/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/10/05

TO SPE OF : ART UNIT 1725

SUBJECT : Request for Certificate of Correction on Patent No.: 6808009

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:

_____

_____

_____

_____

_____

SPE _____ **Art Unit** 1725

Jonathan Johnson

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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APR 16 2008

OFFICE OF PETITIONS

In re Application of :
Odd N. Oddsen Jr. :
Application No. 10/461,637 : ON PETITION
Filed: June 13, 2003 :
Attorney Docket No. INNOFF 3.0-027

This is a decision on the petition, filed April 15, 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 March 6, 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 3632 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 21505

TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

FEB 18 2005

In re Application of:
SUZUKI *et al.*
Serial No.: 10/461,644
Filed: June 13, 2003
Attorney Docket No.: **16869K-083800US**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed July 22, 2004, to make the above-identified application special.

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

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

The petition satisfies the above requirements. Accordingly, the petition is **GRANTED**.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Dr. Mark Friedman Ltd.
c/o Discovery Dispatch
9003 Florin Way
Upper Marlboro MD 20772

MAILED

JUL 14 2009

OFFICE OF PETITIONS

In re Application of
Kagan et al.
Application No. 10/461,676
Filed: June 13, 2003
Attorney Docket No.3091/29

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed June 14, 2007. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 15, 2007. A Notice of Abandonment was mailed on January 23, 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 $810.00, and (3) a statement of unintentional delay.

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

This application is being referred to Technology Center AU 2619 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/30/08

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10461677 Patent No.: 7450818 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

_____
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: _____

THAO Q. TRAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2621

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 4

G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON,VA 22202

COPY MAILED

NOV 12 2003

OFFICE OF PETITIONS

In re Application of Shani et al. Application No. 10/461,689 Filed: June 16, 2003 Attorney Docket No.: 26234	: : : : :	ON PETITION

This is a decision on the petition filed August 28, 2003, requesting in effect, that a Notice to File Omitted Items in a Nonprovisional Application ("Notice") mailed August 12, 2003, be withdrawn. The petition is being treated under 37 CFR 1.53.

The application was filed on June 16, 2003. However, on August 12, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of June 16, 2003 but page 1 of the specification (description and claims) appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends page 1 of the specification was filed on June 16, 2003. In support, the petition is accompanied by a copy of applicants' return postcard which lists 17 pages of specification. The petition is further accompanied by a copy of page 1 of the specification.

Applicant's postcard receipt is prima facie evidence that 17 pages of specification (description and claims) were received on June 16, 2003, but page 1 is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that page 1 of the specification was received on June 16, 2003, as shown in counsel's file, and later misplaced in the office.

The petition is Granted. No petition fee is due.

Since the page 1 of the original specification cannot be located in the Office, page 1 of the specification supplied on August 28, 2003, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of June 16, 2003, using substitute page 1 of the specification supplied on August 28, 2003.

Application No. 10/461,689

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Christina T. Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALCOA CENTER PA 15069-0001

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OFFICE OF PETITIONS

In re Application of
Ali Unal :
Application No. 10/461,704 : DECISION ON
Filed: June 13, 2003 : PETITION
Attorney Docket No. 02-2767 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed June 30, 2006.

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

The above-identified application became abandoned for failure to timely file a response to the Notice of Allowance mailed on August 16, 2005. This notice set a statutory period for reply of three months. No reply having been received, the application became abandoned on November 17, 2005. A Notice of Abandonment was mailed on April 18, 2006.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-22-08

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction on Patent No.: 7125612 (10/461704

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.

Application Data

Eva James

Thank You For Your Assistance

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

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

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

Comments:

KEITH D. HENDRICKS
SUPERVISORY PATENT EXAMINER

SPE

1794
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-22-08

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction on Patent No.: 7125612 (10/461704

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.

Application Data

Thank You For Your Assistance

Eva James

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

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

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

Comments:

Jennifer McNeil — **SPE**

1794 — **Art Unit**

#3 | letter 10/15/03 KPaul

2004 SEP 27 PM 3:00

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of	)	
Applicants: Hongshen Ma et al.	)	**Examiner**
Serial No. 10/461,741	)	
Filed: June, 14 2003	)	**Art Unit 2673**
Title: Input Device Based on Frustrated Total Internal Reflection	)	

Commissioner of Patents and Trademarks
Washington, DC 20231

RECEIVED
OCT 01 2004
OFFICE OF PETITIONS

Dear Sir:

Submission of Deficiency Payment

As provided by 37 C.F.R. §1.28(c), applicants submit herewith a fee payment of $375.00 to cover a fee payment deficiency resulting from erroneously but in good faith having claimed small entity status for applicants at the time original application was filed. The amount of the deficiency is calculated below:

Current utility application filing fee (non small entity status):	$750.00
Utility Application filing fee submitted with application on June 14, 2003:	$375.00
Total deficiency:	$375.00

Respectfully submitted,

Dated: September, 13 2003

Charles G. Call, Reg. 20,406

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this submission is being transmitted by facsimile to 703-872-9314 on September, 13 2003.

Dated: September, 13 2003 Signature

Charles G. Call, Reg. No. 20,406
USPTO Customer No. 021253
68 Horse Pond Road
West Yarmouth, MA 02673
Ph. (508) 778-2630 Fax (508) 629-6540
call@patentsoft.com

OFFICIAL

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CENTRAL FAX CENTER
SEP 15 2003

09/28/2004 DALLEN 00000002 10461741
01 FC:1461 375.00 OP

Received from < 508 778 2630 > at 9/13/03 4:15:17 PM [Eastern Daylight Time]

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

CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH MA 02673-2516

COPY MAILED

JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Hongshen Ma et al	:	
Application No. 10/461,741	:	DECISION GRANTING PETITION
Filed: June 14, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. D-07	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 2006 and on December 7, 2006, to revive the above-identified application.

The petition filed December 7, 2006 is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a **Notice of Appeal** and an **Appeal Brief**; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of January 24, 2006, is accepted as having been unintentionally delayed.

The petition under 37 CFR 1.137(b) filed on August 30, 2006 is dismissed because petitioner submitted a fee of $1370 rather than the required fee of $1500 for a petition under 37 CFR 1.137(b). **Petitioner may request a refund of the $1370 petition fee by writing to the Office of Finance Refund along with a copy of this decision.**

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

This matter is being referred to Technology Center AU 2629.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 15 2008

OFFICE OF PETITIONS

CHARLES G. CALL
20 EAST GOETH STREET
CHICAGO IL 60610-2368

In re Application of	:	
Hongshen Ma et al	:	
Application No. 10/461,741	:	DECISION GRANTING PETITION
Filed: June 14, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. D-07	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed January 31, 2007, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center AU 2629 for consideration of the reply received September 10, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

CHARLES G. CALL
215 WEST HURON ST., UNIT 2
CHICAGO IL, 60610-3331

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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John C. Linderman
McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford CT 06103

COPY MAILED

SEP 2 3 2005

OFFICE OF PETITIONS

In re Application of
Gabriel Schneider
Application No. 10/461,743
Filed: June 13, 2003
Attorney Docket Number: 6585-17

Title of Invention: Method and Device for Determining an Angular Error and Use of the Device

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b), filed June 13, 2003.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The petition under 37 CFR. § 1.47(a) is **DISMISSED**.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to provide item (2).

The $200.00 petition fee will be charged to deposit account no. 13-0235.

As to item (2), applicant failed to submit a properly executed oath or declaration with the petition. In addition to including the non-signing inventor's information, the granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Where applicant is a corporation, an officer of the corporation normally is required to sign the oath or declaration. The declaration must state the full name, residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b). The title or position of the person signing on behalf of the non-signing inventor must be included on the 37 CFR 1.63 declaration.

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 regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John C. Linderman
McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford CT 06103

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of
Gabriel Schneider
Application No. 10/461,743
Filed: June 13, 2003
Attorney Docket Number: 6585-17

Title of Invention: Method and Device for Determining an Angular Error and Use of the Device

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b), filed December 2, 2005.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The petition under 37 CFR. § 1.47(b) is **DISMISSED**.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to provide item (2).

As to item (2), applicant failed to submit a properly executed oath or declaration with the petition. In addition to including the non-signing inventor's information, the granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. The declaration fails to meet 37 CFR 1.63 (a)(4), (b)(2) and (b)(3). Petitioner has included the inventors last known address and citizenship and has been executed by a representative of the assignee. However, the declaration fails to state that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought pursuant to 37 CFR 1.63 (a)(4). The declaration fails to state that the person making the oath or declaration has reviewed and understands the contents of the application, including the claims, as amended by any amendment specifically referred to in the oath or declaration pursuant to 37 CFR 1.63 (b)(2). The declaration also fails to state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the

person to be material to patentability as defined in § 1.56 pursuant 37 CFR 1.63 (b)(3).

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 regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John C. Linderman
McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford CT 06103

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JUN 13 2006
OFFICE OF PETITIONS

In re Application of
Gabriel Schneider
Application No. 10/461,743
Filed: June 13, 2003
Attorney Docket Number: 6585-17

Title of Invention: Method and Device for Determining an Angular Error and Use of the Device

DECISION ACCORDING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the petitions under 37 C.F.R. §1.47(b), filed January 26, 2006 and supplemented on May 25, 2006.

The petition is **GRANTED**.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor has refused to sign the declaration. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. Proprietary interest in the application has been established.

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

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

---

[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gabriel Schneider
Frohbulstrasse 2
Zurich,Switzerland
CH-5052

COPY MAILED
JUN 13 2006
OFFICE OF PETITIONS

In re Application of
Gabriel Schneider
Application No. 10/461,743
Filed: June 13, 2003
Attorney Docket Number: 6585-17
Title of Invention: Method and Device for Determining an Angular Error and Use of the Device

: LETTER

Dear Mr. Schneider:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

John C. Linderman
McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford CT 06103

UNITED STATES PATENT AND TRADEMARK OFFICE

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RICHARD B. TAYLOR
P.O. BOX 88940
ST LOUIS, MO 63188

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JUL 0 5 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Doyle H. Waggle et al	:	
Application No. 10/461,751	:	
Filed: June 13, 2003	:	
Attorney Docket No. SP-1159C.1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 20, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 21, 2003.

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

This matter is being referred to the Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 03/27/08

Patent No. : 7302523 B2
Patent Issued : 11/27/07
Docket No. : **7095BEJ-2**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

In the title, it is the practice to exclude words such as "Improvements in", "A", "Novel", etc., from the printed patent. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-305-5358 or (703) 308-9390 #112

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

LMN

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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LAW OFFICES OF DANIEL L. DAWES
5200 WARNER BLVD.
SUITE 106
HUNTINGTON BEACH, CA 92649

COPY MAILED
DEC 10 2008

In re Application of	:	
Leon Bellan, et al.	:	
Application No. 10/461,756	:	DECISION ON PETITION
Filed: June 13, 2003	:	TO WITHDRAW
Attorney Docket No. CIT1.PAU.38	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2008.

The request is **NOT APPROVED**.

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

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

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: LEON BELLAN
APT 3C LAKELAND APTS.
319 HIGHLAND ROAD
ITHACA, NY 14850

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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LAW OFFICES OF DANIEL L. DAWES
5200 WARNER BLVD.
SUITE 106
HUNTINGTON BEACH, CA 92649

COPY MAILED
DEC 10 2008

In re Application of	:	
Leon Bellan, et al.	:	
Application No. 10/461,756	:	DECISION ON REQUEST FOR
Filed: June 13, 2003	:	REVOCATION OF POWER
Attorney Docket No. CIT1.PAU.38	:	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 7, 2007.

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. The statement under 3.73(b) is improper because the statement is illegible. Assignee must file a legible statement in-order to have the revocation and power of attorney approved.

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).

In view of the above, the Notice of Acceptance of Power of Attorney mailed on October 15, 2008 is hereby **VACATED**. Please note that the Power of Attorney in this application will remain with Myers Dawes and Andras, LLP at 11900 MacArthur Blvd., Suite 1150, Irvine, Ca 92612 until a proper revocation and power of attorney is filed.

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.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MYERS DAWES AND ANDRAS LLP
19900 MACARTHUR BLVD.
SUITE 1150
IRVINE, CA 92612

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. 050204

JERRY RICHARD POTTS
3248 Via Ribera
Escondido, CA 92029

MAY 6 2004

In re Application of:	:	
SARA *et al.*	:	DECISION ON PETITION
Serial No.: 10/461,757	:	TO MAKE SPECIAL
Filed: June 14, 2003	:	
Attorney Docket No.: **789102-2**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed August 18, 2003, to make the above-identified application special.

A grantable petition under 37 C.F.R. § 1.102(c), and in accordance with M.P.E.P. § 708.02, Item VI, for inventions which materially contribute 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 under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above. No fee is required for this petition.

Petitioner asserts that the present invention reduces the energy expenditure by 40% over conventional municipal lighting systems while meeting municipal agency performance standards. In support of the petition, a declaration by applicant's representative was submitted explaining that the claimed invention is directed to an apparatus, which meets the performance standards of municipal agencies and uses only 85 watts, as opposed to conventional municipal lighting systems, which operate at 175 watts.

For the above stated reasons, the petition and accompanying declaration are adequate to qualify the application for special status under 37 C.F.R. § 1.102(c) and pursuant to M.P.E.P. § 708.02, Section VI.

Accordingly, the petition is GRANTED.

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is

necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

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

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

Shlesinger, Fitzsimmons & Shlesinger
Suite 1323
183 East Main Street
Rochester NY 14604

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MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of
Ferrari
Application No. 10/461,759
Filed: June 13, 2003
Attorney Docket No. 5055/260

DECISION DISMISSING PETITION UNDER 37 CFR 1.55(c) AS MOOT

This is a decision on the petition under 37 CFR 1.55(c), filed August 25, 2004 (certificate of mailing date August 23, 2004), requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) - (d) and (f) for benefit of the filing date of the following foreign application: Italian Application No. PR2002A000036, filed June 24, 2002.

The petition is **DISMISSED AS MOOT**.

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 must be supplied on an application data sheet in accordance with 37 CFR 1.76 or on the oath or declaration;

(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)(i) 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.

At the time of filing the above-identified application, the reference to the foreign application, identifying the application by application number, country and filing date was present in declaration, but applicant inadvertently failed to circle the word "Yes" to claim priority of the application. Nevertheless, the Office noted the claim for priority to the prior-filed application set forth in the oath or declaration submitted with the application and scheduled the instant application for publication on the basis of that information.

Since the instant application was published based on the foreign application's filing date, no petition is required. The $1,330.00 petition fee will be credited to deposit account no. 14-1138.

Petitioner has filed a new declaration that properly claims priority to the foreign application. It is not necessary to amend the specification to add a foreign benefit claim.

The application will be returned to Technology Center 3600.

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

Frances Hicks

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

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TRASKBRITT, P.C.
P. O. BOX 2550
SALT LAKE CITY, UT 84110-2550

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OCT 26 2004

OFFICE OF PETITIONS

In re Application of :
Steven D. Bandis, et al. :
Application No. 10/461,793 :
Filed: June 12, 2003 :
Attorney Docket No. 2020-5991US :

ON PETITION

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

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

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

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

Retta Williams

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

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NEXSEN PRUET, LLC
PO DRAWER 2426
COLUMBIA SC 29202-2426

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JUL 16 2008

OFFICE OF PETITIONS

In re Patent No. 6,782,652	:	
Issue Date: August 31, 2004	:	
Application No. 10/461,804	:	ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. 23532-69B	:	

This is a decision on the petition filed December 10, 2007, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of " FN Manufacturing, LLC" or in the alternative, in the name of "FN Manufacturing, Inc." as the assignee.

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Milton W. Erikson to FN Manufacturing, Inc. was recorded on December 1, 2004, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

As a certificate of correction will not be issued, deposit account no. 08-0719 will be refunded the $100.00 certificate of correction fee. The processing fee will be retained.

Telephone inquiries concerning this decision on petition 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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MORRISON & FOERSTER
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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JAN 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
W. Patrick Stephens et al	:	DECISION ON PETITION
Application No. 10/461,853	:	TO WITHDRAW
Filed: June 13, 2003	:	FROM RECORD
Attorney Docket No. 514882000100	:	

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 28, 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 Thomas E. Ciotti on behalf of all attorneys of record who are associated with customer No. 25226.

All attorneys/agents associated with the Customer Number 25226 have been withdrawn.

Applicants are 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.

This matter is being referred to Technology Center AU 3731 for examination in due course.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: PAUL PRESTIA
RATNERPRESTIA
SUITE 301, P.O. BOX 980
ONE WESTLAKES, BERWYN
VALLEY FORGE, PA 19482

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Hoffmann & Baron LLP
6900 Jericho Turnpike
Syosset, NY 11791

Mail Date: 06/18/2010

Applicant	: W. Patrick Stephens	: DECISION ON REQUEST FOR
Patent Number	: 7632291	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/461,853	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/13/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1857** 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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TROP PRUNER & HU, PC
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

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OFFICE OF PETITIONS

In re Application of	:	
Giuseppe Ricagni	:	
Application No. 10/461,855	:	ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. NRT.0179US (15970ITUS01U)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 18, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 19, 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 2194 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
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OFFICE OF PETITIONS

In re Application of	:
Yves C. Nicolau	:
Application No. 10/461,864	: DECISION GRANTING PETITION
Filed: June 13, 2003	: UNDER 37 CFR 1.47(b)
For: VACCINATION AGAINST PRION	:
DISEASES	:

This is in response to the "Petition Under 37 CFR 1.47(b)," filed February 27, 2004.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Janina A. Malone establishes that the inventor was mailed the application papers, including the specification, claims and drawings, and refused to execute the Declaration. In addition, petitioner has shown that Diagenics International Corporation (Diagenics) has a proprietary interest in the above-identified application with the copy of the assignment document. The petition fee has been paid. 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(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703)306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. 10

WAYNE C. JAESCHKE, JR.
MORRISON & FOERSTER
SUITE 300
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

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JUL 01 2005
OFFICE OF PETITIONS

In re Application of	:	
John Martinez et al	:	
Application No. 10/461,866	:	ON PETITION
Filed: June 16, 2003	:	
Attorney Docket No. 544282000100	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2004 and May 19, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 11, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. A response was received on March 11, 2004, however, the response was not fully responsive to the Notice since the declaration was not signed by all named inventors. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 12, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion 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; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

As to item (1), a reply to the Notice mailed on August 11, 2003, has not been submitted. Petitioner Wayne C. Jaeschke, Jr. States in the remarks that inventor Rajan Hooda's name has been deleted since he is not considered an inventor for this file.

MPEP 201.03 states in part:

> Where the first-filed executed oath or declaration was filed on or after December 1, 1997 and sets forth an inventive entity which is different from the inventive entity initially set forth at the time of filing of the application, the actual inventorship of the application will be taken from the executed oath or declaration.

In this case, the first executed declaration was filed on March 11, 2004 fixes the inventive entity to include Hooda. Accordingly, to delete Hooda, a petition under 37 CFR 1.48 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 Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

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

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

Wayne C. Jaeschke, Jr.
Morrison & Foerster LLP
Suite 300, 1650 Tysons Boulevard
McLean VA 22102

COPY MAILED
AUG 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Martinez et al.	:	
Application No. 10/461,866	:	DECISION ON PETITION
Filed: June 16, 2003	:	
Attorney Docket No. 544282000100	:	

This is a decision in response to the (1) petition under 37 CFR 1.182 to hold drawing objection in abeyance, filed March 11, 2004 and resubmitted on October 20, 2004; (2) petition under 37 CFR 1.48(a), filed February 1, 2006, to delete a named inventor; (3) petition under 37 CFR 1.47(a),[1] filed February 1, 2006, which is being treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2); and (4) renewed petition under 37 CFR 1.137(b), filed February 1, 2006.

On August 11, 2003, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, which set a two-month extendable period to submit the statutory basic filing fee, an executed oath or declaration, a surcharge for their late filing, replacement drawings, and additional claim fees. In the absence of a timely response, the Office mailed a Notice of Abandonment on September 28, 2004, as well as a courtesy copy on November 24, 2004.

On March 11, 2004 (and again on October 20, 2004), petitioners filed a petition under 37 CFR 1.182 and fee, requesting that the Office hold the drawing objection in abeyance. On October 20, 2004, petitioners filed a "Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.137," and a copy of the returned, itemized postcard receipt. The postcard served as evidence of the receipt in the USPTO on March 11, 2004, of the following items: Transmittal Form; Fee Transmittal; Application Data Sheet (6 pages); Copy of the Notice of Missing Parts (2 pages); Declaration (20 pages); Extension of time (5 months); and Petition under 37 CFR 1.182. Copies of these documents accompanied the petition. Thereafter, on May 19, 2006, petitioners filed a petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b). The petitions under 37 CFR 1.137(b) filed on October 20, 2004, and May 19, 2006, were dismissed by the decision of July 1, 2005.

[1] The Office notes that a petition under 37 CFR 1.47 is improper to demonstrate that Hood is unavailable to execute a statement of lack of deceptive intent. Rather, the filing of a petition under 37 CFR 1.47 is appropriate to meet the requirement under 37 CFR 1.63 when an originally named inventor refuses or cannot be reached to execute the oath or declaration.

Petition under 37 CFR 1.182:

Petitioners requested that the Office hold the drawing objection in abeyance until substantive prosecution of the application on the merits has been initiated. Petitioners argued that the drawing figures accompanying the original application were sufficiently legible to permit the Examiner to completely and fully comprehend the scope of the invention. Petitioners stated they would replace the informal drawing figures with formal drawing figures upon the request of the Examiner.

As stated in the Notice to File Missing Parts, replacement drawings in compliance with 37 CFR 1.84 and 1.121(d) must be filed within the time period set by the Notice to avoid abandonment of the application. The Office no longer considers drawings as formal or informal. MPEP 608.02(b)(I). Drawings are either acceptable or not acceptable. Id. The Office of Initial Patent Examination will accept drawings if the drawings are readable and reproducible for publication purposes. See MPEP 507. However, the objection to the drawings will not be held in abeyance. MPEP 608.02(a)-(b).

Accordingly, the petition under 37 CFR 1.182 is **dismissed.** Petitioners must file replacement drawings in compliance with 37 CFR 1.84 and 1.121(d) as required by the Notice to File Missing Parts as a requirement to revive the present application.

Petitions under 37 CFR 1.48(a) and 37 CFR 1.183:

On October 20, 2004, petitioners submitted a copy of their returned, date-stamped postcard receipt, which served as evidence that the USPTO received a 20-page declaration on March 11, 2004. Additionally, on October 20, 2004, petitioners supplied the USPTO with a copy of the declaration filed on March 11, 2004. The declaration submitted on March 11, 2004, was located in the application file. The first executed declaration of March 11, 2004, and the copy of the March 11, 2004 declaration provided on October 4, 2004, are identical. The first executed, 20-page declaration, filed on March 11, 2004 (as well as the copy provided on October 4, 2004), named 25 joint inventors; however, 7 inventors (Martinez, Solomon, Hooda, Babbitt, Schiavo, M. Robertson, Strafford-Taylor) did not sign the declaration. On June 10, 2004, petitioners submitted a 12-page declaration, which was executed by Solomon, Babbitt, Schiavo, M. Robertson, Strafford-Taylor, as well as by **four newly added** joint inventors, Payne, Strazza, Doria, and McKenzie. Petitioners did not submit a petition under 37 CFR 1.48(a) to add the four individuals as joint inventors. On May 19, 2005, petitioners submitted a 33-page declaration, which listed 28 inventors, but was not executed by Hooda. Petitioners stated that they determined that Hooda was incorrectly named as an inventor.

As previously stated, the first executed declaration submitted by petitioners on March 11, 2004, did not list Payne, Strazza, Doria, and McKenzie as named inventors. The declaration identified Hooda as an inventor, but he did not execute the declaration. 37 CFR 1.41(a)(1) defines the inventorship of a nonprovisional application as that inventorship set forth in the oath or declaration as prescribed by 37 CFR 1.63. Additionally, the oath or declaration under §§ 1.63 or 1.67 governs inconsistencies with the application data sheet in the naming of inventors. 37 CFR 1.76(d)(3). Payne, Strazza, Doria, and McKenzie were not listed as joint inventors on the first executed declaration. Therefore, they are not a part of the inventive entity. Nevertheless, Hooda is part of the inventive entity.

On February 1, 2006, petitioner filed a "Combine Petition under 37 CFR 1.47 and 1.48(a)," which the Office is treating as a petition under 37 CFR 1.48(a) and a petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2).

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

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The petition does not meet the requirements of items (1), (2), (3), and (5).

As to item (1), petitioners did not submit a request to correct the inventorship to add Payne, Strazza, Doria, and McKenzie as inventors.

As to item (2), petitioners did not submit a statement from each of the four inventors being added or from Hooda, the inventor being deleted, stating that the inventorship error occurred without deceptive intention. In the petition, petitioners asserted that Hooda was unavailable to execute the statement of lack of deceptive intent; however, petitioners did not discuss the reason for failing to provide the USPTO with statements from Payne, Strazza, Doria, and McKenzie. Therefore, the Office will review petitioners' assertion that Hooda was unavailable as a request for a waiver of the requirement of 37 CFR 1.48(a)(2).

If a petitioner is unable to provide a statement of lack of deceptive intent, then upon a showing of extraordinary circumstances, such that justice requires, the petitioner may seek waiver of the requirement of 37 CFR 1.48(a)(2) upon filing a petition under 37 CFR 1.183 with a $400.00 petition fee. See MPEP 201.03(II)(A). In the present petition, petitioners asserted that a statement of lack of deceptive intent could not be obtained from Hooda because they were unable to locate him; however, petitioners did not show that they exercised diligence in attempting to reach Hooda. It is noted that a waiver of the requirement of the rule will not be considered unless the facts of the record unequivocally support the correction sought.

Accordingly, the petition under 37 CFR 1.183 is **dismissed**.

Petitioners must file a renewed petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.48(a)(2) for a statement of lack of deceptive intent from Hooda. Petitioners must show that the inability to obtain the statement from Hooda is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond petitioners' control.[1] If Hooda refuses to sign the statement of lack of deceptive intent, petitioners should submit proof that the statement of lack of deceptive intent was mailed or presented to Hooda by providing the USPTO with a copy of the cover letter transmitting the statement of lack of deceptive intent to Hooda or a thorough explanation given in an affidavit or declaration of facts by a person having first-hand knowledge of the details. If Hooda refuses in writing to sign the statement of lack of deceptive intent, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, that person must provide details of the refusal in an affidavit or declaration of facts.

If the statement of lack of deceptive intent is returned as undeliverable, petitioners may provide proof that diligent efforts had been made to locate Hooda by providing a copy of an envelope showing that a letter sent to the last known address of Hooda was returned as undeliverable by the post office. Details of the efforts made to locate Hooda should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details. **If attempts to obtain Hooda's forwarding address by other means such as through E-mail, telephone, or the Internet fail, then petitioners will have provided the necessary proof required to show that the Hooda cannot be located to sign the statement. Details of the efforts to locate Hooda should be set forth in an affidavit or declaration of facts by a person with firsthand knowledge of the details. Petitioners should submit documentary evidence such as a copy of an envelope returned as undeliverable or the results of an E-mail or Internet search.**

As to item (3), the declaration submitted is defective because petitioners listed Hooda as a joint inventor in the declaration. In addition, inventors Monkhouse, McLoone and Strafford-Taylor made corrections/alterations to the declaration without initialing and dating the changes. The Office notes that it is "improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant." MPEP 605.04(a)(I). Furthermore, the Office "will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration." Id.

Petitioner must file a new declaration, which identifies the correct inventorship (i.e., adding Payne, Strazza, Doria, and McKenzie and deleting Hooda), lists each actual inventor by name, residence, mailing address, and country of citizenship, and is reexecuted by each of the actual inventors. 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. MPEP 203.03(II)(B). The Office notes that a petition under 37 CFR 1.47 is only applicable to an original oath or declaration and is not applicable to the reexecution of a new declaration. In such circumstances, a petition under 37 CFR 1.183 should be considered requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors sign the declaration.

[1] Although there is no requirement for a showing under 37 CFR 1.47, it is nevertheless appropriate to apply the principles thereof for showing that an inventor is unavailable or cannot be found to the situation at hand. MPEP 409.03(d).

As to item (5), petitioners did not submit the written consent of every existing assignee of the original named inventors pursuant to 37 CFR 1.48(a)(5). This requirement is not limited to the assignees recorded in the USPTO records. Pursuant to 203.03(II)(D):

> The individual signing on behalf of the assignee giving its consent to the requested inventorship correction, should specifically state that he or she has the authority to act on behalf of the assignee. In the absence of such a statement, the consent will be accepted if it is signed by an appropriate official of the assignee (e.g., president, vice president, secretary, treasurer, or derivative thereof) if the official's title has been made of record. A general statement of authority to act for the assignee, or on the specific matter of consent, or the appropriate title of the party signing on behalf of the assignee should be made of record in the consent. However, if it appears in another paper of record, e.g., small entity assertion, it is also acceptable. Further, the assignee must establish its ownership of the application in accordance with 37 CFR 3.73. MPEP § 324.

Accordingly, the petition under 37 CFR 1.48(a) is **dismissed**.

Petition under 37 CFR 1.137(b):

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

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

The present petition does not satisfy item (1).

As to item (1), petitioners failed to file replacement drawings and an acceptable declaration as required by the Notice to File Missing Parts.

Accordingly, the petition under 37 CFR 1.137(b) is **dismissed**. Once petitioners file replacement drawings and grantable petitions under 37 CFR 1.48(a) and 37 CFR 1.183, the application may be revived under 37 CFR 1.137(b).

Conclusion

In summary, petitioners must submit the following: (1) a renewed petition under 37 CFR 1.183 to waive the requirement under 37 CFR 1.48(a)(2) for a statement from Hooda; (2) a renewed petition under 37 CFR 1.48(a) (or a petition under 1.183 to waive a requirement of 37 CFR 1.48 and fee, if appropriate) to delete Hooda and add Payne, Strazza, Doria, and McKenzie as joint inventors; (3) a new declaration signed by all of the actual inventors (or a petition under 37 CFR 1.183 to waive 37 CFR 1.64 and fee, if appropriate); (4) the written statements of lack of deceptive intent from Payne, Strazza, Doria, and McKenzie; (5) the written consent of the assignee and a Statement under 37 CFR 3.73(b); (6) replacement drawings as required by the Notice to File Missing Parts; and, (7) a renewed petition under 37 CFR 1.137(b).

Petitioners are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the above-noted deficiencies. Any extensions of time will be governed by 37 CFR 1.136(a).

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. Petitioner submitted a request for an extension of time to file a response with the present petition after the maximum period obtainable for reply. Thus, the $1,590.00 extension of time fee is unnecessary. Additionally, the petitioners paid a $200.00 fee for the petition under 37 CFR 1.48; however, the current processing fee is $130.00. Therefore, the Office will refunded to petitioners' Deposit Account the overpayment in the total amount of $1,660.00. Lastly, the Office will charge the Deposit Account in the amount of $400.00 for the filing of the petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2).

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 21

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AUG 23 2007

OFFICE OF PETITIONS

Wayne C. Jaeschke, Jr.
Morrison & Foerster LLP
Suite 300, 1650 Tysons Boulevard
McLean VA 22102

In re Application of	:	
Martinez et al.	:	
Application No. 10/461,866	:	DECISION ON PETITIONS
Filed: June 16, 2003	:	
Attorney Docket No. 544282000100	:	

This is a decision in response to the (1) renewed petition under 37 CFR 1.48(a) to correct the inventorship; (2) petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2); (3) petition under 37 CFR 1.47(a),[1] which is being treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.64; and (4) renewed petition under 37 CFR 1.137(b), filed Monday, March 26, 2007.

On August 11, 2003, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, which set a two-month extendable period to submit the statutory basic filing fee, an executed oath or declaration, a surcharge for their late filing, replacement drawings, and additional claim fees. In the absence of a timely response, the Office mailed a Notice of Abandonment on September 28, 2004, as well as a courtesy copy on November 24, 2004.

Petitions under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2) and 1.64:

Petitioners asserted that inventor Payne, who executed the original declaration, constructively refused to sign the statement of lack of deceptive intent and execute the supplemental declaration. Thus, petitioner requested that the Office waive the requirements of 37 CFR 1.48(a)(2) and 1.64.

Pursuant to 37 CFR 1.183, in an extraordinary situation, when justice requires, any requirement of the regulations, which is not a requirement of the statutes, may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party. In support of petitioners' assertion

[1] The Office notes that a petition under 37 CFR 1.47 is improper to demonstrate that Payne is unavailable to execute the supplemental declaration. Rather, the filing of a petition under 37 CFR 1.47 is appropriate to meet the requirement under 37 CFR 1.63 when an originally named inventor refuses or cannot be reached to execute the oath or declaration.

of Payne's refusal, petitioners submitted the declarations of Ava Wolfe and Jill DeMello Hill. The declarants indicated that they presented copies of the application papers as filed, the statement of lack of deceptive intent, and the declaration to Payne through his legal representative. The declarants stated that after diligent efforts to obtain Payne's signature, Payne had not signed the documents as of the filing of the present petition.

Petitioners have shown that their inability to obtain the statement and an executed declaration from Payne, notwithstanding the exercise of reasonable care and diligence, was due to circumstances beyond petitioners' control.[2] Accordingly, it is agreed that justice would be served by waiving the requirements of 37 CFR 1.48(a)(3) and 1.64.

Accordingly, the petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) and the petition 37 CFR 1.183 to waive 37 CFR 1.64 are **granted**.

Renewed petition under 37 CFR 1.48(a)

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

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioners have met the requirements of 37 CFR 1.48(a). Accordingly, the renewed petition under 37 CFR 1.48 is **granted**. A corrected filing receipt setting for the inventorship accompanies this decision.

Renewed petition under 37 CFR 1.137(b):

The renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of replacement drawings and an acceptable declaration, (2) the petition fee, and (3) a proper statement of unintentional delay.

---

[2] Although there is no requirement for a showing under 37 CFR 1.47, it is nevertheless appropriate to apply the principles thereof for showing that an inventor is unavailable or cannot be found to the situation at hand. MPEP 409.03(d).

Accordingly, the renewed petition under 37 CFR 1.137(b) is **granted**.

The Office notes that the decision of August 25, 2006, set an extendable period of two months from the mailing date of the decision to reply, correcting the deficiencies. As the petitions were filed on Monday, March 26, 2007, the Office will charge the Deposit Account in the amount of $2,160.00 for an extension of time for response within the fifth month. Additionally, petitioners are required to pay $400.00 for the filing of the petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2) as to Payne's statement, as well as $400.00 for the filing of the petition under 37 CFR 1.183 to waive 37 CFR 1.64. The Office finance records indicate that petitioners paid $730.00 upon filing the present petitions. Accordingly, the Office will also charge the Deposit Account for the balance due of $70.00.

This matter is being referred to the Office of Initial Patent Examination for further processing and to note the correction of inventorship.

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Joachim Schaper	:	
Application No. 10/461,877	:	DECISION ON PETITION
Filed: June 13, 2003	:	TO WITHDRAW
Attorney Docket No. 13909-140001/2003P00296	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **APPROVED**.

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

The request was signed by Scott R. Boalick, former attorney with the firm of Fish & Richardson, P.C.

Scott R. Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 12-04

ALFRED A. STADNICKI
ANTONELLI, TERRY, STOUT & KRAUS, LLP
SUITE 1800
ARLINGTON VA 22209

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DEC 14 2004

OFFICE OF PETITIONS

In re Patent No. 6,752,873	:	
Issue Date: 22 June, 2004	:	
Application No. 10/461,883	:	ON PETITION
Filed: 16 June, 2003	:	
Attorney Docket No. 3022-0010	:	

This is a decision on the petition under 37 CFR 1.183, filed on 5 November, 2004, which is treated as a petition to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is **GRANTED**.

Petitioners request issuance of a certificate of correction in the name of Taisai Corporation, Nippon Kokan Koji Corporation, and Nippon Paint Co., Ltd. It is noted that although the assignment document itself correctly captions the assignees' names, the Recordation Form Cover Sheet lists only the name of Taisei Corporation as an assignee. Therefore, it is recommended that petitioners submit a corrected cover sheet in accordance with MPEP 323.01 and 37 CFR 3.34.

The Certificate of Correction fee of $100.00 and petition fee of $130.00 have been received.

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

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DEC 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Thomas Bengtsson :
Application No. 10/461,884 :
Filed: June 16, 2003 :
Attorney Docket No. 03105 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on October 24, 2006, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to respond to the non-final Office action mailed November 4, 2005. A Notice of Abandonment was mailed on June 22, 2006.

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

The Office acknowledges receipt of $510 for a three (3) months extension of time filed on October 24, 2006. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the $510 extension of time was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

This application file is being referred to Technology Center Art Unit 3724, 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

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

DUGAN & DUGAN, PC
55 SOUTH BROADWAY
TARRYTOWN, NY 10591

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Stein et al.	:	
Application No. 10/461,889	:	DECISION
Filed: June 13, 2003	:	ON PETITION
For: SINGLE WAFER METHOD AND	:	
APPARATUS FOR DRYING	:	
SEMICONDUCTOR SUBSTRATES USING	:	
AN INERT GAS AIR-KNIFE	:	

This is a decision on the Petition for Withdrawal of Abandonment, filed June 22, 2005. The delay in treating this petition is regretted. Applicant requests alternative relief under 37 CFR 1.137(b).

The petition under 37 CFR § 1.181(a) is **dismissed.**

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 12, 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 November 13, 2004. A Notice of Abandonment was mailed on May 17, 2005.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that the notice was not received due to an "error by [this

Office] in failing to ensure that [Applicant's] mailing address was displayed on the mailing envelope." *Statement by Practitioner*. No support for this assertion is provided in the petition.

A review of the application file reveals that, in correspondence filed by Applicant in this Office on May 24, 2004, Applicant directed this Office to send all correspondence to Patent Counsel, Applied Materials Inc., at PO Box 450A in Santa Clara, California.

Thereafter, this Office mailed the non-final Office action to Applicant at Dugan & Dugan in Tarrytown, NY. This Office action was returned to this Office.

Thereafter, on August 27, 2004, Applicant filed formal drawings and included instructions that all future correspondence be addressed to Applicant at the Tarrytown, NY address.

Applicant now files the instant petition wherein Applicant avers non-receipt of the Office action due to an error on the part of this Office.

Initially, Applicant is advised that 37 CFR 1.4(c) requires separate matters to be filed on separate papers. Applicant has consistently filed directions for addressing correspondence to Applicant, but has included these directions on transmittal forms that address other matters. "Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects." Id.

Analysis

A review of Office records indicate that the final Office action was not properly mailed to the correspondence address of record. Here, Applicant filed instructions that all future correspondence be addressed to Applicant at the Tarrytown, NY address after the Office action was mailed. Applicant provides no indication that prior to the mailing of the Office action, the Tarrytown NY address was a correct correspondence address. As such, the record is unclear as to how this Office obtained the Tarrytown, NY mailing address prior to Applicant filing instructions to change the correspondence address.

Applicant must clarify whether, prior to the mailing of the Office action, the Tarrytown NY address was a correct correspondence address.

If the Tarrytown, NY address was a correct correspondence address at the time the Office action was mailed, and absent any irregularities in the mail, correspondence is presumed to have been delivered to the correspondence address of record. A review of the file reveals no irregularity in the mailing. Further, the copy of the envelope in the file is not evidence that this Office failed to ensure that Applicant's mailing address was displayed on the mailing envelope. The mailing address is displayed through a transparent window when the correspondence is placed in the envelope.

Accordingly, Petitioner's assertion, that the Office action was not received, is insufficient to justify withdrawing the holding of abandonment. Petitioner should file a Request for Reconsideration of Petition and clarify the record. When did the Tarrytown, NY address become a valid correspondence address, and if the Tarrytown, NY address was a valid correspondence at the time the Office action was mailed, how did this Office become aware that the Tarrytown, NY address was a valid correspondence address prior to the filing of instructions changing the correspondence address?

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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TARRYTOWN, NY 10591

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JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Stein et al.	:	
Application No. 10/461,889	:	DECISION
Filed: June 13, 2003	:	ON PETITION
For: SINGLE WAFER METHOD AND	:	
APPARATUS FOR DRYING	:	
SEMICONDUCTOR SUBSTRATES USING	:	
AN INERT GAS AIR-KNIFE	:	

This is a decision on the Renewed Petition Under 37 CFR 1.181, filed May 19, 2006.

The petition under 37 CFR § 1.181(a) is **dismissed.**

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 12, 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 November 13, 2004. A Notice of Abandonment was mailed on May 17, 2005.

The June 22, 2005 Petition

Applicant filed a petition to withdraw the holding of abandonment on June 22, 2005 wherein Applicant asserted that the notice was not received due to an "error by [this

Office] in failing to ensure that [Applicant's] mailing address was displayed on the mailing envelope." *Statement by Practitioner*. No support for this assertion was provided in the petition.

A review of the application file revealed that, in correspondence filed by Applicant in this Office on May 24, 2004, Applicant directed this Office to send all correspondence to Patent Counsel, Applied Materials Inc., at PO Box 450A in Santa Clara, California.

Thereafter, on August 12, 2004, this Office mailed the non-final Office action to Applicant at Dugan & Dugan in Tarrytown, NY. This Office action was returned to this Office.

Approximately two weeks later, on August 27, 2004, Applicant filed formal drawings and included instructions that all future correspondence be addressed to Applicant at the Tarrytown, NY address.

The Petition was dismissed in a Decision mailed January 9, 2006. The Decision noted that Applicant had consistently filed directions for addressing correspondence to Applicant, but had included these directions on transmittal forms that address other matters. Applicant was advised that 37 CFR 1.4(c) requires separate matters to be filed on separate papers. "Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects." Id.

The Decision then noted that a review of Office records indicated that the final Office action was not properly mailed to the correspondence address of record.

Here, Applicant filed instructions that all future correspondence be addressed to Applicant at the Tarrytown, NY address after the Office action was mailed. Applicant provided no indication that prior to the mailing of the Office action, the Tarrytown NY address was a correct correspondence address. As such, the record is unclear as to how this Office obtained the Tarrytown, NY mailing address prior to Applicant filing instructions to change the correspondence address.

Applicant was asked to clarify whether, prior to the mailing of the Office action, the Tarrytown NY address was a correct correspondence address?

Applicant was informed that Applicant's assertion, that the Office action was not received, was insufficient to justify withdrawing the holding of abandonment. Petitioner was advised to file a Request for Reconsideration of Petition and clarify the record. The following questions were posed to Applicant: When did the Tarrytown, NY address become a valid correspondence address, and if the Tarrytown, NY address was a valid correspondence at the time the Office action was mailed, how did this Office become aware that the Tarrytown, NY address was a valid correspondence address prior to the filing of instructions changing the correspondence address?

The instant Renewed Petition

Applicant files the instant Renewed Petition and provides that the Tarrytown, N.Y., address was a correct address for Dugan & Dugan, P.C., and must have been updated on a customer number spreadsheet submitted to this Office on July 12, 2004. No copy of the spreadsheet has been provided.

A further review of Office records reveals that this Office changed the correspondence address to the current correspondence address on June 29, 2004, prior to the putatively-filed spreadsheet. Also, a review of an Information Disclosure Statement, filed June 16, 2004 reveals that it was filed by the Attorney who also signed the instant petition, and included a request to send all correspondence to "Patent Counsel, Applied Materials, Inc., Legal Affairs Department, P.O. Box 450A, Santa Clara, CA 95052".

Analysis

Office records indicate that the correspondence address in this application was changed prior to the filing of the putatively-filed customer number spreadsheet. Apparently, Applicant, at some point after June 16, 2004, changed his correspondence address from Applied Materials in Santa Clara, CA, to Dugan & Dugan in Tarrytown, NY.

Applicant was asked to clarify how this Office: When [] the Tarrytown, NY address become a valid correspondence address, and if the Tarrytown, NY address was a valid correspondence at the time the Office action was mailed, how did this Office become aware that the Tarrytown, NY address was a valid correspondence

address prior to the filing of instructions changing the correspondence address? Applicant files the instant renewed petition and provides simply that the correspondence address on the Office action was the correct mailing address for Dugan & Dugan, and the address must have been updated in July, which is after the time at which Office records indicate that the correspondence address was changed by this Office.

It appears that Applicant informed this Office that his correspondence address had changed to Dugan & Dugan in Tarrytown, NY; however, it is unclear whether Dugan & Dugan was aware that Applicant, in this application, had properly changed his correspondence address at the time the Office action was mailed. It is clear that in December, 2004 (December 28, 2004), Applicant had changed his correspondence address since a Change of Correspondence Address was filed. However, it appears that the office action was mailed to what would become a proper correspondence address, but that Dugan & Dugan was unaware at the time of the mailing of the office action, that for this application, the correspondence address was that of Dugan & Dugan.

Applicant has failed to clarify the presumption ("that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail". See MPEP 711.03(c).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner bears the burden of proof.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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DUGAN & DUGAN, PC
55 SOUTH BROADWAY
TARRYTOWN, NY 10591

COPY MAILED
JUL 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Stein et al.	:	
Application No. 10/461,889	:	DECISION
Filed: June 13, 2003	:	ON PETITION
For: SINGLE WAFER METHOD AND	:	
APPARATUS FOR DRYING	:	
SEMICONDUCTOR SUBSTRATES USING	:	
AN INERT GAS AIR-KNIFE	:	

This is a decision on the Renewed Petition Under 37 CFR 1.181, filed July 11, 2006.

The petition under 37 CFR § 1.181(a) is **granted.**

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 12, 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 November 13, 2004. A Notice of Abandonment was mailed on May 17, 2005.

The June 22, 2005 Petition

Applicant filed a petition to withdraw the holding of abandonment on June 22, 2005 wherein Applicant asserted that the notice was not received due to an "error by [this Office] in failing to ensure that [Applicant's] mailing address was displayed on the mailing envelope." *Statement by Practitioner.* No support for this assertion was provided in the petition.

A review of the application file revealed that, in correspondence filed by Applicant in this Office on May 24, 2004, Applicant directed this Office to send all correspondence

to Patent Counsel, Applied Materials Inc., at PO Box 450A in Santa Clara, California.

Thereafter, on August 12, 2004, this Office mailed the non-final Office action to Applicant at Dugan & Dugan in Tarrytown, NY. This Office action was returned to this Office.

Approximately two weeks later, on August 27, 2004, Applicant filed formal drawings and included instructions that all future correspondence be addressed to Applicant at the Tarrytown, NY address.

Decision dismissing the June 25, 2005 Petition

The Petition was dismissed in a Decision mailed January 9, 2006. The Decision noted that Applicant had consistently filed directions for addressing correspondence to Applicant, but had included these directions on transmittal forms that address other matters. Applicant was advised that 37 CFR 1.4(c) requires separate matters to be filed on separate papers. "Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects." Id.

The Decision then noted that a review of Office records indicated that the final Office action was not properly mailed to the correspondence address of record.

Here, Applicant filed instructions that all future correspondence be addressed to Applicant at the Tarrytown, NY address after the Office action was mailed. Applicant provided no indication that prior to the mailing of the Office action, the Tarrytown NY address was a correct correspondence address. As such, the record is unclear as to how this Office obtained the Tarrytown, NY mailing address prior to Applicant filing instructions to change the correspondence address.

Applicant was asked to clarify whether, prior to the mailing of the Office action, the Tarrytown NY address was a correct correspondence address?

Applicant was informed that Applicant's assertion, that the Office action was not received, was insufficient to justify withdrawing the holding of abandonment. Petitioner was advised to file a Request for Reconsideration of Petition and clarify the record. The following questions were posed to Applicant:

When did the Tarrytown, NY address become a valid correspondence address, and if the Tarrytown, NY address was a valid correspondence at the time the Office action was mailed, how did this Office become aware that the Tarrytown, NY address was a valid correspondence address prior to the filing of instructions changing the correspondence address?

The May 19, 2006 Renewed Petition

Applicant filed a renewed petition on May 19, 2006, and provided that the Tarrytown, N.Y., address was a correct address for Dugan & Dugan, P.C., and must have been updated on a customer number spreadsheet submitted to this Office on July 12, 2004. No copy of the spreadsheet was provided.

A further review of Office records revealed that this Office changed the correspondence address to the current correspondence address on June 29, 2004, prior to the putatively-filed spreadsheet. Also, a review of an Information Disclosure Statement, filed June 16, 2004 revealed that it was filed by the Attorney who also signed the instant petition, and included a request to send all correspondence to "Patent Counsel, Applied Materials, Inc., Legal Affairs Department, P.O. Box 450A, Santa Clara, CA 95052".

Decision dismissing the May 19, 2006 Renewed Petition

The Renewed Petition was dismissed in a Decision mailed June 2, 2006. Office records indicated that the correspondence address in this application was changed prior to the filing of the putatively-filed customer number spreadsheet. Apparently, Applicant, at some point after June 16, 2004, had changed its correspondence address from Applied Materials in Santa Clara, CA, to Dugan & Dugan in Tarrytown, NY.

The Decision also noted that Applicant had been asked to clarify for this Office: When [] the Tarrytown, NY address become a valid correspondence address, and if the Tarrytown, NY address was a valid correspondence at the time the Office action was mailed, how did this Office become aware that the Tarrytown, NY address was a valid correspondence address prior to the filing of instructions changing the correspondence address?

Applicant filed the renewed petition and provided only that the correspondence address on the Office action was the correct mailing address for Dugan & Dugan, and the address must have been updated in July, which is after the time at which Office

records indicate that the correspondence address was changed by this Office.

The instant Renewed Petition

Applicant files the instant renewed petition and provides that, at the mailing of the Office action, the mailing address was a correct address for Dugan & Dugan. Applicant also notes that the Office action was returned to this Office and received in the Technology Center only four (4) days after the mailing date of the Office action as evidenced by the Technology Center Date Stamp appearing on the Office action.

In view of the above, the petition is granted. Applicant has demonstrated by a preponderance of the evidence that the Office action was not received.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 3749 for re-mailing of the Office action.

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

Derek L. Woods
Attorney
Office of Petitions

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

RAYMOND R. MOSER JR., ESQ.
MOSER IP LAW GROUP
1040 BROAD STREET
2ND FLOOR
SHREWSBURY, NJ 07702

COPY MAILED

JUL 12 2007

OFFICE OF PETITIONS

In re Patent No. 6,937,187 :
Issue Date: August 30, 2005 :
Application No. 10/461,890 : NOTICE
Filed: June 13, 2003 :
Patentee(s): Frank Van Diggelen, et. al. :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed by facsimile transmission on May 15, 2007. 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**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017

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APR 12 2006
OFFICE OF PETITIONS

In re Application of :
Cynthia N. Oliver et al :
Application No. 10/461,904 :
Filed: June 13, 2003 :
Attorney Docket No. 10271-026-999 :

ON PETITION

This is a decision on the petition, filed April 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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) 272-3208.

The examiner of Technology Center AU 1645 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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APR 30 2010

OFFICE OF PETITIONS

Dr. Steven Shuyong Xiao
3455 Isabelle, Local E
Brossard QC J4Y 2R2 CA CANADA

In re Patent No. 6,894,145
Issue Date: May 17, 2005
Application No. 10/461,909
Filed: June 16, 2003

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed January 21, 2010 and resubmitted on February 22, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 18, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

The patent file is being forwarded to Files Repository.

David Bucci
Petitions Examiner
Office of Petitions

cc **Theodore A. Breiner**
BREINER & BREINER, L.L.C.
P.O. Box 320160
Alexandria, Virginia 22320-0160

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/22/10

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10461920 Patent No.: 7639865

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Information in the certification of correction has been verified by the examiner and is accurate.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE **Art Unit**

Approved.

/Vu Le/

SPE, 2624

February 23, 2010

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 1/10/06

DATE : Sep. 1, 2005

TO SPE OF : ART UNIT 3654 (*Exr. is Evan Langdon*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,926,218

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

Please complete this form and return with file, within **7** days to:

Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please see the IFW code cocin, RCEX-9/22/04, and CTAV-9/23/04 and NOA-11/9/04! sp

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 x120

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

Note your decision on the appropriate box.

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

Comments:

Kathy Matecki

KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3654

Art Unit

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OCT 2 0 2006
OFFICE OF PETITIONS

PAUL M. DENK
763 S. NEW BALLAS ROAD
ST. LOUIS MO 63141

In re Application of	:	
Harold M. Lueddecke	:	
Application No. 10/461,946	:	DECISION GRANTING PETITION
Filed: June 14, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 7321	:	

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**.

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 contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of October 6, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3611.

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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NOV -1 2004

Paper No. 7

In re Application of	:	
Damien Cyrille Nevoret *et al*	:	
Application No. 10/461,969	:	DECISION ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. D-3897C	:	

This is a decision on the petition filed on August 6, 2004, by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the final Office action dated December 30, 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 timely and proper reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply, and a copy of a post card receipt for the filing of the reply, showing that the reply was in fact received in the Office on April 1, 2004. The reply has affixed thereto a 37 CFR 1.8(a) certificate of transmission dated March 29, 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. See 37 CFR 1.8(b).

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 papers are entitled is April 1, 2004, with a certificate of mailing date of March 29, 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

Joseph P. Sullivan
1 New Bond Street
Box No. 15138
Worcester, MA 01615-0138

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
Kadayam S. Thyagarajan, et. al.	:	
Application No. 10/461,985	:	ON PETITION
Filed: June 12, 2003	:	
Attorney Docket No. 990345C1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on June 8, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed March 7, 2006.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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JOHN P. O'BANION
O'BANION & RITCHEY LLP
400 CAPITOL MALL SUITE 1550
SACRAMENTO, CA 95814

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FEB 13 2004

OFFICE OF PETITIONS

In re Application of
Samuel D. Piper
Application No. 10/462,007
Filed: June 13, 2003
Attorney Docket No. EV12034.11A1

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 31, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

Any request for reconsideration must be filed within **TWO MONTHS** from the mail date of this decision. Note 37 CFR 1.181(f).

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;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on June 13, 2003, within twelve months of the filing date of the prior provisional application, Application No. 60/389,049, which was filed on June 13, 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.

---

[1] Any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (i.e., in an amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed provisional application, identifying it as a provisional application, and including the application number (consisting of the series code and serial number).

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. The provisional application no. referred to in the specification upon filing is 60/389,048 rather than 60/389,049. *See* In re de Seversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment [2] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

As authorized, the $1330 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 07-1137.

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

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

By hand: Customer Window located at:

2201 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

Central Fax: (703) 872-9306
ATTN: Office of Petitions

---

[2]Note 37 CFR 1.121

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859.

Frances Hicks

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

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Paper No. 5

CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA CA 91109-7068

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NOV 04 2003

OFFICE OF PETITIONS

In re Application of	:	
Rosborough et al.	:	DECISION ON PETITION
Application No. 10/462,016	:	UNDER 37 CFR 1.137(f)
Filed: 13 June, 2003	:	
Atty Dkt No. 50021/SAH/P739	:	

This is a decision on the petition under 37 CFR 1.137(f),[1] filed on 10 October, 2003, to revive the above-identified application.

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

The record discloses that, on 13 June, 2003, the date of filing of the instant application, a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(I) was filed certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing."

On 10 October, 2003, petitioners filed a request under 35 U.S.C. § 122(b)(2)(B)(ii) that the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(I) be rescinded and the application revived because this application became abandoned for failure to notify the Office of the filing of a corresponding international or foreign application. The present petition was also filed on 10

[1] 37 CFR 1.137(f) provides for revival of a nonprovisional application which became abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing.

October, 2003. In this regard, petitioner states that an international or foreign application corresponding to the instant application was filed on 13 June, 2003, the same date that the instant application was filed.

The instant nonprovisional application did not become abandoned as a result of the filing of a corresponding application filed in another country, or under a multilateral international agreement, **subsequent** to the filing of the present application. In this regard, 35 U.S.C. § 122((b)(2)(B)(iii) states:

> An applicant who has made a request under clause (I) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (I), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application**. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional [emphasis supplied].

The facts of this case are that the subject application was filed on 13 June, 2003, and the corresponding foreign application was also filed on 13 June, 2003. The statute does not provide for the situation where a certification under 35 U.S.C. § 122(b)(2)(B)(I) was made, despite the fact that an application was filed on the same day in another country or under the multilateral international agreement. In view of petitioner's statement that the corresponding foreign application was filed on 13 June, 2003, the same date as the date of filing of the subject application, the filing of the corresponding foreign application cannot be considered to have been filed **subsequent** to the filing of the subject application in the United States. The statute at 35 U.S.C. § 122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 U.S.C. § 122(b)(2)(B)(I) at the time of filing the application and an application was **subsequently** filed in a foreign country without notifying the Office within 45 days of the filing thereof.

Since the corresponding foreign or international application was

either filed on the same date or filed prior to the filing date (this would be true if the corresponding foreign or international application has a filing date of 13 June, 2003) as the subject application, this application did not become abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii). Therefore, a petition to revive pursuant to the provisions of 37 CFR 1.137(f) is inappropriate and, consequently, must be dismissed.

As requested, the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition.[2] Accordingly, the required $665.00 petition fee will be charged to counsel's deposit account, No. 03-1728.

The application is being forwarded to the Office of Initial Patent Examination for entry of the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(I), and the mailing of a Notice Regarding Rescission thereof.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] *See* 35 U.S.C. § 41(c)(7).

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PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA GA 30361

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Vacanti et al.	:	
Application No. 10/462,034	:	DECISION ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. VAC103CON	:	

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

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 1632 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Martin P. Vacanti	: DECISION ON REQUEST FOR
Patent Number	: 7575921	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/462,034	: OF WYETH
Filed	: 06/13/2003	:
		:

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID TICHANE
979 PINTO PALM TERRACE, #24
SUNNYVALE CA 94087

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Theodore J. Gelber	:	
Application No. 10/462,044	:	DECISION GRANTING PETITION
Filed: June 16, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. G001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the response to the Office action; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of December 20, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2672.

Karen Creasy

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

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COMMISSIONER FOR PATENTS
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Paper No. 3

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

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FEB 26 2004

OFFICE OF PETITIONS

In re Application of
Craig Rowland et al.
Application No. 10/462,046
Filed: June 13, 2003
Attorney Docket No. MSFT-2560/303493.02
Title of Invention: GENERATING GLOBALLY UNIQUE DEVICE IDENTIFICATION

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed January 12, 2004, requesting that the above-identified application be accorded a filing date of June 13, 2003, rather than the presently accorded filing date of June 16, 2003.

Petitioner alleges that the application was deposited in Express Mail service on June 13 2003. In support, petitioner supplied, with the present petition, a copy of Express Mail Label No. EV058068995US (the same Express Mail number found on the application transmittal letter accompanying the original application papers located in the official file). Although the "date-in" on the Express Mail label appears to have been handwritten over another date, perhaps, and is much darker on the copy provided than the rest of the handwritten data, it raises a question as to whether the "date-in" on the Express Mail label was in fact completed by a postal employee at the time of deposit into Express Mail Post Office to Addressee Service. Nonetheless, the Express Mail Label bears an official USPS postmark dated June 13, 2003 and thus will be accepted as the date of deposit.

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

The application is being returned to the Office of Initial Patent Examination (OIPE) for correction of the filing date to June 13, 2003, and for issuance of a corrected Filing Receipt.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JAN FOLKMAR
392 LAKESHORE ROAD EAST
OAKVILLE ON L6J 1J8 CA CANADA

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of
Jan Folkmar
Application No. 10/462,055
Filed: June 16, 2003
Attorney Docket No. POLAAP107US

ON PETITION

This is a decision on the petition filed March 21, 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 March 2, 2006 for failure to timely pay the issue fee on or before March 1, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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FOLEY AND LARDNER LLP
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3000 K STREET NW
WASHINGTON DC 20007

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JUN 18 2009

OFFICE OF PETITIONS

In re Patent No. 7,494,647	
Sato et al.	
Issue Date: February 24, 2009	
Application No. 10/462,062	DECISION ON REQUEST FOR
Filed: June 16, 2003	RECONSIDERATION OF
Attorney Docket No. 053466-0360	PATENT TERM ADJUSTMENT
Title: Humanized Antibody	
Against Human Tissue Factor	
(TF) And Process Of Production	
Of The Humanized Antibody	

This is in response to the "RREQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705" filed April 21, 2009. This petition will be treated under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment is **DISMISSED**.

On February 24, 2009, the above-identified application matured into US Patent No. 7,494,647 with a patent term adjustment of 54 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 283 days, do not overlap with the 326 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day.

Thus, patentees request that the determination of patent term adjustment be increased by 283 days to a total of three hundred thirty-seven (337) days (includes reduction of 272 days for applicant delay).

The 283 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on June 16, 2003, and a request for continued examination (RCE) having being filed on March 26, 2007. The filing of a RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1)

Under 37 CFR § 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 272 days for applicant delay is not in dispute.

Patentees agree that the total period of Office delay is the sum of the period of Three Years Delay terminated by the filing of a RCE (283 days) and the period of Examination Delay (326 days) to the extent that these periods of delay are not overlapping.

Accordingly, patentees submit that the total period of Office Delay is 609 days, which is the sum of the period of Three Year Delay (283 days) and the period of Examination Delay (326 days).

As such, patentees assert entitlement to a patent term adjustment of 337 days (283 + 326 -272 for applicant delay).

The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 326 days is correct. At issue is whether patentees should accrue 283 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 326 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that 283 days overlap. Patentees' calculation of the period of overlap is inconsistent with the

Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final*

> *Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). 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. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a

> patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

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 entire period during which the application was pending before the Office, June 16, 2003 to February 24, 2009. 326 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the 326 days of Office delay and the 272 days of applicant delay and the permissible timeframes for taking action, as of the filing of the request for continued examination.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 54 days (326 - 272).

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

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

APR 21 2009
PATENT & TRADEMARK OFFICE

Atty. Dkt. No. 053466-0360

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Koh SATO, et al.

Title: HUMANIZED ANTIBODY AGAINST HUMAN TISSUE FACTOR (TF) AND PROCESS OF PRODUCTION OF THE HUMANIZED ANTIBODY

Appl. No.: 10/462,062

Filing Date: 6/16/2003

Patent No.: 7,494,647

Grant Date: 2/24/2009

Examiner: Michael E. SZPERKA

Art Unit: 1644

Conf. No.: 7408

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705

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

Sir:

Applicants respectfully request reconsideration of the Patent Term Adjustment (PTA) determined for the captioned patent, which issued on 2/24/2009 as U.S. Patent No. 7,494,647.

The Patent Office determined that the patent was entitled to 54 days of PTA. Applicants believe that this PTA determination was made in accordance with 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)" published at 69 Fed. Reg. 34238 (Jun. 21, 2004). Under that interpretation of the PTA statute, any PTO delay under 35 U.S.C. § 154(b)(1)(A) is deemed to overlap with any 3-

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year maximum pendency delay under 35 U.S.C. § 154(b)(1)(B), and so, as a practical effect, PTA may be awarded under §154(b)(1)(A) or §154(b)(1)(B), but not both.

On September 30, 2008, the United States District Court for the District of Columbia issued a decision finding that the U.S. Patent and Trademark Office's interpretation of the PTA statute is incorrect. *Wyeth v. Dudas*, Civ. Action No. 07-1492 (JR) (Sep. 30, 2008). The court determined that, under the correct interpretation of the PTA statute, periods of "overlap" are limited to "periods of time . . . [that] occur on the same day." *Wyeth*, slip op. at 8. Thus, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." *Id.*

Applicants have recalculated PTA for the captioned patent under the court's interpretation of the PTA statute, and have determined that the patent is entitled to 337 days PTA, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702(a) and (b), and under 37 CFR §§1.703(a) and (b).

The attached sheet details the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

(a) Total of non-overlapping PTO delay under §154(b)(1)(A) & (B):	609 days
(b) Total Applicant delay:	272 days
Final PTA Determination:	337 days

Applicants therefore respectfully request that the patent be accorded 337 days PTA.

The patent is not subject to a terminal disclaimer.

Payment of the requisite fee is submitted herewith. Should no proper payment be enclosed herewith, as by the credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

However, because this PTA error is due to a Patent Office error in interpreting and applying the PTA statute, a refund of the fee is respectfully requested.

Respectfully submitted,

Date APR 2 1 2009

By

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5569
Facsimile: (202) 672-5399

Stephen B. Maebius
Attorney for Applicant
Registration No. 35,264

Patent Term Adjustment Calculation System

APR 21 2009
PATENT & TRADEMARK OFFICE

Add a new event to this case

Docket Number: 053466-0360
Application Number: 10/462062
Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	06/16/2003	0		
Edit Delete	Notice to File Missing Parts	08/25/2003	70		
Edit Delete	Response to Notice to File Missing Parts	10/24/2003	130		
CLOSE WINDOW	14 month From Application date ALL CASES SELECT CASE	08/16/2004	427		
Edit Delete	Restriction Requirement	07/08/2005	753	326	
Edit Delete	Restriction Requirement Response Received at PTO	10/07/2005	844		
Edit Delete	Non-Final Office Action	12/29/2005	927		
	Non-Final Office Action + 3 months	03/29/2006	1,017		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	05/30/2006	1,079		62
	3 Year Period Starts	06/16/2006	1,096		
Edit Delete	Final Office Action	07/25/2006	1,135		
	Final Office Action + 3 months	10/25/2006	1,227		
Edit Delete	Final Office Action Response Received at PTO	01/25/2007	1,319		
Edit Delete	Notice of Appeal Received at PTO	01/25/2007	1,319		92
Edit Delete	Advisory Action	02/20/2007	1,345		
Edit Delete	Request For Continued Examination	03/26/2007	1,379	283	
	3 Year Period Stopped	03/26/2007	1,379		
Edit Delete	Non-Final Office Action	06/19/2007	1,464		
	Non-Final Office Action + 3 months	09/19/2007	1,556		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	11/19/2007	1,617		61
Edit Delete	Non-Final Office Action	02/06/2008	1,696		
	Non-Final Office Action + 3 months	05/06/2008	1,786		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	07/02/2008	1,843		57
Edit Delete	Notice of Allowance	10/02/2008	1,935		
Edit Delete	Issue Fee Paid	12/30/2008	2,024		
Edit Delete	Patent Grant Date	02/24/2009	2,080		

Totals:	609		272
PTA:		337	

Created and maintained by

FOLEY

FOLEY & LARDNER LLP

Version: 3.02.05 LOGIN: Karen Walker IP: 10.14.41.173 Foley & Lardner LLP

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

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FEB 28 2008

In re Application of :
Fell, et al. :
Application No. 10/462,067 : DECISION ON PETITION
Filed: June 13, 2003 :
Attorney Docket No. 659/1142 :
(19206 & 19207)

This is a decision on the petition under 37 CFR 1.181, filed January 31, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on November 29,2007, stating that this application is abandoned for failure to take appropriate action in a timely manner after the September 24, 2007, decision of the Board of Patent Appeals and Interferences. Petitioner contends that the holding of abandonment of this application was improper. In this regard, 1.304(a) states that:

> (1) The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ **1.302**) or for commencing a civil action (§ **1.303**) is two months from the date of the decision of the Board of Patent Appeals and Interferences. If a request for rehearing or reconsideration of the decision is filed within the time period provided under § **41.52**(a), § **41.79**(a), or § **41.127**(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request.

Therefore, petitioner had up to and including November 24, 2007, within which to take appropriate action. A request for continued examination (RCE), and (submission), and a $810 fee for the RCE were filed on November 20, 2007.

The rule at 37 CFR 1.304(a)(1) states:

> The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§

> 1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences. If a request for rehearing or reconsideration of the decision is filed within the time period provided under § **41.52**(a), § **41.79**(a), or § **41.127**(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request.

Further, the rule at 37 CFR 1.198 states:

> When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 * *

Additionally, attention is directed to MPEP 1214.07 Reopening of Prosecution, which states:

> Sometimes an amendment is filed after the Board's decision which does not carry into effect any recommendation made by the Board and which presents a new or amended claim or claims. In view of the fact that prosecution is closed, the appellant is not entitled to have such amendment entered as a matter of right. However, if the amendment is submitted with a request for continued examination (RCE) under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e), prosecution of the application will be reopened and the amendment will be entered. See MPEP § 706.07(h), paragraph I.

In view of the above, the time period for taking action after the mailing of the Board decision is two (2) months from the September 24, 2007, mailing date thereof. Accordingly, the mailing of the Notice of Abandonment on November 29, 2007, was improper because an RCE and the requisite fee were filed on November 20, 2007.

In view of the above, the holding of abandonment is improper. Accordingly, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

The Office sincerely apologizes for the inconvenience caused petitioner in this matter.

This application is being referred to Technology Center AU 1794 for processing of the RCE and for taking appropriate action in the normal course of business on the submission under 37 CFR 1.114, filed November 20, 2007.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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August 2005

GARDNER GROFF, P.C.
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA, GA 30339

SEP 01 2005

In re Application of:
VITALY VODYANOY
Serial No.: 10/462,068
Filed: 13 June 2003
Docket: 2A09.1-242

DECISION ON PETITION
TO MAKE SPECIAL
(COUNTERING TERRORISM)

This is a decision on the petition filed on March 22, 2004, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(XI) in accordance with 37 CFR § 1.102 (2004).

The petition to make the application special is **DISMISSED**.

The petition being based upon countering terrorism, the applicable rule is 37 CFR 1.102(c). Under 1.102(c), no fee is required, but a statement explaining how the invention materially contributes to countering terrorism is necessary.

In the USPTO's final rule amending 37 CFR 1.102 to eliminate the fee requirement for petitions to make special, the following standard was set for determining whether a invention qualified as "materially...countering terrorism":

> The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...
>
> Applicants are reminded that any identification of a basis for requesting special status and a statement of compliance with the technology specific requirement for special status must be based upon a good faith belief that the invention in fact qualifies for special status. *see* §§ 1.56 and 10.18...
>
> *Comment 65:* The Office has received internal comments expressing concern that some applicants may view the lack of a petition fee as an inducement to

> file petitions where the nexus between the invention and the countering of terrorism is "strained."
>
> *Response:* The comment has been adopted in part. The discussion of the rule amendment has focused on the need for applicants to recognize the "material" aspect of the claimed invention's relationship to countering terrorism, which will be further addressed in an MPEP revision. In view of such discussion, applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism.
>
> 69 Fed. Reg. 56382, 56511 (Sept. 21, 2004).

Petitioner's statement alleged that the invention concerned improved field monitoring for pathogenic antigens in the environment. Petitioner's statement did not specifically address the means by which terrorism would be countered by such an improvement.

Applicant's claims are directed towards a method for conducting an agglutination test. Applying the standards evidenced in the administrative history of the Rule, the invention appears to be principally directed towards a method for conducting a test for agglutination with an optical microscope. The main benefit appears to be monitoring previously gathered samples for agglutination to sense specific antigens.

The sole counter-terrorism aspect appears to consist only of the ability to sense terrorism-specific antigens. However, applicants do not particularly claim any improvement in discerning terrorism-resultant detection events from non-terrorism detection events. For instance, applicant's method does not distinguish between a naturally caused increase in a specific contaminant, and a purposefully and maliciously caused increase in a specific contaminant. This is supported by the general thrust of the invention towards generic analyte detection.

Furthermore, the reporting system does not particularly claim any improvement in rapidity or portability of detection as alleged by the statement in the petition.

The counter-terrorism aspect of this invention appears to be tangential rather than material. Classifying this invention as an anti-terrorism device does not rise to the level of materiality intended by the Rules. In order for the Office to concentrate its resources on inventions which will materially counter terrorist activities, inventions not possessing a direct impact on such activities will not be made special.

This application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Hien Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Programs Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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TIMOTHY E. SIEGEL
PATENT ATTORNEY
SUITE 206
1868 KNAPPS ALLEY
WEST LINN, OR 97068-4644

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
David C. Morris	:	
Application No. 10/462,069	:	ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. MO1.007	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 23, 2004, to revive the above-identified application.

The petition is **GRANTED.**

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

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

This matter is being referred to Technology Center AU 3644.

Wan Laymon
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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/462,077	06/13/2003	Jordan T. Bourilkov	08935-288001 / M-5025	6679

26161 7590 08/20/2008
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
WANG, EUGENIA

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
08/20/2008	PAPER

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

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

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8/20/08

caf

Mailed:

In re application of	:	
BOURILKOV et al.	:	DECISION ON
Serial No. 10/462,077	:	PETITION
Filed: June 13, 2003	:	
For: FUEL CARTRIDGE INTERCONNECT FOR PORTABLE	:	
FUEL CELLS	:	
	:	

This is a decision on the PETITION TO WITHDRAW THE RESTRICTION REQUIREMENTS MADE IN THE ACTIONS OF NOVEMBER 17, 2005 AND JULY 19, 2006 filed November 13, 2006.

On November 17, 2005 a restriction requirement was mailed. In this restriction requirement the following two species were presented:

Species I-1, claims 1-7, drawn to an interconnect comprising an interface between a fuel cell system and a fuel cartridge or battery; and

Species I-2, claims 22-28, drawn to an interconnect comprising a circuit to prevent charging of a fuel cell from a battery.

Applicant traversed this restriction requirement.

On July 19, 2006 a final rejection was mailed in which the examiner restricted newly submitted claims 38-55 as being drawn to an invention that is independent or distinct from the invention originally claimed.

On November 13, 2006 the instant petition under 37 CFR 1.144 was timely filed to formally request that the restriction requirements be withdrawn

DECISION

MPEP states:

> **806.04(f) **>Restriction Between< Mutually Exclusive *>Species< [R-3]**
>
> >Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive.< Claims ** to different species **>are mutually exclusive if< one claim recites limitations **>disclosed for< a first species but not * a second, while a second claim recites

limitations disclosed only for the second species and not the first. This **>may also be< expressed by saying that >to require restriction between claims limited to species, the< claims ** must not overlap in scope<.

In the restriction requirement of November 17, 2005, applicant presented claims 1 and 22 as separate species. The claims are reproduced below:

1. An interconnect comprises:
an interface between a fuel cell system and a fuel cartridge or battery.

22. An interconnect comprises:
an interface between a fuel cell system and a fuel cartridge or battery; and
a circuit to prevent charging of a fuel cell from a battery when a battery is attached to the interconnect.

Claims 1 and 22 are clearly not separate species. Rather, these claims overlap in scope. Instead claim 22 is a species of generic claim 1.

In the final rejection of July 19, 2006, the examiner stated that the subject matter of claim 38 and the subject matter of claim 51 are distinct species from the invention recited in the original claims. Claims 38 and 51 are not distinct species from the original claims (e.g. claim 1). Instead claims 1, 38 and 51 overlap in scope.

Accordingly, the restriction requirements as set forth in the office action of November 17, 2005 And July 19, 2007 are improper and should be withdrawn. The instant petition is **GRANTED.** The examiner is directed to withdraw the requirement and prepare a new office action.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/462,077	06/13/2003	Jordan T. Bourilkov	08935-288001 / M-5025	6679

26161 7590 09/21/2009
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
WANG, EUGENIA

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
09/21/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SEP 21 2009 wk

Mailed :

In re Application of Bourilkov et al. Serial No. 10/462,077 Filed: June 13, 2003 For: FUEL CARTRIDGE INTERCONNECT FOR PORTABLE FUEL CELLS	: : : : :	DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.44 to withdraw the restriction requirement set forth on October 1, 2008.

On October 1, 2008, the Examiner set forth four species; species 1 (claims 1-7); species 2 (claims 22-28 and 45-50); species 3 (claims 38-44) and species 4 (claims 51-55). Applicant on October 10, 2008 elected with traverse species 1. The Examiner, in view of applicants' arguments, rejoined species 3 and species 4 with species 1. The election/restriction with species 2 was maintained. Claims 22-28 and 45-50 were withdrawn from further consideration.

Previously, on November 17, 2005, a different examiner initiated a written restriction between three groups; group I was drawn to claims 1-7 and 22-28; group II was drawn to claims 8-17 and 29-37 and group III were drawn to claims 18-21 whereby an election of species was also required. Applicant elected Group I and the disclosed species of Group I. The Examiner found that Applicant's amendment of May 26, 2006 which added claims 38-44 were directed to a an invention that was independent or distinct from the invention originally claimed. Applicants filed a petition on November 13, 2006 requesting withdrawal of the restriction requirements. The petition decision of August 20, 2008 found the restriction requirement to be improper and should be withdrawn. Further, the petition decision found that both claims 1 and 22 were not separate species and that claim 22 is a species of generic claim 1. A new examiner was assigned to the case and issued the restriction of October 1, 2008.

Currently, the application has claims 1-7 pending, claims 8-21 are cancelled, claims 22-28 are withdrawn, claims 29-37 are cancelled, claims 38-44 are pending, claims 45-50 are withdrawn, and claims 51-55 are pending.

The petition decision of August 20, 2008 found that claims 1 and 22 were not separate species and that claim 22 is a species of generic claim 1. The Examiner's position is that prosecution has changed the original claim language in such a manner that has created two distinct and mutually exclusive species, which is what prompted the necessity of the restriction requirement mailed

October 1, 2008. Applicant's narrowing of claim 1 still has claim 22 as a species to generic claim 1. The claims are coextensive in scope in that the claims each cover an interconnect. The claims are not mutually exclusive. While claim 22 requires a circuit to prevent charging of a fuel cell from a battery when a battery is attached to the interconnect, this does not prevent claim 1 from being generic to claim 22.

DECISION

Accordingly, the petition for withdrawal of the restriction requirement is **GRANTED**.

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Denis G. Maloney
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re application of:
John C. Thacker
Application No. 10/462,094
Filed: June 12, 2003
For: SATELLITE COMMUNICATIONS SYSTEM

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 May 18, 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 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: Mark J. Itri, Esq.
McDermott, Will & Emery
18191 Von Karman Avenue
Suite 400
Irvine, CA 92612

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ELLIOT B. ARONSON
5001 HARBORD DRIVE
OAKLAND, CA 94618

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MAY 1 2 2004
OFFICE OF PETITIONS

In re Application of
Wade Lee
Application No. 10/462,095
Filed: June 13, 2003
Attorney Docket No. 13.053

ON PETITION

This is a decision on the petition under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed April 20, 2004.

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, February 23, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center 2878 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).

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

9/24/03

Fish and Neave
50th Floor
1251 Avenue of the Americas
New York NY 10020-1105

Dear Applicant:

The Box PGPub replacement drawings for application number 10/462,105 received on 8/11/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
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Signature of Reviewer, Office of Initial Patent Examination

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Paper No. 051904

DANIEL J. O'CONNOR
6720 BUCKHORN DR. #821
INDIANAPOLIS, IN 46254

MAY 24 2004

In re Application of
BREHOB, Richard
Application No. 10/462,112
Filed: June 16, 2003
For: Attorney Docket No. BREHOB

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed December 8, 2003, to make the above-identified application special. No fee is required for this petition.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Item IV: Applicant's Age.

The petition is GRANTED.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Item IV, must include a showing, as by a birth certificate or the applicant's affidavit or declaration, that the applicant is sixty-five (65) years of age or more.

The petition includes a copy of applicant's birth certificate showing that applicant is sixty-five (65) years of age or more.

The application is being forwarded to the examiner for expedited prosecution. If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Jose' G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

WONG CABELLO LUTSCH RUTHERFORD & BRUCCULERI LLP
20333 SH 249 6TH FLOOR
HOUSTON TX 77070

In re Application	:	
Gavish, et al.	:	
Application No. 10/462,118	:	DECISION ON APPLICATION
Filed: June 13, 2003	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 199-0062US	:	

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT," filed December 31, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one thousand and one (1001) days to one thousand, three hundred, and fifty-eight (1358) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one thousand, three hundred and fifty-eight (1358) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 6, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is one

thousand and one (1001) days. On December 31, 2009, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one thousand, three hundred and fifty-eight (1358) days.

Applicants assert entitlement to a patent term adjustment of one thousand three hundred and fifty-eight (1358) days on the basis that the PTO should have been assessed delay of one thousand four hundred and fourteen (1414) days for not mailing an Office action within fourteen months of the filing of the application, not the one thousand and fifty-seven (1057) days that were accorded.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The application was filed on June 13, 2003. Pursuant to 37 C.F.R. § 1.702(a)(1), the Office had until August 13, 2004 to mail a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151. The Office mailed an Office action on July 6, 2007, and was accorded PTO delay of one thousand, fifty-seven (1057) days. However, on July 26, 2007, the Office mailed an Interview Summary, vacating the July 6, 2007 Office action. Subsequently, an Office action was not mailed until June 27, 2008. Accordingly, under 37 C.F.R. § 1.703(a)(1), PTO delay of one thousand, four hundred and fourteen (1414) days should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one thousand, three hundred and fifty-eight (1358) days** (1416 (1414+2) days of PTO delay and 58 (54+4) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

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

/ALESIA BROWN/

Alesia Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

---

[1] Applicants filed the application for patent term adjustment together with the issue fee.

Day : Thursday
Date: 3/11/2010

PALM INTRANET

Time: 18:11:07

PTA Calculations for Application: 10/462118			
Application Filing Date:	06/13/2003	PTO Delay (PTO):	1059
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	58
Post-Issue Petitions:	0	Total PTA (days):	1358
PTO Delay Adjustment:	357		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	03/11/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	1414		
63	03/11/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		1057	
52	10/06/2009	MAIL NOTICE OF ALLOWANCE	2		45
51	10/01/2009	ISSUE REVISION COMPLETED			
50	10/01/2009	DOCUMENT VERIFICATION			
49	10/01/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	10/01/2009	NOTICE OF ALLOWABILITY			
46	06/16/2009	DATE FORWARDED TO EXAMINER			
45	06/04/2009	APPEAL BRIEF FILED			
44	05/27/2009	NOTICE OF APPEAL FILED		4	38
43	05/27/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	05/13/2009	MAIL ADVISORY ACTION (PTOL - 303)			
41	05/11/2009	ADVISORY ACTION (PTOL-303)			
40	04/28/2009	DATE FORWARDED TO EXAMINER			
39	04/22/2009	AMENDMENT AFTER FINAL REJECTION			
38	02/23/2009	MAIL FINAL REJECTION (PTOL - 326)			
37	02/17/2009	FINAL REJECTION			
36	12/02/2008	DATE FORWARDED TO EXAMINER			
35	11/20/2008	RESPONSE AFTER NON-FINAL ACTION		54	32
34	11/20/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	06/27/2008	MAIL NOTICE OF WITHDRAWN ACTION			
32	06/27/2008	MAIL NON-FINAL REJECTION			
31	06/25/2008	NON-FINAL REJECTION			

30	06/25/2008	LETTER WITHDRAWING / VACATING OFFICE ACTION			
29	08/23/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	08/23/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
27	08/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	07/26/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
25	07/11/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
23	07/06/2007	MAIL NON-FINAL REJECTION	1057		-1
22	06/25/2007	NON-FINAL REJECTION			
21	06/13/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	01/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	10/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	02/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	07/16/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	06/13/2003	REFERENCE CAPTURE ON IDS			
13.7	06/13/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/13/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	07/15/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	11/18/2003	APPLICATION IS NOW COMPLETE			
10	11/17/2003	APPLICATION DISPATCHED FROM OIPE			
9	11/17/2003	APPLICATION IS NOW COMPLETE			
8	10/14/2003	ADDITIONAL APPLICATION FILING FEES			
7	10/14/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	06/13/2003	CLAIM PRELIMINARY AMENDMENT			
5	06/13/2003	DRAWING PRELIMINARY AMENDMENT			
4	06/13/2003	A DOCUMENT THAT CONTAINS, AT LEAST IN PART, A WRITTEN DESCRIPTION OF AN			

		INVENTION, AND OF THE MANNE			
3	08/18/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	06/25/2003	CLEARED BY OIPE CSR			
1	06/13/2003	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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NADEGE M. LAGNEAU
CHOATE HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 02109

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JAN 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Wenjin Yang et al :
Application No. 10/462,127 :
Filed: June 16, 2003 :
Attorney Docket No. 2004345-0016 (SU-2400 US)

NOTICE

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

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

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

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

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

This file is being forwarded to Technology Center AU 1623.

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

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ATTN: PATENT DOCKETING
ONE AT&T WAY
ROOM 2A-207
BEDMINSTER, NJ 07921

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NOV 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Dale W. Malik	:	
Application No. 10/462,130	:	DECISION ON PETITION
Filed: June 16, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 190250-1390	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 17, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being forwarded to Technology Center AU 2176 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

cc: ANTHONY F. BONNER
THOMAS, KAYDEN, HORSTEMYER
& RISLEY, L.L.P.
SUITE 1500
600 GALLERIA PARKWAY N.W.
ATLANTA, GA 30339

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/462,130	06/16/2003	2176	1102	190250-1390	23	5

CONFIRMATION NO. 7271

CORRECTED FILING RECEIPT

38823
AT&T Legal Department
Attn: Patent Docketing
One AT&T Way
Room 2A-207
Bedminster, NJ 07921

OC000000032793079

Date Mailed: 10/24/2008

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

Applicant(s)

Dale W. Malik, Dunwoody, GA;

Power of Attorney: The patent practitioners associated with Customer Number 24504

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/478,439 06/12/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/08/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/462,130**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Generating documents using electronically-captured signatures

Preliminary Class

715

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T DELAWARE INTELLECTUAL PROPERTY, INC.
600 GALLERIA PARKWAY, S.E.
SUITE 1500
ATLANTA GA 30339-5994

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Malik et al.	:	
Application No. 10/462,132	:	DECISION GRANTING PETITION
Filed: June 16, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 190250-1160	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 17, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/478,439, filed June 12, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/478,439, which was filed on June 12, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2144 for appropriate action on the amendment submitted December 17, 2007, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/462,132	06/16/2003	2144	1132	190250-1160	14	6

CONFIRMATION NO. 7289

CORRECTED FILING RECEIPT

OC000000027716978

38823
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T Delaware Intellectual Property, Inc.
600 GALLERIA PARKWAY, S.E.
SUITE 1500
ATLANTA, GA 30339-5994

Date Mailed: 01/15/2008

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

Applicant(s)

Dale W. Malik, Dunwoody, GA;
Michael Jackson, Lithonia, GA;

Power of Attorney: The patent practitioners associated with Customer Number 24504

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/478,439 06/12/2003

Foreign Applications

If Required, Foreign Filing License Granted: 09/04/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/462,132**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Migrating from an old instant messaging (IM) platform to a new IM platform

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SEP 10 2003

Paper No. 4

In re Application of	:	
Gagik M. Fredenberg et al.	:	
Serial No. 10/462,133	:	DECISION ON PETITION
Filed: June 16, 2003	:	TO MAKE SPECIAL
For: AUTOMOBILE BODY DENT	:	
REPAIR TOOL	:	

Applicant's petition, filed June 16, 2003, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Gagik Fredenberg
2219 W. Bertona Street
Seattle, WA 98199

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Gagik Fredenberg
2219 W. Bertona St.
Seattle WA 98199

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APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Fredenberg et al. :
Application No. 10/462,133 :
Filed: June 16, 2003 :
Title: Automobile Body Dent Repair Tool :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed November 23, 2004, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from 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."

Petitioner filed a petition for revival of an application for patent abandoned for unavoidable delay under 37 CFR 1.137(a). However, the Office finance records indicate that petitioner did not submit the requisite petition fee.

The Office notes:

> 35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.
>
> In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137.

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

MPEP 711.03(c)(III)(B).

Accordingly, the petition will be treated under 37 CFR 1.181 to withdraw the holding of abandonment. A petition under 37 CFR 1.181 does not require payment of a fee for a decision on the merits.

This application became abandoned for failure to reply timely to the Notice of Non-Compliant Amendment mailed on February 3, 2004, which set a one-month period to respond. Accordingly, this application became abandoned on March 4, 2004. A Notice of Abandonment was mailed on November 2, 2004.

Under 37 CFR 1.181:

Petitioner contends that the delay occurred because the USPTO did not receive the response, which he filed timely with a certificate of mailing dated March 1, 2004. Petitioner's response was located in application no. "10/462,123." It appears that petitioner placed the wrong application number on the response. The Office transferred the response to the correct application, No. 10/462,133. As petitioner asserted, the response was filed timely on March 1, 2004, due to his utilization of the certificate of mailing procedure specified in 37 CFR 1.8. However, the reply is <u>not</u> <u>proper</u> because it <u>still</u> does <u>not</u> comply with the requirements of 37 CFR 1.121.

Accordingly, the petition under 37 CFR 1.181 is **dismissed**. **In any renewed petition, petitioner must submit an amendment in compliance with 37 CFR 1.121.**

Alternate Venue:

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b).

The Office further notes:

> Petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. Applicants determining whether to file a petition to revive an application under 37 CFR 1.137(b) or 1.137(a) should take the following into account: While the Office reserves the authority to require further information concerning the cause of abandonment and delay in filing a petition to revive, the Office relies upon the applicant's duty of candor and good faith and accepts the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" without requiring further information in the vast majority of petitions

> under 37 CFR 1.137(b). This is because the applicant is obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when a practitioner provides this statement to the Office. In addition, providing an inappropriate statement in a petition under 37 CFR 1.137(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96- 1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996)(unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional). Even if the Office requires further information in a petition under 37 CFR 1.137(b), such petition is still significantly less burdensome to prepare and prosecute than a petition under 37 CFR 1.137(a). The Office is almost always satisfied as to whether "the entire delay...was unintentional" on the basis of statement(s) by the applicant or representative explaining the cause of the delay (accompanied at most by copies of correspondence relevant to the period of delay). A showing of unavoidable delay will (in addition to the above) require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and experience of the persons responsible for the error; and (3)copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP § 711.03(c)(III)(C)(2). In addition, a petition under 37 CFR 1.137(a) must establish that the delay was unavoidable, and not just that it was unintentional. Thus, many petitions originally filed under 37 CFR 1.137(a) end up being granted under 37 CFR 1.137(b) when the applicant realizes that sufficient evidence concerning the delay is too difficult to obtain or the cause of delay simply does not amount to "unavoidable delay" within the meaning of 37 CFR 1.137(a). Since the requirements of 37 CFR 1.137(a) are more exacting than the corresponding requirements of 37 CFR 1.137(b), a petition under 37 CFR 1.137(a) is significantly less likely to be grantable as filed than is a petition under 37 CFR 1.137(b). The Office usually must render a number of interlocutory decisions dismissing a petition under 37 CFR 1.137(a) and requesting additional evidence until either the applicant provides a satisfactory showing of unavoidable delay (in which case the petition can be granted) or the Office concludes that the applicant cannot provide a satisfactory showing of unavoidable delay (in which case the petition must be denied). Thus, the period between when an applicant first files a petition to revive and the Office renders a decision granting (or denying) that petition will, more often than not, be much longer if the petition is under 37 CFR 1.137(a) than it would have been if the petition were under 37 CFR 1.137(b). 37 CFR 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

MPEP 711.03(c)(III)(C).

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. 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 § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) **The petition fee as set forth in § 1.17(m) in the amount of $750.00;**

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

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

For petitioner's convenience, a form for filing a petition under 37 CFR 1.137(b) is enclosed.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

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

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: PTO/SB/64 - Petition For Revival Of An Application For Patent Abandoned Unintentionally

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

Gagik Fredenberg
2219 W. Bertona St.
Seattle WA 98199

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JUL 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Fredenberg et al. : DECISION ON PETITION
Application No. 10/462,133 :
Filed: June 16, 2003 :
Title: Automobile Body Dent Repair Tool :

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Notice of Non-Compliant Amendment mailed on February 3, 2004, which set a one-month period to respond. Accordingly, this application became abandoned on March 4, 2004. A Notice of Abandonment was mailed on November 2, 2004.

On November 23, 2004, petitioner filed a petition under 37 CFR 1.137(a), which was treated as a petition to withdraw the holding of abandonment. The petition was dismissed by the decision of April 22, 2005. On June 23, 2005, petitioner filed the present petition under 37 CFR 1.137(b).

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted.**

The application file is being forwarded to Technology Center Art Unit 3725.

Telephone inquiries should 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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Alexandria, VA 22313-1450
www.uspto.gov

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T DELAWARE INTELLECTUAL PROPERTY, INC.
600 GALLERIA PARKWAY, S.E.
SUITE 1500
ATLANTA GA 30339-5994

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DEC 13 2007

OFFICE OF PETITIONS

In re Application of	:
Malik et al.	:
Application No. 10/462,136	: DECISION GRANTING PETITION
Filed: June 16, 2003	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 190250-1180	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 19, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/478,439, filed June 12, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/478,439, which was filed on June 12, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2151 for appropriate action on the amendment submitted November 19, 2007, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/478,439.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/462,136	06/16/2003	2151	1300	190250-1180	16	8

CONFIRMATION NO. 7287

CORRECTED FILING RECEIPT

38823
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T Delaware Intellectual Property, Inc.
600 GALLERIA PARKWAY, S.E.
SUITE 1500
ATLANTA, GA 30339-5994

OC000000027246514

Date Mailed: 12/12/2007

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

Applicant(s)

Dale W. Malik, Dunwoody, GA;
Michael Jackson, Lithonia, GA;
Jeffrey Allen Lord, Atlanta, GA;

Power of Attorney: The patent practitioners associated with Customer Number 24504

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/478,439 06/12/2003

Foreign Applications

If Required, Foreign Filing License Granted: 08/08/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/462,136**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Switching Internet service providers

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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AT&T Legal Department
Attn: Patent Docketing
One AT&T Way
Room 2A-207
Bedminster NJ 07921

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Malik et al.	:	
Application No. 10/462,136	:	DECISION ON PETITION
Filed: 06/16/2003	:	
Attorney Docket No. 190250-1180	:	

This is a decision on the petition under 37 CFR 1.181, filed August 4, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

On May 14, 2007, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. On August 7, 2007, the practitioner submitted a timely reply in the form of an amendment signed with the S-signature /afb/ with the signer's typed name and registration number, Anthony F. Bonner Jr. Reg. No. 55012, appearing below the S-signature.

On October 18, 2007, the Office mailed a Notice of Non-Compliant Amendment (37 CFR 1.121), which set an extendable period of one month or thirty days, whichever was longer, to reply. The Notice indicated that the amendment was not signed in accordance with 37 CFR 1.4 because the "S-signature" must consist of only letters or Arabic numerals, or both with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation.

In response, on November 19, 2007, the practitioner submitted an amendment signed with the S-signature /a.f.b./ with the signer's typed name and registration number, Anthony F. Bonner Jr. Reg. No. 55012, appearing below the S-signature.

On June 2, 2008, the Office mailed a Failure to Acceptably Respond to Notice of Non-Compliant Amendment (37 CFR 1.121) *No New Time Period for Reply is Provided*

(Notification), which stated that the amendment filed on November 19, 2007, failed to provide the corrective action required by the prior Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on October 18, 2007, and that both the originally filed amendment and the amendment filed in response to the prior notice, were considered to be non-compliant under 37 CFR 1.121. Specifically, the Notification indicated: "The signature is still not proper." "It must be typed out with a single forward slash before an after the name." Id. The Notification stated that the period for reply continued to run from the mailing date of the Notice of Non-Compliant Amendment of October 18, 2007, and that a correction must be timely filed to avoid abandonment of the application. Lastly, the Notification indicated that in no case may the applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in the prior Notice of Non-Compliant Amendment (37 CFR 1.121). Therefore, applicants were required to file a proper reply to the Notice of Non-Compliant Amendment on or before April 18, 2008, with a request for an extension of time for response within the fifth month (and fee) to avoid abandonment.

On August 4, 2008, the practitioner filed the present petition to withdraw the holding of abandonment in which he argued:

> Applicant respectfully submits that Mr. Bonner's signature (both in the original response of Exhibit B and the response to the NCA notice of Exhibit D) meet all the recruitments of 37 C.F.R. 1.4(d)(2)(i). More specifically, as indicated in the cited portions of 37 C.F.R. 1.4(d)(2)(i), there is absolutely no requirement that periods be placed between initials in an S-signature. The highlighted sections of 37 C.F.R. 1.4(d)(2)(i) merely indicate that an exception to the rule of using only alphanumeric characters is when the signor wishes to use spaces, punctuation, etc. in their S-signature. However, even if it is determined that such punctuation is required (a point that Applicant is not conceding), there is certainly no requirement that a full name be provided as an S-signature, as stated in the FAR notice. Nowhere in 37 C.F.R. 1.4(d)(2)(i) is there even a suggestion that a full name is required.

REMARKS of 08/04/08.

The Office has considered practitioners' arguments and reviewed the evidenced submitted on petition. The Office concurs with the practitioner that the S-signatures as they appear on the amendments of August 7, 2007, and November 19, 2007, comply with 37 CFR 1.4(d).

Section 502.02(II) of the Manual of Patent Examining Procedure reads, in pertinent part:

> An S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and punctuation (i.e., commas, periods, apostrophes, or

hyphens). "Letters" include English and non- English alphabet letters, and text characters (e.g., Kanji). Non-text, graphic characters (e.g., a smiley face created in the True Type Wing Dings font) are not permitted. "Arabic numerals" are the numerals 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9, which are the standard numerals used in the United States. **To accommodate as many varieties of names as possible, a signer may select any combination of letters, Arabic numerals, or both, for his or her S-signature under 37 CFR 1.4(d)(2)(i).** The person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones, Jr./). . . .

Commas, periods, apostrophes, and hyphens are often found in names and will therefore be found in many S-signatures. These punctuation marks and appropriate spaces may be used with letters and Arabic numerals in an S-signature. A sample S-signature including punctuation marks and spaces, between two forward slashes, is: /John P. Doe/. . . .

. . . . .

While an S-signature need not be the name of the signer of the document, the Office strongly suggests that each signer use an S-signature that has his or her full name. The Office expects that where persons do not sign with their name it will be because they are using an S-signature that is the usual S-signature for that person, which is his or her own signature, and not something that is employed to obfuscate or misidentify the signer. ...

37 CFR 1.4(d)(2)(ii) requires that a practitioner >(37 CFR 1.32(a)(1))< signing pursuant to 37 CFR 1.33(b)(1) or (b)(2) must place his or her registration number, either as part of, or adjacent, his or her S-signature. A number character (#) may only be used in an S-signature if it is prior to a practitioner's registration number that is part of the S-signature. . . .

The signer's name must be (A) presented in printed or typed form preferably immediately below or adjacent the S-signature, and (B) reasonably specific enough so that the identity of the signer can be readily recognized. See 37 CFR 1.4(d)(2)(iii)(A). . . .

MPEP 502.02(II) (emphasis added).

Moreover, the Office has provided further clarification of acceptable S-signatures by the public. The Office used the example of an S-signature /P/ with the signer's typed name and registration number (e.g. Peter Richmond #01234) below the S-signature and indicated that such a signature complied with 37 CFR 1.4(d). The Office noted that a one-

letter, or a one-Arabic number, S-signature is acceptable. Thus, the provisions of 37 CFR 1.4(d) place restrictions on the form of a S-signature but not on its content.

In view of the above, the Office agrees that both S-signatures are acceptable and comply with 37 CFR 1.4(d). Accordingly, the petition is GRANTED. The holding of abandonment is withdrawn and the application is restored to pending status in light of the filing of a timely and compliant reply to the nonfinal Office action.

This application is being referred to Technology Center Art Unit 2451 for action consistent with this decision.

Inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Conferee: Anthony Knight. Supervisor

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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POLYONE CORPORATION
33587 WALKER ROAD
AVON LAKE, OH 44012

Mail Date: 04/21/2010

Applicant	: Steven K. Geer	: DECISION ON REQUEST FOR
Patent Number	: 7074348	: RECALCULATION of PATENT
Issue Date	: 07/11/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/462,145	: OF WYETH
Filed	: 08/25/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DR. HENRY GANG
42, LEIGHTON AVE.
YONKERS, NY 10705

COPY MAILED
JAN 12 2009

In re Application of	:	
Henry Gang	:	
Application No. 10/462,148	:	ON PETITION
Filed: June 16, 2003	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 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 September 25, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further 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: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/462,148	Applicant(s) GANG, HENRY	
	Examiner Anthony J. Green	Art Unit 1793	

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

THE REPLY FILED 02 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 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: *44*.
   Claim(s) rejected: *42-49*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Anthony J. Green/
Primary Examiner, Art Unit 1793

Continuation of 3. NOTE: The insertion of "non-toxic" and "sequential order" into claim 41 is a new issue and "sequential oder" is believed to be new matter. The insertion of the term "optional" into claim 43 is a new issue as this component was previously required.. The changing of the term "and" to "or" in claim 44 is a new issue as previously all of the recited components were required as the foaming agent, charring agent, flame spread reduction material and thermal transmission resistance enhancer etc. The insertion of the phrase "and refractory" into claim 44 is a new issue and appears to be new matter. The insertion of the term "optional" into claim 44 is a new issue as this component was previously required. Claim 44 still depends from claim 42 in 2 separate instances. Claims 45-50 are inconsistent with claim 44 as claim 44 is not drawn to an intumescent mixture but rather a "product". The insertion of "aliquot" and "aliquots" into claim 48 is a new issue. The insertion of "or a combination of diammonium phosphate" into claim 49 is a new issue. In claim 49 the phrase "silicone-containing resin" is a new issue and also appears to be new matter.

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NOV 03 2009

OFFICE OF PETITIONS

DR. HENRY GANG
42, LEIGHTON AVE.
YONKERS, NY 10705

In re Application of	:	
Henry Gang	:	
Application No. 10/462,148	:	ON PETITION
Filed: June 16, 2003	:	
Attorney Docket No.	:	

This is a decision on the paper filed July 15, 2009 which is being treated as a petition under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 25, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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 amendment received July 15, 2009 did not place the application in condition for allowance. An Advisory Action from the primary examiner accompanies this decision.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

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

DR. HENRY GANG
42 LEIGHTON AVE.
YONKERS, NY 10705

MAILED

MAR 15 2010

OFFICE OF PETITIONS

In re Application of :
Henry Gang :
Application No. 10/462,148 :
Filed: June 16, 2003 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition filed January 4, 2010, which is being treated as a renewed petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1793 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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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MAY 19 2006

OFFICE OF PETITIONS

THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO CA 94080

In re Patent No. 6,951,963
Issued: October 4, 2005
Application No. 10/462,150
Filed: June 16, 2003
Attorney Docket No. P-151-US1

:DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT
: and
:NOTICE OF INTENT TO ISSUE
:CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN PATENT (37 CFR § 1.705)," filed November 14, 2005. Patentees request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eight (8) days to two hundred thirty-one (231) days.

The application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred thirty-one **(231)** days.

On October 6, 2004, the Office mailed a Notice of Allowance and a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Pursuant to the Notice of Allowance, the issue fee was due not later than January 6, 2005. The Notice stated that the patent term adjustment (PTA) to date was zero days. On October 4, 2005, the above-identified application matured into U.S. Patent No. 6,951,963, with a revised PTA of two hundred thirty-one (231) days. The instant application for PTA, filed November 14, 2005, was timely filed within two months of the patent grant. Patentees maintain that the patent should have issued with a patent term adjustment of 231 days.

Patentees dispute the entry of a period of reduction of 59 days for patentees taking in excess of three months to respond to the Notice of Allowance mailed October 6, 2004. Patentees submit evidence to show that the holding of abandonment for failure to timely respond to the Notice of Allowance was withdrawn based on their showing that a response had been timely filed on October 15, 2004. In support of a showing that the response was received October 15, 2004, patentees submitted a copy of the USPTO date stamped Issue Fee Transmittal.

A review of the application history reveals that according to the finance records, the issue fee in response to the Notice of Allowance mailed October 6, 2004 was timely

filed on October 15, 2004. A further review reveals that a second Notice of Allowance was mailed October 29, 2004 and because no response was timely filed, the application became abandoned, although erroneously. Patentees were advised of the abandonment by notice mailed March 22, 2005. In response, on October 29, 2005, patentees filed a petition to withdraw the holding of abandonment. It is specifically noted that the petition to withdraw the holding of abandonment was filed within two months from the mailing date of a notice of abandonment. See § 1.704(c)(4). Moreover, by decision mailed May 5, 2005, the petition was granted on the basis that patentees had shown that a proper response was filed on October 15, 2004.

In view thereof, it is concluded that patentees did not fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the Notice of Allowance by 59 days.

After the issuance of the patent however, additional delays have been recorded that again have caused the Patent Term to adjust. Specifically, 231 days were added for PTO delay in issuance of the patent four months after the payment of the Issue Fee.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is two hundred thirty-one days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred thirty-one **(231)** days.

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

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 : 6,951,963 B2

DATED : October 4, 2005

INVENTOR(S) : Junning Lee

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (8) days

Delete the phrase "by 8 days" and insert – by 231 days--

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NGUYEN & ASSOCIATES
16168 BLOSSOM HILL ROAD
LOS GATES, CA 95032

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Cahide Kiris	:	
Application No. 10/462,152	:	DECISION ON PETITION
Filed: June 16, 2003	:	TO WITHDRAW
Attorney Docket No. MediaQ-014	:	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 13, 2006.

The petition 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 Frank Nguyen on behalf of all attorneys/agents of record.

All attorneys/agents of record 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 named signing inventor; or (2) the intervening assignee of the entire interest. All future communications from the Office will be directed to the named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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

This application is being referred to Technology Center AU 2111 to await a reply to the non-final Office action mailed March 13, 2006.

David Bucci
Petitions Examiner
Office of Petitions

cc: CAHIDE KIRIS
2250 RAMONA STREET
PALO ALTO, CA 94301

ANTHONY MURABITO, PARTNER
WAGNER MURABITO & HAQ
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

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COMMISSIONER FOR PATENTS
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Paper No. 3

Donald J. MacDonald
McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford, CT 06103

MAILED

MAR 3 1 2004

Technology Center 2100

In re Application of:
Brian J. KESSELMAN, et al.
Application No. 10/462,157
Filed: June 16, 2003
For: DATABASE MONITORING SYSTEM WITH FORMATTED REPORT INFORMATION DELIVERY

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed March 9, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

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

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

cc: Mr. Michael Gabriele
Aspetuck Systems, Inc.
200 Connecticut Avenue
Norwalk, CT 06854

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

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of	:
Knut Meyer et al	:
Application No. 10/462,162	: DECISION GRANTING PETITION
Filed: June 16, 2003	: UNDER 37 CFR 1.137(b)
Attorney Docket No. CL2155USNA	:

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice) mailed October 23, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 24, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of October 23, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

The application file is being forwarded to the Office of Initial Patent Examination Division for preexamination processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL L. GOLDMAN
NIXON & PEABODY LLP
CLINTON SQUARE
P O BOX 31051
ROCHESTER, NY 14603-1051

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of	:
Erez Braun et al	:
Application No. 09/462,171	: DECISION GRANTING PETITION
Filed: March 27, 2000	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 201448/321	:

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

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : March 15, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/462,171**

Applicant(s) : Erez Braun et al
Application No. : 09/462,171
Filed : March 27, 2000

The above-identified application has been assigned Patent No. 6,872,968 and an issue date of March 29, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 29, 2005:

"All reference to Patent No. 6,872,968 to Erez Braun et al of Israel for MICROELECTRONIC COMPONENTS AND ELECTRONIC NETWORKS COMPRISING DNA appearing in the Official Gazette of March 29, 2005 should be deleted since no patent was granted."

Frances Hicks

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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SCOTT J. ROGERS
26793 MADISON AVE #101
MURRIETA, CA 92562

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of

Scott J. Rogers

Application No. 10/462,175

Filed: June 16, 2003

Attorney Docket No.

DECISION ON PETITION

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 2, 2004, which set a shortened statutory period for reply of three (3) months from its mailing date. An extension of time within the third month was obtained December 2, 2004. No further responses were filed within the allowable period. Accordingly, the application became abandoned on January 3, 2005. A Notice of Abandonment was mailed February 9, 2005.

A continuation-in-part application 11/588,888 was filed October 26, 2006.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

This application is being revived for continuity purposes only. Continuity having been established, the application is again abandoned in favor the continuation-in-part filed October 26, 2006.

The address as cited on the petition differs from the address of record. Although a courtesy copy of this petition is being mailed to the address as cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc: JOHN S. CHRISTOPHER
6033 WEST CENTURY BOULEVARD, SUITE #400
LOS ANGELES CA 90045-6416

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caj

Mailed : 1-12-07

In re Application of
Michael Bullock et al.
Serial No. 10/462,193
Filed: June 16, 2003
For: SYSTEMS INCLUDING REPLACEABLE FUEL CELL APPARATUS AND METHODS OF USING REPLACEABLE FUEL CELL APPARATUS

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT AND CONSTRUCTIVE ELECTION mailed October 23, 2006.

On August 17, 2006, Applicant responded to a non-final office action, amending claims 18, 20, 24, and 26, and adding mew claims 32-40. The examiner issued a final rejection on October 23, 2006, finding that new claims 32-40 were drawn to a species independent or distinct from the originally presented claims and constructively elected claims 18, 20, and 24-26 for prosecution.

On November 8, 2006, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Petitioner argues that the restriction as maintained is improper because the examiner has failed to demonstrate why the species are independent or distinct.

DECISION

Section 803 of the MPEP states:

803 Restriction — When Proper
Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 802.01, § 806.06, and § 808.01) or distinct (MPEP § 806.05 - § 806.05(j)).

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

The examiner states in the office action of October 23, 2006 that the newly amended claims are independent or distinct from the species originally examined. Petitioner argues that the examiner failed to provide reasons why the species are independent or distinct and further failed to identify the species to which the claims were restricted. This argument is persuasive. A review of added claims 32-40 finds that the new claims define the same essential characteristics of a single disclosed embodiment of an invention and are merely different definitions of the same disclosed subject matter, varying in breadth or scope. The terms "fuel cell apparatus" and "fuel cartridge" are used interchangeable in the specification. Refer to page 2, lines 1-5.

Furthermore, it is noted that the examiner has not established that any serious burden exists to examine all of the claims. As stated in MPEP Section 803, if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Accordingly, because there does not exist any patentably distinct species in the claims, and even if there were patentably distinct species present, as alleged by the examiner, no serious burden of search has been shown to exist by the examiner, the petition is **GRANTED**. The application is being forwarded to the examiner to examine all of the pending claims and issue a new office action accordingly.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINSTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
P.O. BOX 1343
PISCATAWAY NJ 08855-1343

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NOV 0 8 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Marian Holerca et al. :
Application No. 10/462,200 :
Filed: June 16, 2003 :
Attorney Docket Number: IR7073-01 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 8, 2004, 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 March 18, 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 June 19, 2004. This decision precedes the mailing of a Notice of Abandonment.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

Additionally, 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,

---

[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)).

since the $980.00 extension of time fee submitted with the petition on October 8, 2004, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 03-2455.

This application is being forwarded to Technology Center 1621 for appropriate action on the amendment filed October 8, 2004.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

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SEP 1 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Moriya Tsuji et al.	:	
Application No. 10/462,211	:	DECISION ON PETITION
Filed: June 13, 2003	:	
Patent No. 7,273,852	:	
Issued: September 25, 2007	:	
Attorney Docket No. 05986/100K391-US1	:	

This is a decision on the petition under 37 CFR 1.183 filed February 25, 2008, which has been properly 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**.

Petitioner indicates that the correct assignees are both New York University and The Research Foundation of the City University of New York, and that New York University was incorrectly omitted from 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 correct assignees on the front page of the Letters Patent in the patent to be issued from the application.

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

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). The processing fee set forth in 37 CFR 1.17(i) is equivalent to the fee set forth in 37 CFR 1.17(h), which was paid by credit card. Further, Office assignment records reflect that New York University and The Research Foundation of the City University of New York are the assignees of record, which assignments were submitted for recordation as set forth in § 3.11 before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Also, since the petition under 37 CFR 1.183 has been treated as a request under 37 CFR 3.81(b), the petition fee under 37 CFR 1.17(f) for consideration of a petition under 37 CFR 1.183 is not necessary.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Chow et al.	:	DECISION ON PETITION
Application No. 10/462,224	:	TO WITHDRAW
Filed: June 13, 2003	:	FROM RECORD
Attorney Docket No. 3614-121	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 27, 2006.

The request is **APPROVED**.

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

The request was signed by Vincent J. Gnoffo on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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.

Further, the Power of Attorney submitted on April 17, 2006 is hereby not accepted due to the lack of a Statement under 37 CFR 3.73(b). Applicants are reminded that there is no attorney of record at this time. Accordingly, all future correspondence will directed to the first named inventor, Alan Y. Chow, at the first address indicated below.

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 Buczo
Petitions Examiner
Office of Petitions

Cc:

ALAN Y. CHOW
191 PALAMINO PLACE
WHEATON, IL 60187

VEDDER PRICE KAUFMAN & KAMMHOLZ, P.C.
222 NORTH LASALLE STREET
CHICAGO, IL 60601

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650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

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JAN 13 2005

OFFICE OF PETITIONS

In re Application of :
Zulfikar Ahmed, et al. :
Application No. 10/462,228 : ON PETITION
Filed: June 12, 2003 :
Attorney Docket No. 29191.703 :

This is a decision on the petition under 37 CFR 1.182, filed April 9, 2004, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors has been changed as follows:

1. Zulfikar Ahmed
2. Hans Bitter

A corrected Filing Receipt is enclosed. Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center Art Unit 2857 for further prosecution.

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

Enclosure

OIPE JC94
APR 1 4 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor :	Michael Jahnke	
Appln. No.:	10/462,229	
Filed :	June 13, 2003	Group Art Unit: 1761
For :	DOUGH ADDITIVE	Examiner: L.T. Tran
Docket No.:	B765.12-0002	

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

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

Approved 1-23-06
Jacqueline M. Stone, Director
Technology Center 1700

I HEREBY CERTIFY THAT THIS PAPER IS BEING SENT BY U.S. MAIL, FIRST CLASS, TO THE COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, THIS

11th DAY OF April, 20 05.

PATENT ATTORNEY

Sir:

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☐ The attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☒ The attorneys/agents associated with Customer Number 27367

NOTE: This box can be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are non-payment for cost of prosecution

DATE 10-23-07

APPLICATION NUMBER 10/462244

DOC CODE Ref. Dec.
TC

DOC DATE 10/24/07

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T BLS INTELLECTUAL PROPERTY, INC.
600 GALLERIA PARKWAY
SUITE 1500
ATLANTA, GA 30339

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OFFICE OF PETITIONS

In re Application of	:	
Dale W. Malik et al	:	
Application No. 10/462,244	:	DECISION ON PETITION
Filed: June 16, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 190250-1170	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 9, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2157 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

THOMAS, KAYDEN, HORSTEMEYER & RISELEY
SUITE 1750
100 GALLERIA PARKWAY N.W.
ATLANTA, GEORGIA 30339

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/462,244	06/16/2003	2157	1048	190250-1170	16	5

CONFIRMATION NO. 7197

CORRECTED FILING RECEIPT

38823
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T BLS Intellectual Property, Inc.
600 GALLERIA PARKWAY
SUITE 1500
ATLANTA, GA 30339

OC000000026414276

Date Mailed: 10/23/2007

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

Applicant(s)

Dale W. Malik, Dunwoody, GA;
Michael Jackson, Lithonia, GA;
Jeffrey Allen Lord, Atlanta, GA;

Power of Attorney: The patent practitioners associated with Customer Number 24504

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/478,439 06/12/2003

Foreign Applications

If Required, Foreign Filing License Granted: 07/10/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/462,244**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Validating user information prior to switching internet service providers

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/15/08

TO SPE OF : ART UNIT 01791

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/462284** Patent No.: **7287564**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

SPE

1791 (1733)
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060308

DATE : March 8, 2006

TO SPE OF : ART UNIT 1714

SUBJECT : Request for Certificate of Correction on Patent No.: 6902760

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:

Vasu Jagannathan

SPE: Vasu Jagannathan **Art Unit** 1714

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Paper No. 6

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OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of :
Chee Tieng Wong :
Application No. 10/462,325 :
Filed: June 16, 2003 :
Attorney Docket No. 10313.13USD1 :

DECISION GRANTING PETITION

This is a decision on the petition filed October 21, 2003, requesting that the above-identified application retain the presently accorded a filing date of June 16, 2003, with page 2 of the specification as part of the original disclosure.

On June 16, 2003, the above-identified application was filed. On August 22, 2003, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers " (the "Notice"), stating that the application had been accorded a filing date of June 16, 2003, however, page 2 of the specification appeared to have been omitted. The Notice also required replacement drawings to be filed. Relative to the alleged omitted item, the Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on October 21, 2003, applicants filed the present petition, a copy pf page 2 of specification, and a copy of the Office date-stamped postcard receipt acknowledging 9 pages of specification.

Upon review of the record, page 2 of the specification was not located among the original application papers. The evidence is convincing, however, that page 2, accompanied the original application papers. Therefore, the application, including pages 2 of the specification, was complete on filing and entitled to the presently accorded filing date of June 16, 2003.

Accordingly, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of June 16, 2003, using the 9 pages encompassing the specification filed June 16, 2003.

The replacement drawings filed October 21, 2003, are noted and made of record.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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MAIL

JUL 21 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MILLER JOHNSON SNELL CUMMISKEY, PLC
800 CALDER PLAZA BUILDING
250 MONROE AVE N W
GRAND RAPIDS MI 49503-2250

In re application of:
Young-Seo Park
Application No. 10/462,327
Filed: June 16, 2003
For: **SYSTEM AND METHOD FOR GENERATING A MODIFIED IOTA PULSE FOR REDUCING ADJACENT CHANNEL INTERFERENCE (ACI) IN AN ISOTROPIC ORTHOGONAL TRANSFER ALGORITHM (IOTA) ORTHOGONAL FREQUENCY DIVISION MULTIPLEXING (OFDM) SYSTEM**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on December 17, 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 with Customer Number (20576) 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc:
MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAY 02 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MILLER JOHNSON SNELL CUMMISKEY, PLC
800 CALDER PLAZA BUILDING
250 MONROE AVE N W
GRAND RAPIDS, MI 49503-2250

In re Application of
Young-Seo Park
Application No. 10/462,333
Filed: June 16, 2003
For: **SYSTEM AND METHOD FOR REDUCING ADJACENT CHANNEL INTERFERENCE (ACI) IN A MULTICARRIER MODULATION SYSTEM**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on December 17, 2004.

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

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

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc:

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

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.go

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MAY 0 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MILLER JOHNSON SNELL CUMMISKEY, PLC
800 CALDER PLAZA BUILDING
250 MONROE AVE N W
GRAND RAPIDS, MI 49503-2250

In re Application of
Young-Seo Park
Application No. 10/462,333
Filed: June 16, 2003
For: **SYSTEM AND METHOD FOR REDUCING ADJACENT CHANNEL INTERFERENCE (ACI) IN A MULTICARRIER MODULATION SYSTEM**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on December 17, 2004.

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

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

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc:

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BRACEWELL & PATTERSON, LLP
PO BOX 61389
HOUSTON TX 77208-1389

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Fu et al.	:	
Application No. 10/462,339	:	ON PETITION
Filed: June 16, 2003	:	
Attorney Docket No. HSJ920030039US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 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 Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

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

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 1, 2006

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/462349 patent No.: 6,813,580

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The changes to column 15, line 10, and column 16 lines 3 and 16 do not apply because as stated in MPEP 1481 usually any mistake affecting claim scope must be corrected by reissue.

MARC S. HOFF
SUPERVISORY PATENT
TECHNOLOGY

SPE

2857

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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MILLER JOHNSON SNELL CUMMISKEY PLC
800 CALDER PLAZA BUILDING
250 MONROE AVE NW
GRAND RAPIDS MI 49503-2250

MAIL

JUL 26 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Park, Young- Seo
Application No. 10/462352
Filed: June 16, 2003
For: **SYSTEM AND METHOD FOR GENERATING A SPECTRAL EFFICIENT ROOT RAISED COSINE (RRC) PULSE FOR INCREASING SPECTRAL EFFICIENCY**

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 December 17, 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 attorneys/agents associated with Customer Number 20576 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.

Ken Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-7288

Cc: MOTOROLA, INC.
8000 WEST SUNRISE BOULEVARD
RM 1610
PLANTATION FL 33322-9947

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. 22205

George L. Rideout, Jr.
4400 Abbott Grove Drive
Crestwood KY 40014

MAR 10 2005

In re Application of:
MINE *et al.*
Serial No.: 10/462,353
Filed: June 16, 2003
Attorney Docket No.: **IGC-100**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed June 16, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item IX: Special status for patent applications relating to superconductivity.

A grantable petition to make an application special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IX, for an invention that relates to superconductivity materials, should be accompanied by a statement under 37 CFR 1.102 that the invention involves superconductive materials.

Accompanying the petition is a statement by George L. Rideout, Jr. that the invention involves superconductive materials.

For the above stated reasons, the petition is GRANTED.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and

Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

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

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Dean S. Irwin	:	
Application No. 10/462,375	:	DECISION REFUSING STATUS
Filed: June 16, 2003	:	UNDER 37 CFR 1.47(b)
For: DEVICE FOR ORAL UV	:	
PHOTO-THERAPY	:	

This is in response to the petition under 37 CFR 1.47(b), filed February 18, 2005 (Certificate of Mailing Date: February 16, 2005).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 16, 2003 without an executed oath or declaration and naming Dean S. Irwin as the sole inventor.

Accordingly, on July 16, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on February 18, 2005 (Certificate of Mailing Date: February 16, 2005), the instant petition and a five (5) month extension of time were filed.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;

(2) an acceptable oath or declaration;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest; and

(6) proof of irreparable damage.

Applicant lacks item (1), as set forth above.

As to item (1), applicant appears to demonstrate that the non-signing inventor was only presented with the declaration and assignment for application no. 10/462,375. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings) for application no. 10/462,375, the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration for application no. 10/462,375 which he was given. Accordingly, applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers for application no. 10/462,375 was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

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

Telephone inquiries should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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APR 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Dean S. Irwin	:	
Application No. 10/462,375	:	DECISION GRANTING PETITION
Filed: June 16, 2003	:	UNDER 37 CFR 1.47(b)
For: DEVICE FOR ORAL UV	:	
PHOTO-THERAPY	:	

This is in response to the "Request For Reconsideration Of Petition Under 37 CFR 1.47(b)," filed April 21, 2005.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the April 21, 2005 statement of facts of Mark J. Gallagher and the January 10, 2005 letter from the non-signing inventor's attorney, establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but refuses the request that he sign the declaration. In addition, petitioner has shown that PhotoMedex, Inc. has a proprietary interest in the above-identified application with the copy of the or assignment document. The petition fee has been paid. 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(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEAN S. IRWIN
1155 CAMINO DEL MAR, #154
DEL MAR, CA 92014

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APR 28 2005

OFFICE OF PETITIONS

In re Application of
Dean S. Irwin
Application No. 10/462,375
Filed: June 16, 2003
For: DEVICE FOR ORAL UV PHOTO-THERAPY

Dear DEAN S. IRWIN:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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

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

DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN TX 78768

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of
Schilling
Application No. 10/462,385
Filed: June 16, 2003
Attorney Docket No. 5858-00600

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3)
AND 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 15, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to a prior-filed PCT application (PCT/DE01/04575, filed December 7, 2001). This matter is also being treated under 37 CFR 1.55(c) and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to prior-filed foreign applications (German Application Nos. 20021834.4, filed December 22, 2000, and 10106297.4, filed February 2, 2001) and a PCT application (PCT/DE01/02120) filed June 8, 2001), as set forth in the concurrently filed amendment and application datasheet.

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

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

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

All requirements being met, the petition to accept an unintentionally delayed claim for priority under 37 CFR 1.78(a)(3) is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The 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.

It is noted that the foreign data referenced herein is taken from the application datasheet, and not the concurrently filed amendment submitted herewith.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being to referred to Technology Center Art Unit 2874 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/462,385	06/16/2003	2874	1384	5858-00600	25	4

CONFIRMATION NO. 6725

CORRECTED FILING RECEIPT

35617
DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN, TX 78768

OC000000027902818

Date Mailed: 01/24/2008

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

Applicant(s)

Harry Schilling, Eichstatt, GERMANY;

Power of Attorney:
Kevin Daffer--34146

Domestic Priority data as claimed by applicant

This application is a CON of PCT/DE01/04575 12/07/2001

Foreign Applications
GERMANY 20021834.4 12/22/2000
GERMANY 10106297.4 02/02/2001
GERMANY PCT/DE01/02120 06/08/2001

If Required, Foreign Filing License Granted: 08/28/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/462,385**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Device for transferring optical signals by means of planar optical conductors

Preliminary Class

385

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

10D79

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **12/5/2007**

TO SPE OF : ART UNIT **2800 (2832)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,833,520**

Attn: Lisa N. Klaus

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

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

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

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to enter changes as req. in COCIN? In eDan/Madras.

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

Thank You For Your Assistance

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

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

Comments:

It is Correct.
The proposed Correction is Correct
LK.

ELVIN ENAD
SUPERVISORY PATENT EXAMINER

OIPE JC48
MAR 1 4 2005
PATENT & TRADEMARK OFFICE

I hereby certify that this correspondence being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Commissioner of Patents and trademarks, Washington, DC 20231, on 3-8-2005

By Shirley A. Gonzales Date 3/8/05

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Date: 03/08/2005 **Patent Application:** 6,833,520 B1

Inventor(s): Marvin Glenn Wong, Ling Liu **Group Art Unit:** 2863

Serial No.: 10/462,395 **Examiner:** Lisa Klaus

Filed: Jun. 16, 2003

Title: Suspended Thin-Film Resistor

Attorney Docket No.: 10020329-1

REQUEST FOR ISSUANCE OF CERTIFICATE OF CORRECTION

Assistant Commissioner of Patents
Washington, DC 20231

Sir:

Agilent Technologies, assignee of the entire interest in the above-identified patent, respectfully request a Certificate of Correction to be issued in accordance with 37 CFR 1.322.

Enclosed herewith are two complete copies of Form PTO 1050 (Rev. 3-82) describing the various errors involved in the above patent. These errors occurred under Rule 322, and appear in Column and Line format.

Issuance of a Certificate of Correction to correct these errors is therefore respectfully requested.

We shall appreciate your returning to us one executed copy of this Certificate of Correction for attachment to our Letters patent. Please charge the $100.00 fee to our Deposit Account 50-1078.

Respectfully Submitted,

03/15/2005 FMETEKI1 00000021 501078 6833520
01 FC:1811 100.00 DA

By June L. Bouscaren
June L. Bouscaren
Reg. 37,928

Agilent Technologies, Inc.
Legal Department, DL429
PO Box 7599
Loveland, Colorado 80537-0599
Ph.No. (970) 679-3238

Certificate
MAR 1 7 2005
of Correction

MAR 1 8 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

COPY MAILED
DEC 1 8 2006
OFFICE OF PETITIONS

In re Application of :
Matthews, et al. :
Application No. 10/462,417 : ON PETITION
Filed: June 16, 2003 :
Attorney Docket No. 100704.010105 :
For: METHODS FOR PROVIDING INFORMATION OVER NETWORKS RESPONSIVE TO DIGITAL DEVICE USER REQUESTS

This is a decision on the petition under 37 CFR 1.181, filed November 29, 2006, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the final Office action, mailed March 29, 2006, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on June 30, 2006 for failure to reply to the March 29, 2006 final Office action. A Notice of Abandonment was mailed on October 10, 2006.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a petition for a three month extension of time and a Notice of Appeal were properly deposited in USPS Express Mail Service on September 29, 2006 and subsequently received in the Office. The undersigned finds this argument completely convincing, as these documents are present in the application file. It is noted that Office accorded a September 28, 2006 date of receipt for the extension of time and Notice of Appeal. This date of receipt is incorrect. The date of receipt should be September 29, 2006, as shown by the Express Mail label no. EV558528695US that was date stamped by the USPS on September 29, 2006. Express Mail label no. EV558528695US was listed on the itemized Express Mail Certificate filed with the petition for extension of time and Notice of Appeal. Office financial records shows that the three month extension of time fee and the Notice of Appeal fee were charged on October 4, 2006. The mailroom date for the

payment was September 28, 2006. It is apparent that the three month extension of time and Notice of Appeal were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the October 10, 2006 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 3714 to await receipt of an Appeal Brief or other proper filing.

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

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 3/11/05 **Paper No.:** _____

TO : **Supervisor, Art Unit** 2856

SUBJECT : Certificate of Correction Request in Patent No.: 6817230 B1

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

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.

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. NO. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☑ YES ☐ NO

☑ Comments: no new matter added. Corrects only grammatical & spelling errors. CDA

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
Supervisor

Hezron S. Williams

2856
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STRIKER STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

COPY MAILED

NOV 2 2 2005

OFFICE OF PETITIONS

In re Application of	:
Silke Wolff et al	:
Application No. 10/462,451	: DECISION GRANTING PETITION
Filed: June 16, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2664	:

This is a decision on the petition, filed November 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 1755 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John M. Haurykiewicz
FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis MN 55402-3901

COPY MAILED

JUN 1 7 2004

OFFICE OF PETITIONS

Applicant: Ziwica et al.
Appl. No.: 10/462,457
Filing Date: June 16, 2003
Title: APPARATUS AND METHOD FOR PRESELECTION OF A COATING PROGRAM IN POWDER COATING
Attorney Docket No.: 51896-279286
Pub. No.: US 2003/0232125 A1
Pub. Date: December 18, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on February 6, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains mistakes on page 1 in paragraph 0024 wherein "on" is missing from the phrase "is to be seen on the screen" and on page 2 in paragraph 0027 wherein "one of" is missing from the phrase "actuation of one of the buttons 12 to 15 will result in one of the presentations according to Figs. 3a to 3d to be shown in a second display level of the screen 11."

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The printing errors in paragraph 0024 wherein "on" is missing from the phrase "is to be seen on the screen" and in paragraph 0027 wherein "one of" is missing from the phrase "actuation of one of the buttons 12 to 15 will result in one of the presentations according to Figs. 3a to 3d to be

[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).

shown in a second display level of the screen 11" are Office errors, but they are minor typographical errors, which are clearly understandable. The first mistake is clearly a typographical error and the second mistake is also a typographical error, which is understandable from reading the specification and sentence in which the phrase is used, as terms and phrases are not read in a vacuum. In the same paragraph where the missing phrase "one of" occurs, an example is given where only one key (12) is pressed and Fig. 3a will appear, thus the example shows that only one key must be pressed, not all. 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" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 703-872-9306

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 4

Michael D. Stein
WOODCOCK WASHBURN LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103

MAILED

NOV 26 2003

Technology Center 2100

In re Application of:	)	
John C. Munson	)	
Application No. 10/462,462	)	**DECISION ON REQUEST FOR**
Filed: June 16, 2003	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD AND SYSTEM FOR ESTABLISHING NORMAL SOFTWARE SYSTEM BEHAVIOR AND DEPARTURES FROM NORMAL BEHAVIOR	)	

This is a decision on the Request To Withdraw from Representation filed November 10, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed November 10, 2003 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 Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: David Judson, Esquire
LOCKE LIDDELL & SAPP LLP
2200 Ross Avenue
Suite 2200
Dallas, TX 75201-6776

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/02/04

Bromberg & Sunstein LLP
125 Summer Street
Boston, MA

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/462468 received on 01/07/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/07/06

TO SPE OF : ART UNIT **2151**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/462489 6950411

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:

_____

_____

_____

_____

_____

SPE

2152
Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007.
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,950,411

APPLICATION NO.: 10/462,489

ISSUE DATE : September 27, 2005

INVENTOR(S) : Ozluturk et al.

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

IN THE SPECIFICATION

At column 4, line 46, delete "$O_{lbf} = \propto L$." and insert therefor -- $O_{lpf} = \propto L$.--.

At column 4, line 59, after the word "code", delete "C_t*" and insert therefor --c_t*--.

At column 5, line 4, delete "$\sum rc_t^* = \propto \sum c_p c_t^* + \beta \sum c_t c_t^* \sum nc_t^*$." and insert therefor --"$\sum rc_t^* = \propto \sum c_p c_t^* + \beta \sum c_t c_t^* + \sum nc_t^*$--.

At column 6, line 6, after the word "second", delete "**$133_{1\text{-}133n}$**" and insert therefor --**133_1-133_n**--.

At column 6, line 16, after the word "mixed", delete "**$117_1$14 117_n**" and insert therefor --**117_1 - 117_n** --.

IN THE CLAIMS

In claim 8, at column 9, line 40, after the word "produce", delete "a" and insert therefor --an--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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.

JAN 25 2006

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 3/11/05 **Paper No.:** _____

TO : **Supervisor, Art Unit** 2856

SUBJECT : Certificate of Correction Request in Patent No.: 6817,230 B1

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

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.

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922 PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☒ **YES** ☐ **NO**

☐ Comments: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Supervisor

2856

Art Unit

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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RICHARD A. JORDAN
P.O. BOX 81363
WELLESLEY HILLS MA 02481-0004

COPY MAILED

AUG 1 8 2005

OFFICE OF PETITIONS

In re Application of
Thomas Driemeyer et al.
Application No. 10/462,500
Filed: June 16, 2003
Attorney Docket No. MENT-020D2

ON PETITION

This is a decision on the petition filed August 5, 2005, to revive the above identified application under 37 CFR 1.137(a)[1] or in the alternative under 37 CFR 1.137 (b)[2].

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

A non-Final Office Action was mailed March 18, 2004 and set a three (3) month

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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 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);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

shortened statutory period for reply. On August 18 (certificate of mail date), petitioner's attorney of record, filed a response with a two month extension of time request. That response was not entered and a "Notice of Non-Compliant Amendment" was mailed November 16, 2004. Since the maximum period of time obtainable for an extension of time had elapsed and since no proper reply had been received, the application actually became abandoned as of September 19, 2004. The instant petition and decision on petition precede the mailing of a Notice of Abandonment.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the

---

[3] 35 U.S.C. § 133.

[4] 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).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

Petitioner asserts that they were unavoidably delayed from filing a timely response to the Office action due to the attorney of record's failure to take action in this matter, failure to respond to their inquiries regarding the status of this and other patent applications and finally his failure to advise the applicants that this and other patent applications had become abandoned.

In order to establish unavoidable delay, petitioner must demonstrate diligence on the part of the attorney of record in prosecution of the matter.[7] Since petitioners can't say for certain whether the attorney of record exercised any diligence with respect to the prosecution of this application, rather than unavoidable delay and a lack of diligence on the part of petitioner's chosen representative, the facts point more towards negligence on the part of the attorney of record. The series of events outlined in the petition suggest that they attorney of record may have been negligent in prosecuting the application and in failing to inform petitioner that the application had become abandoned.

Unfortunately, however, the U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inaction.[8] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative however does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133 or 37 CFR 1.137(a).[9]

As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

PETITION UNDER 37 CFR 1.137(b)

This petition, as filed in the alternative under 37 CFR 1.137(b), is granted.

---

[6] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[7] See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

[8] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[9] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

As the present petition was filed and decided under both 37 CFR 1.137(a) and (b), counsel's deposit account, No. 12-2315, has been charged in the amount of $500 for the unavoidable petition and $1500 for the unintentional petition.

Additionally, the revocation/power of attorney filed with the petition has been rejected. Prosecution of an application may be conducted by (1) the applicant(s), (2) the assignee as provided for under 37 CFR 3.71(b), or (3) a person having a special equity interest recognized by the Commissioner, such as an assignee of part interest. If adverse interests exist, then prosecution control might be given to the equitable claimant. In this case however, only one applicant/inventor has signed the revocation/power of attorney, and no assignment has been recorded, thus, a courtesy copy of this decision will be mailed to the address on the petition, but all future correspondence will be sent solely to the address of record.

This matter is being referred to Technology Center 2673 for appropriate treatment of the response filed August 5, 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

cc:
DAVID A. JACOBS
GESMER UPDEGROVE LLP
40 BROAD STREET
BOSTON, MA 02109

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
10/462,502	06/16/2003	1713	1212	51757-0051 (51757-286843)		29	3

CONFIRMATION NO. 8947

CORRECTED FILING RECEIPT

OC000000016315250

35395
WOMBLE CARLYLE SANDRIDGE & RICE, PPLC
CHEVRON PHILLIPS CHEMICAL COMPANY LP
P.O. BOX 7037
ATLANTA, GA 30357-0037

Date Mailed: 06/17/2005

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)

Max P. McDaniel, Bartlesville, OK;
Elizabeth A. Benham, Bartlesville, OK;

Power of Attorney: The patent practitioners associated with Customer Number **25395**.

Domestic Priority data as claimed by applicant

This application is a DIV of 09/923,641 08/07/2001 PAT 6,627,707
which is a DIV of 09/216,338 12/18/1998 PAT 6,294,494

Foreign Applications

If Required, Foreign Filing License Granted: 08/08/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/462,502

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Olefin polymerization processes and products thereof

Preliminary Class

526

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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MAIL

JUN 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MILLER JOHNSON SNELL CUMMISKEY, PLC
800 CALDER PLAZA BUILDING
250 MONROE AVENUE, N.W.
GRAND RAPIDS, MI 49503-2250

In re Application of :
Young-Seo Park :
Application No. 10/462,506 :
Filed: June 16, 2003 :
For: SYSTEM AND METHOD FOR GENERATING A ROOT RAISED COSINE ORTHOGONAL FREQUENCY DIVISION MULTIPLEXING (RRC OFDM) MODULATION :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on December 17, 2004.

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

Attorneys/Agents associated with Customer Number 20576 are withdrawn.

Accordingly, the request is **GRANTED**.

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

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

cc: MOTOROLA, INC.
1300 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

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: 1-13-06

In re application of:	Ralf Kummle	:	DECISION ON
Serial No.	10/462,516	:	PETITION
Filed:	June 16, 2003	:	
For:	METHOD AND DEVICE FOR PRODUCING A HOLLOW PROFILE	:	

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT: OFFICE ACTION NOT RECEIVED filed on September 16, 2005. The petition requests that the abandonment be withdrawn since the applicant did not receive the Restriction Requirement mailed December 28, 2004.

DECISION

Since the petitioner asserts that the applicant did not receive the Restriction Requirement mailed December 28, 2004, the request is accepted as a petition under 37 C.F.R. § 1.181 (no fee) and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.02 - NEW PROCEDURE TMOG 1170 O.G. 114).

The evidence presented by the petitioner complies with the requirements set forth in MPEP § 711.03(c). The evidence presented is sufficient to establish that the Restriction Requirement mailed December 28, 2004 was not received at the correspondence address. The evidence provided includes a statement by the petitioner that the Restriction Requirement mailed December 28, 2004 was not received. Also provided is a copy of the application docket records where the Restriction Requirement would have been posted had it been timely received. The instant petition also contains a statement attesting that a search of the file jacket was made, and the results of such a search revealed that the office communication was not received as is required by MPEP § 711.03(c).

Therefore any holding of abandonment for failure to timely file a proper response to the Restriction Requirement mailed on December 28, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for consideration of the response to the Restriction Requirement submitted with the petition.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

caf

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Alexandria, VA 22313-1450
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of	:	
SOE, et al.	:	
Application No. 10/462,527	:	DECISION GRANTING PETITION
Filed: June 16, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **674509-2045.2**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 25, 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 August 15, 2007 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 1761 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy

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.*

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

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 10/462,541 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.

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
Washington, DC 20231
www.uspto.gov

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 10/462,542 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.

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
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Signature of Reviewer, Office of Initial Patent Examination

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

Paper No. 6

SAMUELS, GAUTHIER & STEVENS LLP
SUITE 3300
225 FRANKLIN STREET
BOSTON MA 02110

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MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of	:
Dan Tannenberg	:
Application No. 10/462,543	: DECISION REFUSING STATUS
Filed: 16 June, 2003	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 7210	:

This is in response to the petition filed on 17 February 2004, under 37 CFR 1.47(b).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 16 June, 2003, without an executed oath or declaration. Accordingly, on 13 August, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 17 February, 2004 (certificate of mailing date 12 February, 2004), petitioners filed the present petition, surcharge, and a four (4) month extension of time.

Petitioner asserts that the inventor has been sent a copy of the application, but has orally refused to sign the declaration.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (2), (5), and (6).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[1]

The declaration filed with the present petition does not identify the title of the person signing on behalf of the assignee.

In regards to item (5), petitioners have not established that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.[2] Petitioners state that a copy of an assignment of the application by the inventor to Arlington Trading Corporation is enclosed, however, no assignment document signed by the inventor can be located among the papers filed with the petition.

---

[1] MPEP 409.03(b).

[2] MPEP 409.03(f).

Petitioners may establish proprietary interest by filing a copy of the employment agreement between the non-signing inventors and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant; or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

As to item (6), petitioners must provide a statement that the filing is necessary to prevent irreparable damage or to preserve the rights of the parties.[3]

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[3] MPEP 409.03(g).

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 07-04

Paper No. 9

SAMUELS, GAUTHIER & STEVENS LLP
SUITE 3300
225 FRANKLIN STREET
BOSTON MA 02110

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JUL 3 0 2004

OFFICE OF PETITIONS

In re Application of	:
Dan Tannenberg	:
Application No. 10/462,543	: DECISION ACCORDING STATUS
Filed: 16 June, 2003	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 7210	:

This is in response to the renewed petition filed on 8 July, 2004, under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petitioner has shown that the sole inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners shown, via the declaration of Camilla Laag, that a copy of the application was sent to the non-signing inventor on several occasions. The non-signing inventor, however, has orally refused during a telephone conversation to sign and return the declaration. In addition, petitioners have shown, via the assignment dated 14 October, 2000, from inventor Tannenberg to UTM Svenska AB, and the assignment dated 30 June, 2004, from UTM Svenska AB to Swiss Investment and Trust Corp., that petitioner Swiss Investment and Trust Corp. has a proprietary interest in the above-identified application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63, signed by Thorbjorn Laag, Founder of Swiss Investment and Trust Corp., and has demonstrated that such action is necessary to preserve the rights of the parties.

In accepting the present petition, the Office is construing Thorbjorn Laag, Founder of Swiss Investment and Trust Company, to be a person authorized to sign on behalf of the assignee. Petitioner must inform the Office if the is an incorrect interpretation.

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 listed on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 07-04

Dan Tannenberg
Bjorkhult, Gardham, S-461
95 TROLLHATTAN
SWEDEN

COPY MAILED

JUL 3 0 2004

OFFICE OF PETITIONS

In re Application of
Dan Tannenberg
Application No. 10/462,543
Filed: 16 June, 2003
For: Device and Method for Creating at Least One Reaction Zone in an Aquiphere

Dear Mr. Tannenberg:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703 308-6918. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SAMUELS, GAUTHIER & STEVENS LLP
SUITE 3300
225 FRANKLIN STREET
BOSTON MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/462,555	10/14/03	GEORGE C. MEI, ET AL.	NONE

Title:
LEAD-FREE NONTOXIC EXPLOSIVE MIX

Art Unit	Paper Number

Correspondence Address:
TODD E. GARABEDIAN, PH.D.
WIGGIN & DANA
ONE CITY PLACE
185 ASYLUM STREET
HARTFORD, CT 06508-1832

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 531,390

Grant Date: 15-Oct-03

Approved:
for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a)

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the 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 respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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ALEXANDRIA, VA 22313-1450
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#7

Paper No. 6

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

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DEC 09 2003

OFFICE OF PETITIONS

In re Application of	
Lawrence R. Foore et al	
Application No. 10/462,569	DECISION GRANTING STATUS
Filed: June 16, 2003	UNDER 37 CFR 1.47(A)
For: ANTENNA STEERING SCHEDULER FOR MOBILE STATION IN WIRELESS LOCAL AREA NETWORK	

This is in response to the petition under 37 CFR 1.47(a), filed November 5, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to the Office of Initial Patent Examination for preexamination processing.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

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

COPY MAILED

JAN 07 2004

OFFICE OF PETITIONS

In re Application of
Gainey et al.
Application No.10/462,582
Filed: June 16, 2003
Attorney Docket No. 2479.2170-001

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR § 1.47(a), filed December 8, 2003.

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).

The above-identified application was filed on June 16, 2003, without an executed oath or declaration. Accordingly, on November 21, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of an executed oath or declaration in compliance with § 1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of October 21, 2003.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a two (2) month extension of time was also submitted. In support of the petition, applicants submitted copies of correspondence which was mailed to the non-signing inventors.

A grantable petition under 37 CFR. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (2).

As to item (2) the declaration executed by Inventor Haenggi contains non-dated/non-initialed alterations to the signature block. Such alterations render the declaration unacceptable. A newly executed declaration for inventor Haenggi is required.

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 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

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

In re Application of
Kenneth Gainey, James Proctor, John Regnier, Jonathan Hughes, Stefan Haenggi and Michael Lynch
Application No. 10/462,582
Filed: June 16, 2003
Attorney Docket Number: 2479.2170-001
Title of Invention: COVERT SPATIALLY SEPARATED ANTENNA PACKAGE FOR REPEATER

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

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OFFICE OF PETITIONS

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 15, 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. The petition attest a copy of the application was sent to the non-signing inventors' last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that they refuse to execute the application papers.

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

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APR 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Chung Lun Yip	:	
Application No. 10/462,588	:	DECISION
Filed: June 13, 2003	:	ON PETITION
Atty Docket No.:	:	
U 014657-1	:	

This is a decision on the Request to Withdraw Holding of Abandonment, filed March 14, 2006. The petition is properly treated under 37 CFR 1.181.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 13, 2005. The Office action set a three (3) month period for reply. No reply having been received, this application became abandoned on August 14, 2005. A Notice of Abandonment was mailed March 7, 2006.

The instant petition

Applicant responds with the instant petition wherein Applicant avers that a timely reply to the Notice was filed on June 8, 2005, and was received by this Office as evidenced by Applicant's return-receipt postcard. Applicant provides that, due to a scrivener's error, the application number inadvertently identified a wrong digit. A review of the return-receipt postcard, and on the copy of the Amendment filed with the instant petition reveals that the application serial number listed thereon is application serial number 10/462,586, instead of 10/462,588.

The application papers filed June 8, 2005 have not been located in application serial number 10/462,586; however, in view of

Applicant's return-receipt postcard, it is apparent that the Response to Office action was filed in this Office on June 8, 2005, and due to errors on the part of applicant and this Office, was inadvertently misplaced. Accord MPEP 502.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The application will be referred to Technology Center 3765 for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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Box 8-24
Taipei Taiwan R.O.C.
CHINA

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Wen Ching Lai	:	
Application No. 10/462,590	:	ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. FAM171	:	

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

In response to the Notice of Allowance mailed August 30, 2004, petitioner hereby submits $750 for the petition to revive fee, $700 payment of the issue fee, $300 for payment of the publication fee and the statement of unintentional delay as required by 37 CFR 1.137(b).

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

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

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

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

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JJGJr: 11-03

Paper No: 5

REED SMITH LLP
SUITE 1400
3110 FAIRVIEW PARK DRIVE
FALLS CHURCH VA 22042

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NOV 1 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Ota, et al.	:	
Application No. 10/462,603	:	DECISION ON PETITION
Filed: 17 June, 2003	:	
Attorney Docket No. HITA.0404	:	

This is a decision on the petition filed on 12 May, 2002, under 37 C.F.R. §1.182 seeking to having accorded a filing date of 17 June, 2003, for several figures submitted (Figs. 13, 14 and 15) in response to a Notice of Omitted Items addressing Fig. 14F as described in the specification of the application, which figure the Office deemed omitted at the time of filing.

For the reasons set forth below: the petition under 37 C.F.R. §1.182 is **DISMISSED**.

The petition is properly treated under 37 C.F.R. §1.53(b), which will be considered in a companion decision.

Accordingly, the petition under 37 C.F.R. §1.182 is **dismissed**.

Because the 25 August, 2003, petition was not due to an error on the part of the Office, the petition fee authorized has been charged and will not be refunded.[1]

---

[1] This application was deposited on 17 June, 2003.

On 6 August, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (Filed Under 37 C.F.R. §1.53)" (the 6 August Notice) with a statement that "a filing date has been accorded" to the application. However, it appeared that "Figure(s) 14F described in the specification" appeared to have been omitted from the application.

The application is being forwarded to OIPE for such processing as is necessary. Thereafter the file will be forwarded to Technology Center 2800 for examination in due course, and at that time consideration by the Examiner as to Petitioner's submission of Figures 13, 14 and 15 as an amendment and requesting entry of those figures.

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

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

In response, Petitioner filed the instant petition under 37 C.F.R. §1.182 (and considered here properly under 37 C.F.R. §1.53) on 25 August , 2003, however, Petitioner does nothing therein to address the substance of the 6 August Notice, save that the juxtaposition of the terms "Process F" and "Figure 14F" may have triggered a misunderstanding that a "Figure 14F" was intended to be an element of the application papers.

Rather, Petition contends that he has submitted "drawings which were corrected to fix minor typographical errors and a Preliminary Amendment to correct to minor typographical errors in the specification * * *."

Analysis

A search of the official file reveals that on 17 June, 2003, Applicants filed at pages 4-5 a "Brief Description of the Drawings," which refers at page 5 to Fig. 14 * * * processes D - F * * *," and in the Fig. 14 there are identifications of "D" and "E," but no identification "F." Clearly, the "Notice of Omitted Item(s)" mailed on 6 August, 2003, was correct in stating that Fig. 14F described in the specification had been omitted. Therefore, the "Notice of Omitted Item(s) was properly mailed.

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JJGJr: 11-03

Paper No: 6

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FALLS CHURCH VA 22042

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NOV 1 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Ota, et al.	:	
Application No. 10/462,603	:	DECISION ON PETITION
Filed: 17 June, 2003	:	
Attorney Docket No. HITA.0404	:	

This is a decision on the petition filed on 12 May, 2002, (under 37 C.F.R. §1.182, and properly considered) under 37 C.F.R. §1.53(b) seeking to having accorded a filing date of 17 June, 2003, for several figures submitted (Figs. 13, 14 and 15) in response to a Notice of Omitted Items addressing Fig. 14F as described in the specification of the application, which figure the Office deemed omitted at the time of filing.

For the reasons set forth below, the petition under 37 C.F.R. §1.53(b) is **DISMISSED**.

This application was deposited on 17 June, 2003.

On 6 August, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (Filed Under 37 C.F.R. §1.53)" (the 6 August Notice) with a statement that "a filing date has been accorded" to the application. However, it appeared that "Figure(s) 14F described in the specification" appeared to have been omitted from the application.

In response, Petitioner filed the instant petition under 37 C.F.R. §1.182 (and considered here properly under 37 C.F.R. §1.53) on 25 August , 2003, however, Petitioner does nothing therein to address the substance of the 6 August Notice, save that the juxtaposition of the terms "Process F" and "Figure 14F" may have triggered a misunderstanding that a "Figure 14F" was intended to be an element of the application papers.

Rather, Petition contends that he has submitted "drawings which were corrected to fix minor typographical errors and a Preliminary Amendment to correct to minor typographical errors in the specification * * *."

Analysis

A search of the official file reveals that on 17 June, 2003, Applicants filed at pages 4-5 a "Brief Description of the Drawings," which refers at page 5 to Fig. 14 * * * processes D - F * * *," and in the Fig. 14 there are identifications of "D" and "E," but no identification "F."

Accordingly, the "Notice of Omitted Item(s)" mailed on 6 August, 2003, was correct in stating that Fig. 14F described in the specification had been omitted. Therefore, the "Notice of Omitted Item(s) was properly mailed and will not be withdrawn.

Accordingly, the petition under 37 C.F.R. §1.53(b) is **dismissed**.

Because the 25 August, 2003, petition was not due to an error on the part of the Office, the petition fee authorized has been charged and will not be refunded.

The application is being forwarded to OIPE for such processing as is necessary. Thereafter the file will be forwarded to Technology Center 2800 for examination in due course, and at that time consideration by the Examiner as to Petitioner's submission of Figures 13, 14 and 15 as an amendment and requesting entry of those figures.

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

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

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COOLEY GODWARD LLP
One Freedom Square
Reston Town Center
11951 Freedom Drive
Reston VA 20190-5656

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FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Callas, et al.	:	
Application No. 10/462,618	:	ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. PGPC-010/01US	:	

This is a decision on the petition under 37 CFR §1.137(b), January 18, 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)."

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed March 3, 2005, which set a shortened statutory period for reply of three (3) months. A proper response was not received within the allowable period, and the application became abandoned on June 4, 2005. A Notice of Abandonment was mailed November 30, 2006.

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

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

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

Examiner Longbit Chai has determined that the amendment filed January 18, 2007, failed to place the application in condition for allowance. A proper response must be filed with any renewed petition. A proper response would be a Request for Continued Examination under 37 CFR 1.114 or an amendment that places the application in condition for allowance.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

Inquiries regarding the deficiency of the amendment should be directed to Examiner Chai. Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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11951 Freedom Drive
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OFFICE OF PETITIONS

In re Application of	:	
Callas, et al.	:	
Application No. 10/462,618	:	ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. PGPC-010/01US	:	

This is a decision on the renewed petition under 37 CFR §1.137(b), April 4, 2008, to revive the above-identified application.

The renewed petition is **granted**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed March 3, 2005, which set a shortened statutory period for reply of three (3) months. A proper response was not received within the allowable period, and the application became abandoned on June 4, 2005. A Notice of Abandonment was mailed November 30, 2006. A petition under 37 CFR 1.137(b) was first filed on January 18, 2007, and dismissed by a decision mailed February 4, 2008.

The Request for Continued Examination filed April 4, 2008, is noted.

The address cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application file is being directed to Technology Center 2100, GAU 2131 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:

Cooley Godward Kronish, LLP
ATTN: Patent Group
5 Palo Alto Square
3000 EL Camino Real
Palo Alto, CA 94306-2155

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Townsend & Banta
c/o PortfolioIP
P.O. Box 52050
Minneapolis, MN 55402

MAY 15 2006

In re Application of:
WATANABE *et al.*
Serial No.: 10/462,641
Filed: June 17, 2003
Attorney Docket No.: **M&M-066-USA-P**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition under 37 C.F.R. § 1.181, filed on March 23, 2005, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED.**

A Notice of Allowance and Issue Fee Due (Notice) was mailed on February 04, 2004. Although no Notice of Abandonment has been mailed in this file, the application would have gone abandoned by operation of law at midnight on May 04, 2004.

Petitioner asserts that the Notice mailed on February 04, 2004, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Notices were not received and copy of the file docket where the Notice would have been entered, had it been received.

A review of the written record for the above-identified application shows that the Notice mailed on May 04, 2004 was returned to the USPTO on March 18, 2004, and again on February 04, 2005. There is no evidence in the file that the Notice was re-mailed after the March 18, 2004, return date. There is evidence that the Notice was mailed again on February 24, 2005, however, the mailing date, and hence the period for response, was not changed from February 04, 2004 date. It is further noted that the Notice mailed on February 24, 2005, was sent to an incorrect address. The Notice was returned to the USPTO as undeliverable on April 05, 2005. Further, there is no record in the application file of an attempt to re-mail of the Notice, pursuant to M.P.E.P. § 707.13.

Accordingly, it cannot be presumed that the Notice reached practitioner at the correspondence address of record. Therefore, the application was not abandoned in fact.

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

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

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

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

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TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/462,649

Filed: 6/17/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

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

The requester, Mr. Michael Mord Lewis, has satisfied the requirements for successfully requesting withdrawal.

Accordingly, the Request to Withdraw as Attorney is **GRANTED**.

Mr. Winston Hsu remains of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

Application No. 10/462,650

Filed: 6/17/03

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

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

The requester, Mr. Michael Mord Lewis, has satisfied the requirements for successfully requesting withdrawal.

Accordingly, the Request to Withdraw as Attorney is **GRANTED**.

Mr. Winston Hsu remains of record.

All future correspondence will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. The application is being returned to Technology Center 2600 central files to await action by the examiner in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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Paper No. 4

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MERRIFIELD VA 22116

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JUN 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Jiing Lin	:	
Application No. 10/462,651	:	DECISION ON REQUEST TO
Filed: June 17, 2003	:	WITHDRAW AS ATTORNEY
For: DISPLAY SYSTEM AND DRIVING	:	
METHOD THEREOF	:	

This is a decision on the request to withdraw as attorney/agent of record filed on May 18, 2004.

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

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney/agent requesting withdraw is not of record.

Further communications will be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 091404

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

SEP 29 2004

In re Application of:	:	
Ho *et al.*	:	
Serial No.: 10/462,652	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: June 17, 2003	:	
Attorney Docket No.: **ACMP0100USA0**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 2004.

The request is **DISMISSED.**

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed.

Winston Hsu remains as attorney of record at this time.

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

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

Clayton E. LaBalle

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Avenue, N. W.
Suite 700
Washington, DC 20036

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Patent No. 6,840,203	:	
Issue Date: January 11, 2005	:	
Application No. 10/462,677	:	ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. 030618	:	

This is a decision on the petition filed February 22, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

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PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

MAIL

FEB 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Cheng-Wen Huang
Application No. 10/462,686
Filed: June 17, 2003
For:

METHOD OF CHANING EMITTING LIGHT OF A MOBILE PHONE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on May 18, 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**.

Mord Michael Lewis have been withdrawn for the record.

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

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

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

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OCT 20 2004

OFFICE OF PETITIONS

In re Application of
Minoru Kusakabe et al.
Application No. 10/462,704
Filed: June 17, 2003
Attorney Docket No 00862.023107

: DECISION GRANTING PETITION

This is a decision on the petition filed September 10, 2004, in response to the "Notice of Omitted Items" mailed August 11, 2004, which is treated under 37 CFR 1.182.

The instant application was filed June 17, 2003 and a filing date was accorded. However, the Notice indicated that Figures 1A-B described in the specification appeared to have been omitted.

Petitioner asserts that Figures 1A-B were among the papers filed on June 17, 2003, and submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, that the application included twenty (20) sheets of drawings and bears a United States Patent and Trademark Office date-stamp of June 17, 2003. However, only nineteen (19) sheets of drawing figures is of record and while the postcard did not specifically itemize the number of Figures, it is obvious that Figures 1A-B were on sheet 1 of 20. Additionally, the postcard receipt lacks any notation of non-receipt of any item listed. In view thereof, the petition is **GRANTED.**

Given the basis for granting the petition, no petition fee is due and none will be charged.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on June 17, 2003 and Figures 1A-B submitted on petition September 10, 2004.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 2006-1109

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MAR 0 9 2004
OFFICE OF PETITIONS

In re Application of :
Bakhitar Alam Shah, et al. :
Application No. 10/462,752 :
Filed: June 17, 2003 :
Attorney Docket No. 44904.000552 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed December 30, 2003, to change the order of inventorship in the above-identified application.

The petition is **GRANTED.**

Office records have been corrected to reflect the desired order of inventorship. A corrected filing receipt accompanies this decision.

The matter is being referred to Technology Center 3700, Art Unit 3761 for further processing.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Frances Hicks at (703) 305-8680.

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

Frances Hicks
Frances Hicks
Petitions Examiner

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

Patrick Doody
Hunton and Williams
1751 Pinnalle Dr Ste 1700
McLean, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Bakhitar Alam Shah, et al.	:	
Application No. 10/462,752	:	DECISION ON PETITION
Filed: Jun 17, 2003	:	TO WITHDRAW
Attorney Docket No. 507US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2005.

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

A review of the file record indicates that the power of attorney to attorneys associated with Customer No. 21967 has been revoked by the assignee of the patent application on November 3, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Cheryl Gibson-Baylor at (571)272- 3213. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

cc: JOSEPH A TESSARI
TREDEGAR FILM PRODUCTS
1100 BOULDERS PARKWAY
RICHMOND VA 23225

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 29 2004

TECHNOLOGY CENTER 2100

NAIPO (North America International Patent Office)
P.O. Box 506
Merrifield, VA 22116

In re Application of:
Yi-Chi Huang, et al.
Application No. 10/462,756
Filed: June 17, 2003
For: METHOD OF ALLOCATING A BASIC INPUT/OUTPUT SYSTEM TO A SHADOW MEMORY

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 18, 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 continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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

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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OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Huard et al.	:	
Application No. 10/462766	:	DECISION DISMISSING PETITIONS
Filed: 06/17/2003	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 12296-26 US IC/lil	:	
	:	

This is a decision on the petition filed on October 29, 2007, which is treated as a petition filed under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c), and 119(e) for the benefit of priority to the prior-filed nonprovisional, PCT, and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d).

Petitioners should review the claim for priority to ensure that a reference is made to the first application and to every intermediate application. In this regard, while Application No. 10/409,475 contains a claim for the benefit of prior-filed PCT Application No. PCT/CA01/01468 which was made on filing, no claim to the benefit of prior-filed provisional Applications Nos. 60/241,740, 60/296,486, and 60/296,453 was present on filing. A claim to priority of the prior-filed provisional application was made on October 26, 2007. However, this claim was made outside of the time period specified in 37 CFR 1.78(a)(5)(ii).

Before the petition under 37 CFR 1.78(a)(3) can be granted in the present application, petitioner must file a grantable petition under 37 CFR 1.78(a)(6) in Application No. 10/409,475, accompanied by either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) to add the claims of benefit to the prior filed provisional applications.

Upon the grant of the petition filed in 37 CFR 1.78(a)(3) and (a)(6) in Application No. 10/409,475, petitioner may filed a renewed petition under 37 CFR 1.78(a)(3) and (a)(6) in the present application.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
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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OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A 2Y3
CANADA

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OFFICE OF PETITIONS

In re Application of	:
Huard et al.	:
Application No. 10/462766	: DECISION ON PETITIONS
Filed: 06/17/2003	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 12296-26 US IC/lil	:

This is a decision on the "PETITION FOR AN UNINTENTIONALLY DELAYED BENEFIT CLAIM," filed on July 16, 2008, which is treated as a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c), and 119(e) for the benefit of the prior-filed applications set forth in the supplemental amendment filed on October 29, 2007.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional or international application claiming the benefit of the prior-filed

provisional applications must have been filed within twelve months of the filing date of the prior-filed provisional applications.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120, 365(c), and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3714 for consideration by the examiner of the claim under 35 U.S.C. §§120, 365(c), and 119(e) of the prior-filed nonprovisional, international, and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/462,766	06/17/2003	3714	814	12296-26 US IC/lil	56	2

CONFIRMATION NO. 9237

CORRECTED FILING RECEIPT

OC000000032282878

20988
OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL, QC H3A2Y3
CANADA

Date Mailed: 09/30/2008

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

Applicant(s)

Marcel Huard, St-Romuald, CANADA;
Real Berube, St-Jean-Chrysostome, CANADA;
Martin Benoit Gagnon, Charlesbourg, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number 020988

Domestic Priority data as claimed by applicant

This application is a CIP of 10/409,475 04/09/2003
which is a CON of PCT/CA01/01468 10/22/2001
which claims benefit of 60/241,740 10/20/2000
and claims benefit of 60/296,486 06/08/2001
and claims benefit of 60/296,453 06/08/2001

Foreign Applications

If Required, Foreign Filing License Granted: 09/03/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/462,766**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Method and apparatus for the rewarding of the interest of a user in an activity

Preliminary Class

463

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : August 21, 2007
Serial No. :10/462795
Patent No. :7,224,718 B2
Patent Issued : May 29, 2007
Inventor(s) : Chun-Jung Chang, et al.
Title :SLOT SYNCHRONIZATION FOR A CDMA

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.

Respecting the alleged error noted in your request:

A petition under C.F.R. 1.182 is required to correct the alleged error in an inventor's address, since the inventor's address is printed in accordance with the *"Residence Address in assigned patents or P.O. Box Address for not assigned patents"* on the Declaration. The error is the result of applicant's failure to comply with requirements that the complete and correct address be indicated, no correction is in order here under the provisions of Rule 1.322 or 1.323, unless a petition is granted.

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

Any petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Mail Stop Petitions
Alexandria, VA 22313-1450

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

Magdalene Talley

For Cecelia B. Newman, Supervisor
Decision and Certificate
Of Correction Branch
(703)308-9390 ext. 116
Fax (703) 746-4656

Winston Hsu
P.O. Box 506
Merrifield, VA 22116

CBN/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

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SEP 12 2008

In re Patent No. 7,224,718	:	
Issued May 29, 2007	:	
Application No. 10/462,795	:	DECISION ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. ACMP0080USA	:	

This is a decision on the petition filed December 13, 2007, under 37 CFR 1.182, requesting a certificate of correction to correct the residence city of the first named inventor.

Although the patent is printed based on the information found on the oath or declaration, in accordance with the petitioned request and the certificate of correction, the inventor's residence city has been corrected to reflect that the city is Kao-Hsiung (TW).

This matter is being referred to the Certificate of Corrections Branch for issuance of a certificate of correction. Questions regarding the certificate of correction should be directed to that branch at 703-305-8309, inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAY 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,424,892	:	
Lanoie et al.	:	
Issued: September 16, 2008	:	DECISION ON REQUEST FOR
Application No. 10/462,817	:	RECONSIDERATION OF
Filed: June 17, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
017835-0382	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed on November 5, 2008. Patentees request that the patent term adjustment indicated on the face of the patent be corrected from 66 days to 295 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 16, 2008, the above-identified application matured into US Patent No. 7,424,892 with a patent term adjustment of 66 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

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

Patentees assert that they are entitled to additional patent term adjustment pursuant to Wyeth v. Dudas.[1] Patentees request recalculation of the patent term adjustment to include a 229 day period of adjustment pursuant to 37 C.F.R. §1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 229 days and the period of adjustment due to other examination delay, pursuant to 37 CFR §1.702(a), of 274 days.

The 229 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on June 17, 2003, and a request for continued examination (RCE) having been filed in this application on February 1, 2007, three years and 229 days later. Patentees assert that in addition to this 229 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 274 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1). A first non-final Office action was mailed on May 18, 2005, 14 months and 274 days after the application was filed on June 17, 2003.

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 208 days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay terminated by the filing of an RCE (229 days) and the period of Examination Delay (274 days) to the extent that these periods of delay are not overlapping. However, in effect, Patentees contend that no portion of the Three Year Delay period overlaps with the period of 14 month examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 503 days, which is the sum of the period of Three Year Delay (229

[1] 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

days) and the period of Examination Delay (274 days), reduced by the period of overlap (0 days).

As such, Patentees assert entitlement to a patent term adjustment of 295 days (229 + 274 reduced by 0 overlap - 208 (applicant delay)).

The Office agrees that as of the filing of the RCE on February 1, 2007, the application was pending 3 years and 229 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 274 days is correct. At issue is whether Patentees should accrue 274 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 274 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 229 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C.

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (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).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). 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. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap"

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[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, June 17, 2003, as terminated by the filing of the RCE on February 1, 2007. 274 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of the 229 days for Office delay in issuance of the patent, as terminated by the filing of an RCE, overlap with the 274 days of Office delay accorded prior to issuance of the patent. 274 days is determined to be the actual number days that the issuance of the patent was delayed, considering the 229 days over three years to the filing of the RCE.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

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 the Deputy Commissioner
for Patent Examination Policy

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WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE, NY 13202

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MAY 26 2005

Director's Office
Group 3700

In re application of Thomas D. Radcliff	:	**NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313**
Serial Number: 10/462,855 Filed: June 17, 2003	:	

For: **ORAGANIC RANKINE CYCLE SYSTEM FOR USE WITH A RECIPROCATING ENGINE**

The above-identified application is withdrawn from issue after payment of the issue fee to permit reopening of prosecution, due to newly discovered prior art. The examiner will communicate an office action to you.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the applicant.

Telephone inquiries should be directed to Tom Denion at (571) 272-4859.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Richard A. Bertsch, Director
Technology Center 3700
571-272-3750

rt/ 5/26/05

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Office of the Director
Group 3600

Sieberth & Patty
R. Andrew Patty II
2924 Brakley Drive, Suite A1
Baton Rouge, LA 70816

Paper No. 4

In re Application of:	:	
Daniel F. Becker	:	DECISION ON PETITION
Serial No. 10/462,856	:	TO MAKE SPECIAL
Filed: June 17, 2003	:	(ENVIRONMENTAL
For: SYSTEM FOR GROWING VEGETATION ON	:	QUALITY)
AN OPEN BODY OF WATER	:	

This is a decision on the petition filed January 12, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition states in part that the invention relates to "systems for restoring vegetation in marshland or similar areas" and "contribute[s] to the restoration or maintenance of water and/or soil ... by altering hydrology ... by mitigating increased coastal erosion ... by cleaning up aquatic chemical spills and/or leaks ... and by bioremediating water bodies containing undesirable levels of certain substances." This statement is adequate to establish for the record that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life sustaining natural elements."

For the above stated reasons, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any

interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/mjz: 2/27/04

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STEVENS LAW GROUP
1754 TECHNOLOGY DRIVE
SUITE #226
SAN JOSE CA 95110

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In re Application of	:	
Carl J. COOPER	:	
Application No. 10/462,867	:	DECISION ON PETITION
Filed: June 16, 2003	:	
Attorney Docket No. PIXL-03503	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 07, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 23, 2008, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of December 23, 2008 is accepted has being 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 2421 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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WILLIAM S. LOVELL
6435 N. E. NEPTUNE DR.
LINCOLN CITY OR 97367

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SEP 20 2004

OFFICE OF PETITIONS

In re Application of	:	
William S. Lovell	:	
Application No. 10/462,868	:	ON PETITION
Filed: 13 August, 2004	:	
Attorney Docket No. LOVE03	:	

This is a decision on the petition under 37 CFR 1.137(a), filed on 13 August, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned on 7 July, 2004, for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due mailed on 6 April, 2004, which set a three (3) month period for reply. Notice of Abandonment was mailed on 9 August, 2004.

Petitioner asserts that he suffers from polymyalgia rheumatica, which causes intense pain and the petitioner to be bound to a wheelchair. Petitioner states that a "recent upsurge of those symptoms rendered Applicant barely functional for an extended period of time, sufficiently so as to be unable to direct any attention to anything more than simply getting through the day."

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 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)).

The present petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are

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, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between 6 July and 13 August, 2004. Such a showing must be supported by a statement from petitioner's treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period. Petitioner must provide a statement from petitioner's treating physician listing in detail the diagnosed disability affecting petitioner, the time period during which petitioner was or is incapacitated, and the degree to which the disability has impaired and continues to impair petitioner's ability to prosecute the instant patent application.

The showing of record is insufficient to establish unavoidable delay because petitioner was apparently successfully prosecuting his application, despite his diagnosis, until the issue fee was due. Petitioner has provided no evidence of a sudden or unexpected decline in his physical condition which rendered him unable to continue prosecution of his patent application after 6 July, 2004. Petitioner must provide a statement from the treating physician showing the time period during which petitioner was or is incapacitated, and the degree to which the disability has impaired and continues to impair his ability to prosecute this application. Petitioner must also provide, with any renewed petition, an explanation of the steps taken to prevent abandonment, and, once the abandonment was discovered, what actions were taken to revive the application.

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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).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

It is further noted that petitioner states that the failure to pay the issue fee on time was unintentional. As petitioner has not shown the delay to be unavoidable, petitioner may wish to pursue revival under the unintentional standard as described *infra*.

Petitioner has provided no evidence showing unavoidable delay. The petition will therefore be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[3], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional 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).

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement

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WILLIAM S. LOVELL
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OFFICE OF PETITIONS

In re Application of	:	
William S. Lovell	:	
Application No. 10/462,868	:	ON PETITION
Filed: 13 August, 2004	:	
Attorney Docket No. LOVE03	:	

This is a decision on the renewed petition under 37 CFR 1.137(a), and in the alternative, under 37 CFR 1.137(b), filed on 22 November, 2004 (certificate of mailing date 18 November, 2004), to revive the above-identified application.

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

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

This application became abandoned on 7 July, 2004, for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due mailed on 6 April, 2004, which set a three (3) month period for reply. Notice of Abandonment was mailed on 9 August, 2004. The petition under 37 CFR 1.137(a) filed on 13 August, 2004, was dismissed on 20 September, 2004.

Petitioner again asserts unavoidable delay on the basis of physical incapacitation. In the alternative, petitioner requests that the application be revived under the unintentional standard of 37 CFR 1.137(b).

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 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)).

The present petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are

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, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between 6 July and 13 August, 2004. Such a showing must be supported by a statement from petitioner's treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period. Petitioner must provide a statement from petitioner's treating physician listing in detail the diagnosed disability affecting petitioner, the time period during which petitioner was or is incapacitated, and the degree to which the disability has impaired and continues to impair petitioner's ability to prosecute the instant patent application.

In the renewed petition, petitioner states that he been unable to obtain the requested statement from the treating physician. As such, although petitioner's situation is unfortunate, the Office is unable to grant the requested relief. As petitioner has not provided a sufficient showing of unavoidable delay, the renewed petition under 37 CFR 1.137(a) is therefore again dismissed.

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

The Terminal Disclaimer filed on 22 November, 2004, is not required since the application was not filed prior to 8 June, 1995. Therefore the Terminal Disclaimer has not been accepted and will not be entered, but will be placed in the application file. Petitioner may request a refund of the Terminal Disclaimer fee by writing to the Office of Finance, ATTN: Refund Section. A

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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).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

copy of this decision should accompany petitioner's request.

The application will be referred to Technology Center Art Unit 2819 for review of the amendment filed with the present petition as an amendment filed after allowance.

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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2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-7195

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OFFICE OF PETITIONS

In re Application of	:	
Bowles et al.	:	
Application No. 10/462,875	:	DECISION ON PETITION
Filed: 16 June, 2003	:	
Atty Docket No. 021799-076US	:	

This is a decision on the petition filed on 16 August, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 1 October, 2004, for failure to timely reply to the Office action requiring restriction/election mailed on 30 August, 2004, which set a one (1) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has submitted an amendment directed to the restriction/election requirement.

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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 Change of Correspondence Address request filed with the present petition cannot be accepted because it was not signed by an attorney of record. Specifically, a review of Office records reveals registered patent attorney Monte R. Rhodes, who signed the change of correspondence address and the present petition, is not listed as an attorney of record for the present application for patent. A courtesy copy of this decision will be mailed to the address listed on the petition. All future correspondence will be mailed solely to the address 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.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center Art Unit 3725 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: Monte R. Rhodes
Locke Liddell & Sapp, LLP
600 Travis Street, Suite 3400
Houston TX 77002-3095

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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Paper No. 6

PAUL S MADAN
MADAN, MOSSMAN & SRIRAM, PC
2603 AUGUSTA, SUITE 700
HOUSTON TX 77057-1130

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DEC 22 2003

OFFICE OF PETITIONS

In re Application of
Chemali, et al.
Application No. 10/462,884
Filed: June 16, 2003
Attorney Docket No. 414-34639-US
For: FORMATION RESISTIVITY MEASUREMENT SENSOR CONTAINED ONBOARD A DRILL BIT (RESISTIVITY IN BIT)

: DECISION GRANTING
: PETITION

This decision is mailed in response to the paper entitled, "REQUEST TO CORRECT ERRORS TO THE FILING RECEIPT," filed October 23, 2003 (certificate of mailing date October 20, 2003. The paper will be treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of June 16, 2003, rather than the presently accorded filing date of June 17, 2003.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on June 16, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV3222404036US showing a "date-in" of 6/16/03 **and** a USPS date stamp of JUN 16 2003. 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. EV3222404036US was deposited with the USPS on June 16, 2003.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **June 16, 2003**. OIPE will address the correction of the title, as well.

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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JUL 19 2004

Paper No. 7

In re Application of
David C. Roberts *et al*
Application No. 10/462,897
Filed: June 13, 2003
Attorney Docket No. 29498/39287

DECISION ON PETITION

This is a decision on the petition filed on June 10, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated November 4, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that the application is not abandoned because a reply to the Office letter in question was actually filed on December 8, 2003. Petitioners have supported this allegation by furnishing a copy of the reply and a copy of a post card filing receipt for the reply that shows that the reply was in fact received in the Office on December 8, 2003. In addition, the reply has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated December 4, 2003, a date within the period for filing a reply to the Office letter in question. Based upon this evidence, it is clear that this application is not abandoned. In particular, see 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply filed on December 8, 2003, certificate of mailing date December 4, 2003. Thereafter, the application will be forwarded to the examiner for action on the reply.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Marshall, Gerstein & Borun LLP
6300 Sears Tower
233 S. Wacker Drive
Chicago, IL 60606

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OFFICE OF PETITIONS

KODA & ANDROLIA
2029 CENTURY PARK EAST
SUITE 1140
LOS ANGELES CA 90067-2983

In re Application of
Nishiura, et al.
Application No. 10/462,928
Filed: June 17, 2003
Title: Initial Ball Forming Method for Wire Bonding Wire and Wire Bonding Apparatus

: DECISION GRANTING PETITION
: AND WITHDRAWING THE
: HOLDING OF ABANDONMENT

This is a decision on the paper titled "PETITION TO REVIVE THE APPLICATION", filed March 7, 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed November 23, 2004. This Office action set a shortened statutory period for reply of three (3) months. No response having been received, the application became abandoned on February 24, 2005. A Notice of Abandonment was mailed on August 2, 2005.

It is obvious from reviewing the application file that both the non-final Office action and the Notice of Abandonment were mailed to the incorrect address.[1]

---

[1] A Power of Attorney and Change of Correspondence Address were filed in application number 09/699,236 on November 4, 2004, but were mistakenly entered and processed into the instant application.

Accordingly, the holding of abandonment is withdrawn.

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

The Change of Correspondence Address filed August 4, 2005 has been entered. Future correspondence will be mailed to the above address of record.

The application is being forwarded to Group Art Unit 1725 for re-mailing of the Office action mailed November 23, 2004, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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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
10/462,932	06/16/2003	1763	894	2000.105500	2	28	3

CONFIRMATION NO. 8640

CORRECTED FILING RECEIPT

OC000000011580173

J. Mike Amerson
Williams, Morgan & Amerson, P.C.
Suite 1100
10333 Richmond
Houston, TX 77042

Date Mailed: 12/29/2003

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)

Gunter Grasshoff, Radebeul, GERMANY;
Christoph Schwan, Gebhardshain, GERMANY;
Matthias Schaller, Dresden, GERMANY;

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 102 60 614.5 12/23/2002

If Required, Foreign Filing License Granted: 08/18/2003

Projected Publication Date: 06/24/2004

Non-Publication Request: No

Early Publication Request: No

Title

Plasma parameter control using learning data

Preliminary Class
156

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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SHOOK, HARDY & BACON L.L.P.
(Cerner Corporation)
Intellectual Property Department
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Mail Date: 04/21/2010

Applicant	: John F. Travis	: DECISION ON REQUEST FOR
Patent Number	: 7634419	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/462,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1016** 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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WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE NY 13202

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Radcliff :
Application No. 10/463,002 :
Filed: June 17, 2003 :
Attorney Docket No. 965-024 :
For: CONTROL OF FLOW THROUGH A VAPOR GENERATOR

DECISION
ON PETITION

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

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the May 24, 2005 Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on August 25, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the May 24, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/463,009	06/16/2003	Jeffrey McKenna	700755-999105	8791

20583 7590 12/30/2005

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

EXAMINER
ROYDS, LESLIE A

ART UNIT	PAPER NUMBER
1614	

DATE MAILED: 12/30/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

Paper No: 22 Dec 2005

JONES DAY
222 East 41st Street
New Your, NY 10017

In re Application of:	McKenna *et al.*	
Application No.:	10436009	
Filed:	16 Jun 2003	DECISION ON PETITION TO CORRECT INVENTORSHIP
Attorney Docket No.:	700755-999105	
For:	Compounds Useful For The Treatment Of Cancer, Compositions Thereof And Methods THerewith	

The request to correct the inventorship by adding inventor Michele Paganohas been reviewed, but is found to be defective for the following reasons:

- The declaration is defective because it fails to provide a post office address for inventor Veronique Plantevin. Inventor Plantevin has crossed through and initialed a corresponding post office address, but has not provided a new, replacement address.
- The assignments of the rights to the invention appear to conflict. PTO records indicate inventors McKenna, Mercurio and Plantevin assigned the rights to the invention to Signal Pharmaceuticals. The papers submitted to correct inventorship under 37 C.F.R. 1.48(a) indicate inventor Michele Pagano is executing an assignment to New York University.

For these reasons, Applicant's request to correct the inventorship of the present application under 37 C.F.R. 1.48(a) is NOT GRanted.

Inquiry concerning this communication or earlier communications from the Examiner should be directed to Leslie A. Royds, whose telephone number is (571)-272-6096. The Examiner can normally be reached Monday through Friday, 8:30 AM to 6:00 PM. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Christopher Low, can be reached on (571)-272-0951. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300. Questions regarding to this letter should be directed to the undersigned as indicated below.

Christopher S.F. Low 22 Dec 2005

Christopher S. F. Low
Supervisory Patent Examiner
Art Unit 1614 (571) 272-0951
Christopher.low@uspto.gov

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FORD GLOBAL TECHNOLOGIES, LLC.
SUITE 600 - PARKLANE TOWERS EAST
ONE PARKLANE BLVD.
DEARBORN MI 48126

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OFFICE OF PETITIONS

In re Application of	:	
Azzouz et al.	:	
Application No. 10/463,013	:	ON PETITION
Filed: 17 June, 2003	:	
Att'y Docket No. 199-2027	:	

This is a decision on the petition filed on 10 March, 2005, which is treated as a petition under 1.137(b),[1] to revive the above-identified application.

---

[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)).

The petition is **GRANTED**.

This application became abandoned on 24 February, 2005, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed on 23 November, 2004, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The petition fee of $1,500.00 will be charged to counsel's deposit account, No. 06-1510, as authorized in the present petition.

The application will be referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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LEV INTELLECTUAL PROPERTY CONSULTING
4766 MICHIGAN BOULEVARD
YOUNGSTOWN OH 44505

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OFFICE OF PETITIONS

In re Patent No. 7,028,434 :
Issue Date: April 18, 2006 :
Application No. 10/463,043 : ON PETITION
Filed: June 17, 2003 :
Attorney Docket No. 0050-008 (C) :

This is a decision on the petition filed March 7, 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. This is also being treated as a decision on the petition under 37 CFR 1.182 to reprint the assignee's name on the front page of the Letters Patent.

The petition under 37 CFR 3.81(b) to correct the assignee's name is GRANTED.

The petition under 37 CFR 1.182 to reprint the front page of the Letters Patent is GRANTED.

Petitioner is advised that it is the practice of the Patent and Trademark Office (PTO) to issue a certificate of correction to correct an error on the part of an applicant in those cases where the assignee or attorney data is incorrect or was inadvertently not provided at the time of payment of the issue fee or the inventor's name is misspelled or otherwise incorrect. Note 37 CFR 1.323 and MPEP 1481 (35 U.S.C 255), which states:

> Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such

[1]See Official Gazette of June 22, 2004

> changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

In view of the above, and since the desired correction of the assignee's name can be effected by way of a Certificate of Correction, it is unnecessary to reprint the front page of the Letters Patent.

However, the USPTO will reprint the front page of the Letters Patent if the following conditions are met:

1. Submission of a petition under 37 CFR 1.182
2. Payment of a $400 petition fee
3. Payment of a $100 fee to place a certificate of correction in the USPTO archives

Since petitioner has met the conditions noted above, the front page of the Letters Patent will be reprinted to include the assignee's name.

Petitioner is advised that the reprinted Letters Patent granted by this petition is the only one which will reflect the correction of the assignee's name on the front page. All other copies of the patent will reflect the correction of the assignee's name by the presence of a certificate of correction in Office records.

The file is being forwarded to the Certificates of Correction Branch for reprinting of the front page of the original Letters Patent. A certificate of correction was signed and sealed on April 17, 2007.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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NEV INTELLECTUAL PROPERTY CONSULTING
4766 MICHIGAN BOULEVARD
YOUNGSTOWN OH 44505

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OFFICE OF PETITIONS

In re Patent No. 7,028,434 :
Issue Date: April 18, 2006 :
Application No. 10/463,043 : ON PETITION
Filed: June 17, 2003 :
Attorney Docket No. 0050-008 (C) :

This is a decision on the petition filed March 7, 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. This is also being treated as a decision on the petition under 37 CFR 1.182 to reprint the assignee's name on the front page of the Letters Patent.

The petition under 37 CFR 3.81(b) to correct the assignee's name is GRANTED.

The petition under 37 CFR 1.182 to reprint the front page of the Letters Patent is GRANTED.

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[1]See Official Gazette of June 22, 2004

> changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

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1. Submission of a petition under 37 CFR 1.182
2. Payment of a $400 petition fee
3. Payment of a $100 fee to place a certificate of correction in the USPTO archives

Since petitioner has met the conditions noted above, the front page of the Letters Patent will be reprinted to include the assignee's name.

Petitioner is advised that the reprinted Letters Patent granted by this petition is the only one which will reflect the correction of the assignee's name on the front page. All other copies of the patent will reflect the correction of the assignee's name by the presence of a certificate of correction in Office records.

The file is being forwarded to the Certificates of Correction Branch for reprinting of the front page of the original Letters Patent. A certificate of correction was signed and sealed on April 17, 2007.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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TOD R. NISSLE
P.O. BOX 55630
PHOENIX, AZ 85078

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OFFICE OF PETITIONS

In re Application of	:	
Thomas P. Noel	:	
Application No. 10/463,055	:	DECISION ON PETITION
Filed: June 17, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1044-P-3		

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 9, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 10/274,161, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3753 for appropriate action on the amendment filed September 9, 2005 including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SANDIA CORPORATION
P O BOX 5800
MS-0161
ALBUQUERQUE NM 87185-0161

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of
Alan MAR et al
Application No. 10/463,058
Filed: June 16, 2003
Attorney Docket No. 6919.1/97549

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 7, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 8, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 7, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application file is being referred to Technology Center Art Unit 2814 for appropriate action.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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JAN 16 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Katrina A. Lyon
LYON & HARR, LLP
Suite 800
300 Esplanade Drive
Oxnard CA 93036

In re Application of
ZHANG, ZHENGYOU, et al
Serial No.: 10/463,068
Filed: **July 17, 2003**
For: **SYSTEM AND METHOD FOR REAL-TIME WHITEBOARD STREAMING**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, June 17, 2003, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figure 5, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is GRANTED.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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JJGJr: 02-04

Paper No: 6

SYNGENTA BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

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FEB 2 0 2004

OFFICE OF PETITIONS

In re Application of:	:	
Kahn	:	ON PETITION
Filed: 17 June, 2003	:	
Application No. 10/463,074	:	
Docket No.: 70094USNP	:	

This is a decision on the petition filed on 24 October, 2003, and supplemented on 15 January, 2004, and considered, *in globo*, as seeking to have accorded to Figs. 1 - 6, as described in the specification of the instant application a filing date of 17 June, 2003.

The petition is **GRANTED**, and the petition fee ($130.00) credited to Petitioner's credit card account to which it was charged.

The application was deposited on 17 June, 2003.

On 27 August, 2003, the Office mailed a Notice of Omitted Items in a Nonprovisional Application (the Notice), and indicated therein that "Figures(s) 4 - 6 described in the specification" appeared to have been omitted. Petitioner also was informed that he/she could accept the application as filed, or seek either to: (a) have accorded to the entire application the filing date on which the omitted item was supplied, or (b) have a determination that the omitted item was present on filing.

Thereafter, on 24 October, 2003, Petitioner Randee S. Schwartz (Reg. No. 45,085) filed the instant petition, and

- therewith supplied:

  --a copy of the receipt card (see: MPEP §503) evidencing the deposit via Express Mail (Label No. EU652383222US) on 17 June, 2003, of the instant application containing, *inter alia*: "Application Filing Papers . . . Utility . . . Fee: $786.00 . . . Specification: 27 Pg's . . . Executed Decl. . . . Drawings: 4 Pg's . . . Seq. Listing 22 Pg's . . . Application Data Sheet . . . Credit Card Pymnt Form . . . Utility Patent application Transmittal and Fee Sheet" (over the initials "RSS"); and

  --copies of documents purporting to be sheet "3/4" containing Fig. 4 and sheet "4/4" containing Figs. 5 and 6 as described in the specification;

  –Petitioner's statement incorporated into the petition

- on 15 January, Petitioner supplied the supplementary statement and copies of sheet "1/4" with Figs. 1 and 2, and sheet "2/4"with Fig. 3, and Petitioner's statement incorporated into the petition.

An inquiry from the Office of Petitions to Petitioner revealed that Figs. 1, 2 and 3 as contained in the file were not styled in the fashion of those accompanying the petition (i.e., the drawings in the file were itemized only as Fig. 1, Fig. 2 and Fig. 3, rather than sheet "1/4" with Figs. 1 and 2, sheet "2/4"with Fig. 3, sheet "3/4" with Fig. 4, and sheet "4/4" with Figs. 5 and 6).

A review of the application papers reveals that the application in fact was filed and received in the Office on 17 June, 2003, and that a comparison of the date-stamped (17 June, 2003) copy of the receipt card filed by Petitioner and the drawings (as described in the specification) in the file evidence the file containing pages three (3) sheets of drawings identified sequentially only as Fig. 1, Fig. 2 and Fig. 3 and depicting a mechanical device, which depiction is inconsistent with the description and claims set out in the instant application, which is entitled "Method of Transforming Soybean" and describes figures in three of the four sheets of drawings (Figs. 1, 2, 3, 5 and 6), and the drawing on the remaining sheet (Fig. 4) as "an exemplary process [in Panels A, B and C] for preparing a soybean explant."

Petitioner contends that if the Notice indicating an omitted item was correct, there would be less than 80 pages of specification acknowledged on the date-stamped receipt card, rather than the 80 pages acknowledged as received by the Office.

While the receipt card does not specify descriptions of the drawings, it does specify that the application received contained four (4) sheets of drawings, and the description set out in the application (as set out in "Brief Description of the Figures" (page 6 of the application) specifies

the contents of the drawings consistent with the drawings submitted by Petitioner on 24 October, 2003, and 15 January, 2004, and it appears that four (4) sheets of drawings (as described in the specification were filed, and thereafter sheet "1/4" with Figs. 1 and 2, sheet "2/4"with Fig. 3, sheet "3/4" with Fig. 4, and sheet "4/4" with Figs. 5 and 6) were misplaced in the Office.

Therefore, the petition is **granted** to accord a filing date of 17 June, 2003, to sheet "1/4" with Figs. 1 and 2, sheet "2/4"with Fig. 3, sheet "3/4" with Fig. 4, and sheet "4/4" with Figs. 5 and 6), and the petition fee is refunded via credit to Petitioner's credit card consistent with the payment previously made.

The application is being returned to OIPE for further processing with a filing date of 17 June, 2003, using sheet "1/4" with Figs. 1 and 2, sheet "2/4"with Fig. 3 as deposited on 15 January, 2004, and sheet "3/4" with Fig. 4, and sheet "4/4" with Figs. 5 and 6 as deposited on 24 October, 2003, as described in the specification; and further with direction to OIPE to correct Office records to reflect that four (4) sheets of drawings were present on filing on 17 June, 2003, along with (*inter alia*) 27 pages of specification previously acknowledged; and forward to Petitioner a copy of the corrected filing receipt reflecting a filing date of 17 June, 2003, reflecting therein that 27 pages of specification (description and claims) and four (4) sheets of drawings were present on filing.

Thereafter, the application will be considered by the examiner in due course.

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

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

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DIW Jan-06

STEPHEN A. LELAND
2300 SIR FRANCIS DRAKE BOULEVARD
FAIRFAX CA 94930

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Walton et al.	:	LETTER DISMISSING
Application No. 10/463,077	:	PETITION
Filed: 17 June, 2003	:	
For: THIN BACK KNIFE	:	

This is a communication in response to the paper styled as a petition, filed on 4 November, 2005, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is dismissed for the reasons stated below.

This application became abandoned on 23 March, 2005, for failure to file a proper and timely response to the Notice of Non-Compliant Amendment mailed on 22 December, 2004, which set a one (1) month shortened period for reply. On 18 January, 2005, an additional amendment was filed, but the amendment was found not to by compliant, and a Failure to Acceptably Respond to Notice of Non-Compliant Amendment—No New Time Period for Reply is Provided,

---

[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)).

was mailed on 18 March, 2005. On 25 April, 2005, petitioners filed a two (2) month extension of time and an amendment. Notice of Abandonment was mailed on 8 September, 2005.

The petition, which is signed by inventor Stephen A. Leland, cannot be considered on the merits because it is not properly signed. Specifically, 37 CFR 1.4 requires that all papers filed in the USPTO must be signed by either a registered patent attorney or all of the inventors in an application. As this application contains an executed declaration listing Darren Lamoyne Walton and Stephen A. Leland as joint inventors, the petition must be signed by both inventors or by their representative.

Additionally, it is noted that the petition form as filed does not include the required fee. The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[2] Any petition filed must be accompanied by the fee required by law.

Further, no reply to the Notice of Non-Compliant Amendment mailed on 22 December, 2004, was included with the papers received on 4 November, 2005. Any petition must include the reply required by the aforementioned Notice.

A reply to this communication should be submitted within two (2) weeks of receipt of this communication.

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

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

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

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

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[2] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

Telephone inquiries should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/18/2006

TO SPE OF : ART UNIT 2600 (2676)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,991,272

10/463078

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 change dependency of claims 10 & 11 from 9 to 6?

Thank You For Your Assistance

Ernest C. White, LIE (703) 308-9390x122
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:

Claim dependency appears to be mistake at publication but should read as indicated by certificate of correction - Claims 10 + 11 depend from 6.

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER

SPE

3626
Art Unit

PTOL-306 (REV. 7/03)

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SMITH-HILL AND BEDELL
12670 N.W. BARNES ROAD
SUITE 104
PORTLAND, OR 97229

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JAN 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Per Sandberg	:	
Application No. 10/463,087	:	ON PETITION
Filed: June 16, 2003	:	
Attorney Docket No. OUTO 2740	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2004, to revive the above-identified application.

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 September 9, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight December 9, 2004.

In response, petitioner submitted with the instant petition $1,500 for the petition to revive fee, $1,400 for the issue fee, $300 for the publication fee, and $18 for six (6) advance soft copies.

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 3753, for consideration of the 312 Amendment filed December 6, 2004, as having been received prior to payment of the issue fee.

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

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

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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JUN 09 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Chris J. Risser et al.
Application No. 10/463,105
Filed: June 16, 2003
Attorney Docket No. **483018003US**

This is a decision on the petition filed November 20, 2007, to withdraw the holding of abandonment. The petition is being treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

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

This application became abandoned for failure to pay the issue fee on or before July 27, 2007 as was required by the Notice of Allowance mailed April 27, 2007. This application therefore became abandoned on July 30, 2007. Accordingly, a Notice of Abandonment was mailed August 20, 2007.

Petitioner claims that the Notice of Allowance was not received because a previously filed Revocation and Substitute Power of Attorney were not processed.

A review of the file reveals however that a power of attorney and address change was filed on October 25, 2005 but that the information was not updated prior to the mailing of the Notice of Allowance and Notice of Allowability on April 27, 2007. Thus, the Office Action was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and this matter is being referred to Technology Center 2828 for a re-mailing of the Notice of Allowance and Notice of Allowability.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Roberts Abokhair & Mardula
Suite 1000
11800 Sunrise Valley Drive
Reston, VA 20191

MAILED
FROM DIRECTORS OFFICE

NOV 17 2004

TECHNOLOGY CENTER 3600

In re application of:
Gregory Aaron Siler
Application No. 10/463,120 : **DECISION ON REQUEST**
Filed: June 17, 2003 : **FOR WITHDRAWAL OF**
For: METHOD AND APPARATUS FOR : **ATTORNEY**
SELECTING STREAMING MEDIA IN REAL-TIME

This is a decision on the request filed on April 28, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

As to condition A), the attorney Jon L. Roberts Esq., signing the request does not have power of attorney in this application. There is no record of power of attorney ever being given to the attorney making the request, or to the attorneys/agents associated with Customer Number 22208. Therefore, the attorney's given power in the original declaration remain.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/vdb: 10/26/04

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE. 1500
ATLANTA GA 30339-5994

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OCT 28 2008
OFFICE OF PETITIONS

In re Patent No. 7,177,377	:	
Issue Date: February 13, 2007	:	
Application No. 10/463,143	:	DECISION ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. 251316-1120	:	

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.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

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

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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LEYDIG VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Patent No. 7,024,285
Issue Date: April 4, 2006
Application No. 10/463,164
Filed: June 17, 2003
Attorney Docket No. 222448

: DECISION GRANTING PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: 1.78(a)(6) AND REQUEST FOR
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition, filed July 10, 2006, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to claim the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to international Application No. PCT/US02/14873, filed May 9, 2002, and under 37 CFR 1.78(a)(6) to perfect a claim for the benefit of priority under 35 U.S.C. § 119(e) to provisional Application No. 60/289,830, filed May 9, 2001, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed international and provisional applications was **perfected** within the time period set forth in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and further failed to include a proper reference to the above-noted, prior-filed international application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

A petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

A review of the file record discloses that a claim for the benefit of priority to the above-noted applications was made on filing and, thus, **during the pendency** of the application. However, since the claim to the international application was made under the provisions of 35 U.S.C.

§119(a)-(d), it was improper as it was not filed within one year of the filing date of the present application. Accordingly, neither the claim for the international application nor the provisional application was recognized at the time of filing this application, as reflected on the first filing receipt issued on July 15, 2003. As the present petition is seeking to perfect the claim for benefit of priority under 35 U.S.C. §§ 120 and 365(c) to international Application No. PCT/US02/14873, filed May 9, 2002, by way of a certificate of correction, the claim for benefit of priority to the provisional application through the international application is now proper since the filing date is within twelve months from the filing date of the international application and, further, the claim for priority to the provisional application was made during the pendency of the application.

In view of the above, and since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) is the appropriate avenue of relief to accept the perfecting of a claim for the benefit of priority to the above-noted, prior-filed applications after issuance of the application into a patent. *See* MPEP 1481.

The petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120, 365(c) and 119(e) to the above-noted, prior-filed international and provisional applications satisfies the conditions of 37 CFR 1.78(a)(3) and 1.78(a)(6). Accordingly, the petition is granted.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the above-noted, prior-filed applications. **A determination that applicant is entitled to claim benefit of priority to the above-noted, prior-filed applications will be made by the Examiner prior to the mailing of a certificate of correction.**

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

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

COPY MAILED
DEC 18 2006
OFFICE OF PETITIONS

In re Application of Mark Slamowitz Application No. 10/463,172 Filed: June 17, 2003 Attorney Docket No. 14971US01 Title: APPARATUS FOR A DIFFERENTIAL SELF-BIASING CMOS AMPLIFIER	: : : : : :	DECISION ON PETITION UNDER 37 C.F.R. §1.181

This is a decision on the petition filed on September 25, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed September 28, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on December 29, 2005. A notice of abandonment was mailed on August 7, 2006.

With the present petition, Petitioner has indicated that a notice of appeal was filed on February 28, 2006. The electronic file has been reviewed, and it is clear that a notice of appeal was received on February 28, 2006, along with the appropriate fee and a two-month extension of time, which made the notice of appeal timely.

With the present petition, Petitioner has included an Appeal Brief, the associated fee, and a five-month extension of time so as to make this submission timely.

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

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the Appeal Brief that was received with the present petition can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

---

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

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United States Patent and Trademark Office
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NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Thomas A. Gentles	: DECISION ON REQUEST FOR
Patent Number	: 7600108	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/463,173	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1202** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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INTERNATIONAL ENGINE
INTELLECTUAL PROPERTY COMPANY
4201 WINFIELD ROAD
P.O. BOX 1488
WARRENVILLE, IL 60555

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FEB 26 2004

OFFICE OF PETITIONS

In re Application of
Ning Lei et al
Application No. 10/463,179
Filed: June 16, 2003
For: ACOUSTIC WAVE ATTENUATOR
FOR A RAIL

DECISION GRANTING
STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 14, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has (Sidi Ould Sadfa) cannot be reached to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to the Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of	:	
Brunkow, et al.	:	
Application No. 10/463,190	:	DECISION ON PETITION
Filed: June 16, 2003	:	
Attorney Docket No. 240083.508C2	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the Office action mailed October 3, 2005, which set a shortened statutory period for reply of one (1) month. The last day Applicants could have filed a reply, with the maximum five (5) month extension of time, would have been April 3, 2006. However, no extensions of time were obtained. Accordingly, the application became abandoned on November 4, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a continuation application, paid the petition fee, and made the proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of application No. 11/399,210, filed April 5, 2006.

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 $2160.00 extension of time fee submitted with the petition on April 5, 2006 was subsequent to the maximum period obtainable for reply (April 3, 2006), this fee has been refunded to petitioner's Deposit Account No. 04-0258.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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ROBERT H. KELLY
SCHEEF & STONE, L.L.P.
500 N. AKARD ST.
SUITE 2700
DALLAS, TX 75225

MAILED

JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Eligo Mori	:	DECISION ON PETITION
Application No. 10/463,195	:	TO WITHDRAW
Filed: June 17, 2003	:	FROM RECORD
Title: Keypad and Keypad System.	:	

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 14, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on April 14, 2006 the power of attorney to Scheef & Stone, L.L.P. was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte NC 28280-4000

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Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

Mail Date: 04/29/2010

Applicant	: Sohail Malik	: DECISION ON REQUEST FOR
Patent Number	: 7608642	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/463,207	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **885** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

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MAR 04 2008

OFFICE OF PETITIONS

In re Application of Lorenzo Cincinelli et al. Application No. 10/463,210 In re Patent No. 6,836,413 Filing Date: June 17, 2003 Issue Date: December 28, 2004 Attorney Docket Number: N9483 Title: CURRENT-POWERED CONVERTER WITH ENERGY RECOVERY CLAMPING CIRCUIT	DECISION ON PETITION UNDER 37 C.F.R. § 3.81(B)

This is a decision on the petition filed June 27, 2005, pursuant to 37 C.F.R. § 1.323, which is properly treated as a petition pursuant to 37 C.F.R. § 3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b). Petitioner has further requested that a typographical error in the title be corrected.

The Office regrets the period of delay in issuing this decision.

Regarding the request pertaining to the addition of an assignee, Petitioner requests that a Certificate of Correction be issued to include the name of an assignee that was not properly listed on Issue Fee Transmittal form PTOL-85(b). Petitioner submits a "Certificate of Correction" for this purpose, which indicates that assignee "Magnetek S.P.A." should be added to the face of the patent.

1 See Official Gazette, June 22, 2004.

37 C.F.R. §3.81(b), effective June 25, 2004, reads:

> (b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Petitioner has submitted a request for this patent to be corrected to state the name of the assignee. Petitioner has not stated that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, however Office records show that the assignment for the above-identified application was received in the Office on May 12, 2004, which is prior to the payment of the Issue Fee on November 9, 2004. Consequently, this requirement is waived *sua sponte*.

Regarding the request to correct the title, Petitioner has requested the correction of a minor typographical error in the title: Petitioner has set forth that the word "converted" should be changed to "converter." The undersigned has consulted with the Examiner, and has confirmed that this change in warranted.

It follows that this petition is **GRANTED.**

Payment of the required $100 processing fee is acknowledged. The required $130 certificate of correction fee will be charged to Petitioner's Deposit Account, in due course.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued. **The Certificates of Correction Branch will issue a certificate of correction that <u>both adds the assignee and corrects the title</u>.**

Certificates of Correction Branch will note that pursuant to the recordation document received on May 12, 2004, the correct spelling of the Assignee is "MagneTek, S.P.A."

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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Paper No.

WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

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MAR 12 2008

OFFICE OF PETITIONS

In re Application of Lorenzo Cincinelli et al. Application No. 10/463,210 In re Patent No. 6,836,413 Filing Date: June 17, 2003 Issue Date: December 28, 2004 Attorney Docket Number: N9483 Title: CURRENT-POWERED CONVERTER WITH ENERGY RECOVERY CLAMPING CIRCUIT	DECISION VACATING PREVIOUS DECISION AND DISMISSING PETITION PURSUANT TO 37 C.F.R. § 3.81(B)

A petition pursuant to 37 C.F.R. § 3.81(b)[1] was filed on June 27, 2005, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b). Petitioner further requested that a typographical error in the title be corrected.

The petition was granted via the mailing of a decision on March 4, 2008.

The decision which granted this petition is hereby **VACATED**. This petition is **DISMISSED**.

The decision on the petition set forth, *in pertinent part*:

> The required $130 certificate of correction fee will be charged to Petitioner's Deposit Account, in due course.

Subsequent to the mailing of this decision, the Office attempted to charge the $130 certificate of correction fee to Petitioner's Deposit account. However, this fee could not be charged to

1 See Official Gazette, June 22, 2004.

Petitioner's Deposit Account, as Jason L. Hornkohl is not an authorized user of Deposit Account No. 23-0035.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 3.81(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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OCT 15 2003

OFFICE OF PETITIONS

In re Application of	:	
Fan, et al.	:	DECISION GRANTING
Application No. 10/463,219	:	PETITION
Filed: June 17, 2003	:	
Attorney Docket No. 0717.2032-001	:	

This is a decision on the petition under 37 CFR 1.10(c), filed June 30, 2003, requesting that the above-identified application be accorded a filing date of June 17, 2003, rather than the presently accorded filing date of June 11, 2003.

Petitioners allege that the application was deposited in Express Mail service on June 17, 2003. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV214949158US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of June 17, 2003.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of June 17, 2003.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of June 17, 2003, and issuance of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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MAR 2 5 2005

OFFICE OF PETITIONS

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

In re Application of
Nerur Sankaranayan Rengaswamy, et al.
Application No. 10/463,229
Filed: June 17, 2003
Atty Docket No. U 014675-9

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed January 5, 2005, to revive the above-identified application.

The petition is GRANTED.

The Office acknowledges receipt of the Notice of Appeal filed January 5, 2005.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the $1,020 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

The 2-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being forwarded to Technology Center AU 1753.

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
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OFFICE OF PETITIONS

GREER, BURNS & CRAIN, LTD.
SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO IL 60606

In re Patent No. 7,052,301	:	
Issue Date: May 30, 2006	:	
Application No. 10/463,244	:	ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. 0333.67492	:	

This is a decision on the petition filed September 26, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. 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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK NY 10018

COPY MAILED

MAY 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Denis Reibel et al	:	
Application No. 10/463,246	:	ON PETITION
Filed: June 18, 2003	:	
Attorney Docket No. 331.1029	:	

This is a decision on the petition, filed May 13, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 15, 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 2831 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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United States Patent and Trademark Office
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Johannes Wilhelmus Lambers	: DECISION ON REQUEST FOR
Patent Number	: 7597899	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/463,277	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **726** 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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DIW Jan-08

ROBERT R. WILLIAMS
IBM CORPORATION
DEPT. 917
3605 HIGHWAY 52 NORTH
ROCHESTER MN 55901-7829

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JAN 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Mailin et al.	:	DECISION ON PETITION TO
Application Number: 10/463283	:	WITHDRAW HOLDING OF
Filing Date: 06/17/2003	:	ABANDONMENT
Attorney Docket Number:	:	
ROC920030040US1	:	

This is a decision on the petition filed on December 17, 2007, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the issue and publication fee(s) in response to the Notice of Allowance and Fee(s) Due mailed on July 31, 2007, which set a three-(3) month statutory period for reply. Notice of Abandonment was mailed on November 29, 2007.

Petitioners assert that the Notice of Allowance mailed on July 31, 2007, was never received. In support, petitioners' registered patent practitioner has provided a copy of both his mail log and docket report, showing that the Notice was not received.

In the absence of any irregularity in the mailing of the Notice of Allowance and Fee(s) Due (Notice), there is a strong presumption that the Notice was properly mailed to practitioner at 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 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 Notice may have been lost after receipt rather than a conclusion that the Notice was lost in the mail.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Receipt of the issue and publication fees paid on December 17, 2007, is acknowledged. As the fees have been paid, it is not necessary to remail the Notice mailed on July 31, 2007.

The petition is **GRANTED.**

The application is referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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INTEL CORPORATION
P.O. BOX 5326
SANTA CLARA, CA 95056-5326

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JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of :
Don J. Nguyen : ON PETITION
Application No. 10/463,286 :
Filed: June 17, 2003 :
Attorney Docket Number: P17071 :

This is a decision on the Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR § 1.181 and MPEP 711.03(c), filed May 10, 2006.

The Petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final office action, mailed August 23, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned November 24, 2005. A Notice of Abandonment was mailed April 12, 2006.

Applicant files the instant petition and asserts that a response to the Office action, including a Fee Transmittal Form, Transmittal Form, and facsimile cover sheet, was filed in the Office on November 23, 2005. In support of this assertion, applicant files copies of an Amendment, Fee Transmittal Form, Transmittal Form, and facsimile cover sheet.

A review of the copies of the correspondence transmitted by Applicant reveal that Applicant included a Certificate of Transmission/Mailing on the Transmittal Form certifying that the correspondence was transmitted to this Office on November 23, 2005.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

The copy of the Amendment in response to the Office action, re-filed with the instant petition, will be used for examination purposes.

No petition fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 2629 for continued processing in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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NOV 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas R. Berger	:	
Application No. 10/463,293	:	ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. 3572B-000154/US	:	

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, September 22, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 23, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

The application file is being referred to Technology Center AU 3725 for appropriate action on the concurrently filed amendment.

Power of attorney to Locke Liddell & Sapp LLP was revoked by the assignee on March 26, 2007. A courtesy copy of this decision is being mailed to the previous attorney of record.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Locke Liddell & Sapp LLP**
Attn: IP Docketing
600 Travis Street
3400 Chase Tower
Houston, TX 77002

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/27/2010

Applicant	: Thomas R. Berger	: DECISION ON REQUEST FOR
Patent Number	: 7578460	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/463,293	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1087** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 080904

MORGAN & FINNEGAN, LLP
345 PARK AVENUE
NEW YORK, NEW YORK 10154-0053

AUG 24 2004

In re Application of:
Keith Kang et al.
Serial No.: 10/463,294
Filed: June 17, 2003
Attorney Docket No.: **4024-4051US1**

NOTICE REGARDING PETITION TO ACCEPT COLOR PHOTOGRAPHS

The petition to accept color photographs pursuant to 37 C.F.R. § 1.84 (b)(2) is GRANTED.

The supplemental communication to the petition received July 16, 2004 includes corrected Figures 9 and 10. The corrected figures allow for the labelling to be readable in a black and white photocopy. Color photographs of Figs. 7, 8 and 11-30 are accepted as filed with the original petition of June 17, 2003 and corrected color photographs of Figs. 9 and 10 as filed with the supplemental commuication of July 16, 2004 are accepted.

Telephone inquires should be directed to Tulsidas Patel at (571)272-2098.

Lynn D. Feild, SPE AU2839

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON MA 02109

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MAY 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Paul Miller	:	DECISION ON PETITION
Application No. 10/463,305	:	UNDER 37 CFR 1.137(b)
Filed: 06-16-2003	:	
Attorney Docket No. 0087324.00120	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2006, to revive the above-identified application.

On March 24, 2006, the Office mailed a Notice of Non-Compliant Amendment, which set an extendable period of one month or thirty days, whichever was longer, to reply. On April 25, 2006, the application became abandoned. On October 27, 2006, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted.**

The matter is being referred to Technology Center Art Unit 2629.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Marko Tuominen	: DECISION ON REQUEST FOR
Patent Number	: 7601225	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/463,309	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **209** 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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/17/2010

Applicant : Marko Tuominen
Patent Number : 7601225
Issue Date : 10/13/2009
Application No : 10/463,309
Filed : 06/16/2003

: 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 **284** 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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Paper No. 6

Pauline Robinson-Ferguson
382 Indian Avenue
Bridgeport CT 06606

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DEC 01 2003

OFFICE OF PETITIONS

In re Application of
Robinson-Ferguson
Application No. 10/463,320
Filed: October 20, 2003
Attorney Docket No. PPF01
For: HAND-HELD UNBRAIDER APPARATUS

DECISION DISMISSING PETITION

This is a decision on the petition, filed October 20, 2003 requesting accordation of a June 12, 2003 filing date for the above-identified application and refund of the $130 petition fee submitted on October 20, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on June 12, 2003. On August 26, 2003, the Office of Initial Patent Examination mailed a " Notice of Incomplete Nonprovisional Application" informing petitioner that the specification did not contain at least one claim, that the oath/declaration was missing, and an abstract of the technical disclosure was missing.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the application be accorded a June 12, 2003 filing date and a refund of the $130 petition fee.

The patent statute at 35 USC 112 explains the contents of a specification as follows:

> 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.
>
> 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.

The statute's promulgating rule at 37 CFR 1.51(b) sets forth the requirements for a complete nonprovisional application as follows:

> A complete application filed under § 1.53(b) comprises:
>
> (1) A specification as prescribed by 35 USC 112, including a claim or claims;
> (2) An oath or declaration;
> (3) Drawings, when necessary; and
> (4) The prescribed filing fee.

37 CFR 1.53(b) discusses the requirements for accordation of a filing date:

> (b) *Application filing requirements - Nonprovisional application.* The filing date of an application for patent filed under this section... is the date on which a specification as prescribed by 35 USC 112 containing a description...and at least one claim... and any drawing required... are filed in the Patent and Trademark Office.

Petitioner is informed that the application is not entitled to a June 12, 2003 filing date because petitioner has provided no evidence that the application met the requirements to accord a filing date on June 12, 2003. While it is possible to submit a declaration and filing fees after the date of initial filing and retain the original filing date, it is **not** possible to submit a claim after initial filing and retain the same filing date when there was no claim present upon initial filing.

As stated in the August 26, 2003 Notice, petitioner did not file a claim on June 12, 2003. The earliest date a claim was filed was October 20, 2003. Thus, October 20, 2003 is the filing date of the application.

The petition to accord a filing date of June 12, 2003 is **dismissed**. The request for refund of the $130 petition fee is **dismissed** because the application is not entitled to a June 12, 2003 filing date.

The application papers will be returned to the Office of Initial Patent Examination for further processing with a filing date of **October 20, 2003.**

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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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3-12-07

wk

In re Application of	:	
Ahmed et. al.	:	
Serial Number: 10/463,346	:	DECISION
Filed: June 18, 2003	:	ON
For: METHOD FOR PRODUCING CORN STALK PULP AND PAPER PRODUCTS FROM CORN STALK PULP	:	PETITION

This is in response to the request filed May 19, 2006, requesting permission for withdrawal as attorney from the above-identified application.

The Commissioner of Patents and Trademarks requires that there be at least 30 days between approval of withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

In this case there is less than thirty days between approval of withdrawal of the current attorney of record and the expiration date of a time response period.

The Request is **Denied**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

John S. Hilten
MCGUIREWOODS, LLP
1750 TYSONS BLVD
SUITE 1800
MCLEAN VA 22102

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/463,346
Filing Date	June 18, 2003
First Named Inventor	Aziz AHMED
Art Unit	1731
Confirmation Number	8421
Examiner Name	HUG, Eric J.
Attorney Docket Number	07920001AA

7-13-07
Approved
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2800

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☐ all the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☒ all the attorneys/agents associated with Customer Number **23345**

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Pursuant to 37 C.F.R. 10.40(c)(1)(vi) the client has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☒ Firm or Individual Name	**Ronald Engelbrecht C/o Corn Pulp and Paper, Inc.**				
Address	4631 Twain Street				
City	Ames	State	IOWA	ZIP	50014
Country	US				
Telephone	(515) 292-9088	Fax	(267) 543-5403		
Signature					
Name	John S. Hilten	Registration No.	52,518		
Date	April 3, 2007	Telephone No.	703.712.5069		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

4495563

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 101904

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

OCT 26 2004

In re Application of:	:	
Kun-Hong Chen	:	
Serial No.: 10/463,348	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: June 18, 2003	:	
Attorney Docket No.: **ADTP0053USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 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 Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MARSHALL GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S WACKER DRIVE
CHICAGO IL 60606

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JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of Robert Cameron Dotson Application No. 10/463,351 Filed: June 16, 2003 Attorney Docket No. 29618/38706	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the "PETITION UNDER 37 C.F.R. § 1.47(b)", filed April 19, 2004.

The petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 16, 2003, with an unexecuted oath or declaration. Accordingly, on December 19, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely this reply, petitioner purchased a two month extension of time. Accompanying the petition was a signature of Thomas A. Miller, signing on behalf of nonsigning inventor Robert Cameron Dotson.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirements (1) and (5).

As to requirement (1), there has been no showing that Dotson was presented with the application papers (specification, claims, drawings, oath or declaration). Regarding this, the Manual of Patent Examining Procedure states:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.
>
> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 U.S.P.Q. 80 Comm'r Pat. 1956).

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.[1]

As to requirement (5), applicant has not shown a sufficient proprietary interest. Applicant has not submitted a copy of the assignment nor a statement under 37 CFR 3.73(b) by the assignee.[2] If applicant can not show a sufficient proprietary interest by supplying a copy of the assignment (or a copy of an agreement to assign, e.g. an employment agreement), a proprietary interest "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."[3]

Further correspondence with respect to this matter should be addressed as follows:

---

[1] MPEP 409.03(d).

[2] See MPEP 409.03(f).

[3] Id.

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo

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

MARSHALL GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S WACKER DRIVE
CHICAGO IL 60606

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SEP 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Robert Cameron Dotson	:	
Application No. 10/463,351	:	DECISION NOTING JOINDER
Filed: June 16, 2003	:	OF INVENTOR AND PETITION
Attorney Docket No. 29618/38706	:	UNDER 37 CFR 1.47(b) MOOT

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(b)", filed April 19, 2004.

The above-identified application was filed on June 16, 2003, with an unexecuted oath or declaration. Accordingly, on December 19, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(b), and paid both the petition fee and the surcharge for late filing of the declaration. To make timely this reply, petitioner purchased a two month extension of time. Accompanying the petition was a signature of Thomas A. Miller, signing on behalf of nonsigning inventor Robert Cameron Dotson. However, the petition was dismissed in a decision mailed on June 8, 2004.

On renewed petition, petitioner has submitted a declaration executed by inventor Dotson. The declaration has been found to be in compliance with 37 CFR 1.63.

In view of the **joinder** of the inventor, further consideration under 37 CFR 1.47(b) is not necessary and the petition is considered to be **moot**. This application does <u>not</u> have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

The application is being forwarded to Group Art Unit 1771 for docketing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/463,381	06/16/2003	Leo Robert Blume	200308661-1	2254

7590 04/09/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
RAMAKRISHNAIAH, MELUR

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
04/09/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

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Adjustment date: 04/08/2008  KKING1
06/19/2003 HGUTEMA1 00000008 082025   10463381
02 FC:1202        270.00 CR
03 FC:1201        420.00 CR
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FORM PET651G (Rev. 08/07)

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

EUGENE OAK, PH.D.,J.D.
610 S. VAN NESS AVE.
LOS ANGELES CA 90005

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of :
Youngill Chio e al. :
Application No. 10/463,382 : ON PETITION
Filed: June 18, 2003 :
Attorney Docket No. 911-6829A :

This is a decision on the petition, filed February 21, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office Action mailed February 9, 2005. Accordingly, a Notice of Abandonment was mailed February 1, 2006.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of February 9, 2005, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment still does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on February 9, 2005, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

A courtesy copy of a new Advisory Action is included.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/9/07

Paper No.: —

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/463388 Patent No: 7176193B2

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: CORRECTION TO CLAIM 3, column 39, LINE 1 not approved. The patent text is correct at that point. Requested change is not needed.

SPE — Art Unit 1624

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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VORYS SATER SEYMOUR PEASE
1828 L STREET NW
ELEVENTH FLOOR
WASHINGTON, DC 20036

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JUL 29 2008

OFFICE OF PETITIONS

In re Application of Dennis M. Troha, et al. Application No. 10/463,397 Filed: June 17, 2003 Attorney Docket No. 4616-CIP-CON	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 31, 2008, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 3, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 3, 2007. Accordingly, the date of abandonment of this application is January 4, 2008.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition 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 payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/463,397	06/17/2003	Dennis M. Troha	049170-000018-CIP/CON

CONFIRMATION NO. 1208

POA ACCEPTANCE LETTER

20230
VORYS SATER SEYMOUR PEASE
1828 L STREET NW
ELEVENTH FLOOR
WASHINGTON, DC 20036

OC000000031220125

Date Mailed: 07/28/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/31/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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. 090204

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

SEP - 7 2004

In re Application of:	:	
KUN-HONG CHEN	:	
Serial No.: 10/463,406	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: June 18, 2003	:	
Attorney Docket No.: **ADTP0117USA0**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 18, 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 Mord Michael Lewis on behalf of himself. There is at least thirty (30) days remaining between the date of approval and the later of the expiration date of a time to file a response, or the expiration date of the maximum time period.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

September 28, 2005

Lawrence P. Serre
752 Front Rd.
LaSalle, ON N9J 1Z9
Canada

In re Application of:
Lawrence P. Serre
Serial No.: 10/463,418 On Petition
Filing Date: June 18, 2003
For: **PLAYSTONE PAVER**

In response to the petition received on May 10, 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 within the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional Application mailed July 16, 2004. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned September 17, 2004.

The evidence submitted is sufficient to establish that the petitioners did not received the Notice to File Missing Parts of non Provisional Application.

A new Notice to File Missing Parts is enclosed giving applicant two months from September 28, 2005 to respond.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 26, 2009

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/463449/7173170

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE — 1638 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOODS FULLER SHULTZ & SMITH P.C.
ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS, SD 57117-5027

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Maribel Chaves	:	
Application No. 10/463,450	:	ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. 22-0611	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 20, 2006, 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 January 12, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 13, 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 payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of :
Nobuaki Hashimoto :
Application No. 10/463,470 : ON PETITION
Filed: June 18, 2003 :
Attorney Docket No.: 101262.02 :

This is a decision on the petition, filed August 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 6, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2813 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 28 2006

OFFICE OF PETITIONS

Date : August 28, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Nobuaki Hashimoto
Application No. : 10/463,470
Filed : June 18, 2003

The above-identified application has been assigned Patent No. 7,098,125 and an issue date of August 29, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 29, 2006:

> "All reference to Patent No. 7,098,125 to NOBUAKI HASHIMOTO of JAPAN for SEMICONDUCTOR DEVICE, CIRCUIT BOARD, AND ELECTRONIC INSTRUMENT appearing in the Official Gazette of August 29, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DIW Aug-07

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE2400
CHICAGO IL 60603-5803

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AUG 1 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Chung-Hsing Chang	:	
Application Number: 10/463476	:	DECISION ON PETITION
Filing Date: 06/17/2003	:	
Attorney Docket Number: TJK/392	:	

This is a decision on the petition filed on 24 May, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 25 November, 2005, for failure to timely file a response to the non-final Office action mailed on 24 August, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 21 June, 2006.

---

[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)).

This application is being referred to Technology Center Art Unit 2629 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Jan-06

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Fairchild et al.	:	
Application No. 10/463,481	:	ON PETITION
Filed: 16 June, 2003	:	
Atty Docket No. 2340-65752	:	

This is a decision on the petition filed on 23 December, 2004, which is being treated as (a) a petition under 37 CFR 1.48(a) requesting that a person be added as inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **GRANTED**.

On 16 July, 2003, the above-identified application was filed. The original application papers included a declaration in compliance with 37 CFR 1.63 listing Michael A. Fairchild as the sole inventor.

On 23 December, 2004, the present petition was filed, whereby petitioners request that Matthew E. Groves be added as a joint inventor.

Petitioners aver that named inventor Fairchild has refused to sign the declaration naming the actual inventors as required by 37 CFR 1.48(a)(3). Specifically, petitioners assert, via the statement of Leah Cox, Manager, Human Resources, Adalis Corporation, that Fairchild was personally presented with a copy

of the declaration on 16 July, 2004, but refused to sign it. Further, petitioners have provided a statement signed by Groves, the person sought to be added as an inventor, stating that the error in inventorship occurred without any deceptive intention, and a statement signed by the president of assignee of record Adalis Corporation assenting to the correction of the inventorship.

Petition Under 37 CFR 1.48(a) and 1.183

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

As a result of papers filed on 23 December, 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a)(2).

In view of the efforts recounted in the petition to obtain the signature of Michael A. Fairchild on the declaration required by 37 CFR 1.63 and 1.48(a)(2), it is agreed that justice would be served by waiving the requirement for his signature on the oath or declaration.

The inventorship of this application has been changed by the addition of: Matthew E. Groves, Vancouver, WA.

Office PALM records have been corrected to reflect the correct inventorship of the application. A corrected Filing Receipt is enclosed for petitioner's records.

The application is being forwarded to the Publishing Division to await applicant's response to the Notice of Allowance and Fee(s) Due.

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

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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KLARQUIST SPARKMAN LLP
121 SW SALMON STREET, SUITE 1600
PORTLAND, OR 97204

COPY MAILED
MAY 16 2006
OFFICE OF PETITIONS

In re Application of	:
Michael A. Fairchild et al	:
Application No. 10/463,481	: DECISION GRANTING PETITION
Filed: June 16, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2340-65752	:

This is a decision on the petition, filed May 12, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 16, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\may9\463481.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: James G. Bertonis	: DECISION ON REQUEST FOR
Patent Number	: 7596798	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/463,483	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1780** 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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JUN -9 2004

In re Application of	:	
Craig D. Westin	:	
Serial No. 10/463,496	:	DECISION ON PETITION
Filed: June 16, 2003	:	TO WITHDRAW AS ATTORNEY
For: CUSTOM CONFORMABLE	:	
DEVICE	:	

By papers filed on November 7, 2003, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the current correspondence address for this application is:

Andrew Calderon, Esq.
McGuire Woods
1750 Tysons Blvd., Suite 1800
McLean, VA 22102-4215

E. Rollins-Cross, Director
Technology Center 3700

Workman Nydegger
60 East South Temple
1000 Eagle Gate Tower
Salt Lake City, UT 84111

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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Anthony J. Baerlocher	: DECISION ON REQUEST FOR
Patent Number	: 7601060	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/463,503	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1389** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 7

NOV 18 2003

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
NAKAZATO et al.	:	
Application No. 10/463,516	:	DECISION ON PETITION
Filed: June 18, 2003	:	TO MAKE SPECIAL
Attorney Docket No. 239332US-2CONT	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed June 18, 2003, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of $130.00, (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for

the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Patent No. 6,950,285	:	
Issue Date: September 27, 2005	:	
Application No. 10/463,517	:	DECISION ON PETITION
Filed: June 18, 2003	:	
Attorney Docket No. 239196US3X	:	

This is a decision on the petition filed October 31, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The request seeks to have the correct city of the second assignee (Matsushita Electric Industrial Co., Ltd. (Matsushita))from "Kadoma-shi" to -- Osaka --.

The request was accompanied by a certificate of correction (and $100 fee) as required by 37 CFR 3.81(b), along with the processing fee as set forth in 37 CFR 1.17(i). Further, Office assignment records reflect that the correct city for assignee Matsushita is Osaka, as reflected in the assignment records of the USPTO, which assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for issuance of a certificate of correction.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. 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. 12

DANIELS DANIELS & VERDONIK, P.A.
SUITE 200 GENERATION PLAZA
1822 N.C. HIGHWAY 54 EAST
DURHAM NC 27713

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OFFICE OF PETITIONS

In re Application of
Jeremy Wyn-Harris and Stephen Arthur Hooker

Application No. 10/463,551
Filed: June 18, 2003
Attorney Docket No.: VIN4 (1319-004)
Title: INTERNET PROTOCOL FOR RESOURCE-CONSTRAINED DEVICES

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(A)

This is a decision on the petition under 37 C.F.R. §1.47(a)[1], filed February 6, 2004.

The above-identified application was filed on June 18, 2003, identifying Jeremy Wyn-Harris and Stephen Arthur Hooker as joint inventors. On September 4, 2003, the Office mailed a Notice to File Missing Parts, requiring an executed oath or declaration along with the surcharge associated with the late filing of an oath or declaration, and a substitute specification. The notice set a two-month period for response. On September 25, 2003, applicant submitted a declaration that was executed by the latter inventor, the associated surcharge, and a substitute specification. On November 7, 2003, applicant was mailed a "Notice of Incomplete Reply (Nonprovisional) - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63. This Notice did not restart the period for response.

With the petition, petitioner has submitted a three-month extension of time to make timely this response, as well as a statement of facts and a copy of a letter which was sent to the non-signing inventor.

---

[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.

Petitioner has also submitted the surcharge associated with the late filing of an oath or declaration. This surcharge was previously submitted on September 25, 2003. If the petitioner wishes to have the $130.00 petition fee refunded, he should submit a request for refund to the Office of Finance[2]. A copy of this decision should accompany any such request.

The above-identified application and the papers submitted with the instant petition have been reviewed and found in compliance with 37 CFR 1.47(a).

However, as stated above, the Notice mailed September 4, 2003 set a two-month period for response. As such, a reply was due November 4, 2003. With the instant petition, Petitioner submitted a three-month extension of time, and did not provide any authorization to charge any deficient fees to a Deposit Account. The instant petition was received on February 6, 2004, and although it was dated February 4, 2004[3], it does not contain a certificate of mailing. As such, a four-month extension of time is required. As such, the petition is not timely, and must be **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the above-noted deficiency. Any reply should be entitled "Renewed Petition Under 37 C.F.R. §1.47(a)," and should only include the appropriate extension of time, except that the reply may also include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[4], hand-delivery[5], or facsimile[6].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

---

2 The Refund Branch processes all customer requests for refunds. It generally takes four to six weeks for a request to be processed and a check generated. All requests for refund should be sent to: Mail Stop 16, Director of the US Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450. Office hours are Monday - Friday from 8:30 AM to 5:00 PM. To check the status of a request that has been filed please contact the Refund Branch directly at 703-305-4229.

3 On the third page of this petition, it is set forth that the petition "is being sent by fax and mail." A facsimile copy of the petition which was transmitted on February 4, 2004 has not been located in the file. If Petitioner can provide a facsimile confirmation sheet which would establish that a copy of this petition was received in the Office on that date, the additional extension of time would not be required.

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202

6 (703) 872-9306.

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COMMISSIONER FOR PATENTS
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Paper No. 15

DANIELS DANIELS & VERDONIK, P.A.
SUITE 200 GENERATION PLAZA
1822 N.C. HIGHWAY 54 EAST
DURHAM NC 27713

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MAR 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Jeremy Wyn-Harris and Stephen Arthur Hooker	:	
Application No. 10/463,551	:	DECISION ON RENEWED PETITION
Filed: June 18, 2003	:	UNDER 37 C.F.R. §1.47(A)
Attorney Docket No.: VIN4 (1319-004)	:	
Title: INTERNET PROTOCOL FOR	:	
RESOURCE-CONSTRAINED DEVICES	:	

This is in response to the renewed petition under 37 C.F.R. 1.47(a) [1], filed March 11, 2004.

The above-identified application was filed on June 18, 2003, identifying Jeremy Wyn-Harris and Stephen Arthur Hooker as joint inventors. On September 4, 2003, the Office mailed a Notice to File Missing Parts, requiring an executed oath or declaration along with the surcharge associated with the late filing of an oath or declaration, and a substitute specification. The notice set a two-month period for response. On September 25, 2003, applicant submitted a declaration that was executed by the latter inventor, the associated surcharge, and a substitute specification. On November 7, 2003, applicant was mailed a "Notice of Incomplete Reply (Nonprovisional) - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63. This Notice did not restart the period for response.

---

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;
(3) a statement of the last known address of the non-signing inventors;
(4) 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;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

With the original petition, petitioner submitted a three-month extension of time to make timely this response, as well as a statement of facts and a copy of a letter which was sent to the non-signing inventor.

Unfortunately, the original petition was not received in a timely manner. The Notice mailed September 4, 2003 set a two-month period for response. As such, a reply was due November 4, 2003. The original petition was received on February 6, 2004 along with a three-month extension of time, and did not provide any authorization to charge any deficient fees to a Deposit Account. As such, a four-month extension of time was required.

With the renewed petition, Petitioner has submitted a copy of a auto-reply facsimile transmission and a certificate of mailing, which establish that the original petition was sent to the Office on February 4, 2004.

As such, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 091404

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

SEP 29 2004

In re Application of:	:	
YANG *et al.*	:	
Serial No.: 10/463,553	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: June 18, 2003	:	
Attorney Docket No.: **CMOP0021USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 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 Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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United States Patent and Trademark Office
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JUN 11 2007

OFFICE OF PETITIONS

SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO, IL 60606-6473

In re Application of

Kronke, et al.

Application No. 10/463,565

Filed: June 16, 2003

Attorney Docket No. P03,0210

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed May 9, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on December 16, 2005, after it was believed that no response was received to the final Office action mailed July 15, 2005. The final Office action allowed a shortened statutory period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). An amendment was filed on December 1, 2005, with a request fro an extension of time within the second month. An Advisory Action mailed December 23, 2005, informed applicant the amendment filed December 1, 2005, did not place the application in condition for allowance. A Notice of Abandonment was mailed on March 8, 2006, indicating that a reply to the final Office action was not received.

The instant petition maintains that a response to the final Office action in the form of a Notice of Appeal was timely filed. Petitioner provides an Office date-stamped postcard whereby the USPTO acknowledged receipt of a Notice of Appeal on January 20, 2006. It is noted that an authorization to charge deposit account 50-1519 for any necessary extension time was also filed. The Notice of Appeal contained a certificate of mailing under 37 CFR 1.8 dated January 16, 2006. The Notice of Appeal was timely with an extension of time within the third month.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the maximum period for reply. The holding of abandonment is withdrawn, accordingly. No petition fee is due. Deposit account 50-1519 will be charged $1020.00 for the extension of time within the third month.

The application file is being forwarded to Technology Center 2800, GAU 2813 for further processing.

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

MCCRACKEN & FRANK LLP
311 S. WACKER DRIVE
SUITE 2500
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Bruno Beguet	: DECISION ON REQUEST FOR
Patent Number	: 7580257	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/463,566	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1358** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 13 2006
OFFICE OF PETITIONS

Orum & Roth LLC
53 W. Jackson Boulevard
Chicago IL 60604-3606

In re Application of	:	
ERIKSSON	:	
Application No. 10/463,568	:	DECISION ON PETITION
Filed: June 17, 2003	:	TO WITHDRAW
Attorney Docket No. 13527	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Gemrich: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Catherine L. Gemrich has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

All the attorneys appointed June 17, 2003 by Power of Attorney remain of record.

There is no outstanding Office action that requires a reply from the applicant.

The correspondence address remains unchanged.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 101904

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

NOV 8 2004

In re Application of:	:	
Wein-Town Sun *et al.*	:	
Serial No.: 10/463,585	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: June 18, 2003	:	
Attorney Docket No.: **ADTP0089USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed MAY 18, 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 Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward P. Westin at (571) 272-1638.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 082004

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

OCT 1 2004

In re Application of:	:	
CHARLES F. SHELOR	:	
Serial No.: 10/463,586	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: June 18, 2003	:	
Attorney Docket No.: **CRUP0001USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 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 Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

THOMAS P. LINIAK
LINIAK BERENATO & WHITE
6550 ROCK SPRING DRIVE, SUITE 240
BETHESDA, MD 20817

COPY MAILED
JUN 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Gabriel Louis Joachim	:	
Application No. 10/463,589	:	DECISION ON PETITION
Filed: June 18, 2003	:	TO WITHDRAW
Attorney Docket No. 13047.373	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 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).

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

David Bucci for
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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Paper No. 080504

AUG 24 2004

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. Box 506
Merrifield, VA 22116

In re Application of:	:	
SHIH-JYE SHEN et al.	:	
Serial No.: 10/463,610	:	DECISION ON REQUEST TO WITHDRAW
Filed: June 18, 2003	:	FROM RECORD
Attorney Docket No.: **EMEP0034USA0**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 18, 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 Mord Michael Lewis on behalf of himself.

The request is **APPROVED**.

Winston Hsu remains as attorney of record at this time.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

JUL 19 2004
PATENT & TRADEMARK OFFICE

2812
JFW

Attorney Docket No: CORE-001/00US

PATENT

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 the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 14, 2004.

By: Rosemarie Puljic-Salmeron
Rosemarie Puljic-Salmeron

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
UNITED STATES RECEIVING OFFICE

NOV 30 2004
JM Stone
JACQUELINE M. STONE
DIRECTOR
TECHNOLOGY CENTER 1700

In re application of Elliot et al.

Serial No.:	10/463,639	Art Unit:	2812
Filed:	16 June 2003	Examiner:	Ram N. Kackar
For:	WATER HEATER WITH PROTECTED HEATER ELEMENT		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF ADDRESS

I hereby apply to withdraw as attorney or agent for the above-identified patent application. I am signing on behalf of the other attorneys and agents listed under customer number 23419.

The reason for the withdrawal and change of address is the client's request for transfer of the file. Please change the correspondence address and direct all future correspondence to:

CRC, Inc.
Frank Balma
1600 Wyatt Drive, #11
Santa Clara, CA 95054

Cooley Godward LLP
Attn: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155
Tel: (650) 843-5000
Fax: (650) 857-0663

Respectfully submitted,
COOLEY GODWARD LLP

By: _____
William S. Galliani
Reg. No. 33,885

682535 v1/PA
#MNB01!.DOC

As this Petition does not results from any error on the part of t he undersigned, it is respectfully submitted that no Petition fee is due. However, the U.S. Patent and Trademark is authorized to debit Account No. 15-0461 in the amount necessary to effect this filing, should a fee be required.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

David J. Cho
Registration No. 48,078

JAO:DJC/brc

Enclosures:
Appendix A
Appendix B
Appendix C

Date: April 5, 2004

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee due to our Deposit Account No. 15-0461

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Gerbera/BSTZ
Blakely Sokoloff Taylor & Zafman LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085

MAILED

NOV 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael J. CASTILLO	:	
Application No. 10/463,651	:	DECISION ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. 008410.P16500	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 04, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 05, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 Niketa I. Patel at 571-272-4156 or in her absence, the undersigned at 571-272-7099.

This application is being referred to Technology Center AU 2621 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

David Bucci
Petitions Examiner
Office of Petitions

CC:
Patrick J. Buckley
50 Locust Avenue
New Canaan CT 06840

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

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 10/463,652 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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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES
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TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

7/22/03

Weingarten Schurgin Gagnebin and Lebovici LLP
Ten Post Office Square
Boston MA 02109

Dear Applicant:

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Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

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Commissioner for Patents
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Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

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 10/463,654 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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Commissioner for Patents
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Signature of Reviewer, Office of Initial Patent Examination

#3
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ALEXANDRIA, VA 22313-1450
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MAILED

DEC 29 2003

OFFICE OF THE DIRECTOR
TC 3600

Francis J. Clark
20 Woodvale Street
Brockton, MA 02301

In re application of
Donald Chandler
Application No. 10/463,657 :
Filed: June 17, 2003 :
For: LEG SUPPORT APPARATUS :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on September 2, 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 attorney of record has stated the reason for the withdrawal is that he could not acquire malpractice insurance and, consequently, has decided to retire.

The request to withdraw as attorney of record is accepted in the above-identified application because the request meets conditions (A) and (C) and meets condition (B) by providing a proper reason for withdrawal as enumerated in 37 CFR 10.40(c) subsection (6).

SUMMARY: Request For Withdrawal of Attorney is **APPROVED** .

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/cps: 12/9/03

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Paper No. 4

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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OCT 23 2003
OFFICE OF PETITIONS

In re Application of :
Hotz, et al. :
Filed: June 18, 2003 : ON PETITION
Application No. 10/463,663 :
Atty. Dkt. No.: P 0304346 :

This decision in response to the petition under 37 CFR 1.53(e), filed August 27, 2003, in response to the "Notice of Omitted Items in a Nonprovisional Application ("Notice") mailed August 12, 2003 to accord the above-identified application a filing date of June 18, 2003.

The application was filed June 18, 2003. The Notice mailed August 12, 2003 by the Office of Initial Patent Examination indicated, *inter alia*, that the application had been accorded a filing date but that page 44 appeared to have been omitted from the specification.

In response, the present petition was filed wherein petitioner argues that the application as deposited included page 44 of the specification. Petitioner has included as proof of mailing and proof of receipt of the page 44 of the specification a return postcard date stamped by the Office on June 18, 2003. A copy of page 44 of the specification purportedly filed with the application on June 18, 2003 was also supplied.

The original page 44 of the specification has not been located. However, in view of the evidence presented, the petition to accord the application a filing date of June 18, 2003 is GRANTED.

Since the original drawing sheets cannot be located in the Office, the copy of page 44 supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. Petitioner may request a refund of the previously submitted petition fee of $130.00 by writing to the Finance Office, Refund

Section. A copy of this decision should accompany any request for refund.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of June 18, 2003.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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DEC 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL
PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

In re application of:
Jany-Yee Hsu
Application No. 10/463,665
Filed: June 18, 2003
For: WALKIE TALKIE WHICH VIBRATES WHEN RECEIVING INCOMING CONTROL SIGNALS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent filed on May 18, 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**.

Mord Michael Lewis have been withdrawn.

All future communications from the Office will continue to be directed to the address listed above 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 4

NAIPO (NORTH AMERICA INTERNATIONAL
PATENT OFFICE)
P.O. BOX 506
MERRIFIELD, VA 22116

JUN 0 7 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Meng-Hua Kao
Application No. 10/463,667
Filed: June 18, 2003
For: SMART ANTENNA FOR WIRELESS
LOCAL AREA NETWORK

DECISION ON REQUEST TO
WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as Attorney or Agent filed on May 18, 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**.

The following Attorney(s) are withdrawn from the record: Mord Michael Lewis.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the 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
(703) 305-4710

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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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE, SUITE 2800
SEATTLE, WA 98101-2347

COPY MAILED
OCT 27 2008

In re Application of	:	
Mark BENEDIKT	:	
Application No. 10/463,675	:	ON PETITION
Filed: June 16, 2003	:	
Attorney Docket No. MSFT120503	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (see attached Advisory Action), 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).

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.

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 Diane Goodwyn at (571) 272-6735.

Thurman Page
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/463,675	BENEDIKT, MARK	
	Examiner	Art Unit	
	DANIEL L. HOANG	2136	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 5/21/08 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 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: amendments will require further search and/or consideration.

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OFFICE OF PETITIONS

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

In re Patent No. 7,196,068	:	
Issue Date: March 27, 2007	:	
Application No. 10/463,676	:	DECISION ON PETITION
Filed: June 18, 2003	:	
Attorney Docket No. 012679-091	:	

This is a decision on the petition under 37 CFR 1.182, filed September 1, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is Dismissed.

The petition is dismissed because no reason was provided as to why duplicate letters patent is necessary. Office records indicate that the letters patent was mailed on March 27, 2007.

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 delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

UNITED STATES PATENT AND TRADEMARK OFFICE

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Indianapolis, IN 46204

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APR 25 2005

OFFICE OF PETITIONS

In re Application of :
Anthony Wong :
Application No. 10/463,683 :
Filed: June 17, 2003 :
Attorney Docket No. 20341-72617 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A non-final Office action was mailed to applicant on July 1, 2004, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on October 2, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an amendment. Receipt of the amendment is acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 3600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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CUPERTINO CA 95015-1687

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OFFICE OF PETITIONS

In re Application of	:	
Hodge, et al.	:	
Application No. 10/463,700	:	ON APPLICATION FOR
Filed: June 16, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. APL1P265/	:	
P3033-34	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE 37 C.F.R. § 1.705, filed December 4, 2008.

Applicants request that the determination of patent term adjustment be increased by 305 days to a total of one thousand sixty-two(1062) days partly on the basis of the Office taking in excess of three years to issue the patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008). In addition, applicants request adjustment because the Office failed to mail a supplemental Notice of Allowability within 4 months of the filing of a second request for continued examination (RCE) on June 18, 2008.

To the extent that 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). It is noted that at the time of this decision, the patent has not issued. (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)).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee 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.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment 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 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 applicants are correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was first filed in this application on September 20, 2007.

To the extent that applicants request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED**.

On September 22, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 757 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

Applicants acknowledge the period of adjustment of 834 days for Office delay and the periods of reduction of 77 days for applicant delay (in association with the filing of an IDS after the mailing of a non-final Office action, measured from the day after the response to the non-final Office action was filed, February 21, 2008, to the date of the filing of the IDS on May 7, 2008). The issuance over 3 years of the filing date of the application arguments are held in abeyance, as previously discussed. Applicants request 9 additional days of patent term adjustment due to the fact that a supplemental notice of allowability was mailed on October 27, 2008, which is 4 months and 9 days after the filing of a second RCE on June 18, 2008.

Applicants are informed that 37 CFR 1.703(a)(3) provides for adjustment to cover the number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. A notice of allowance was mailed in response to the RCE filed June 18, 2008, on September 22, 2008. This was well within the 4 month deadline for action. In other words, the Office took action within the meaning of 37 CFR 1.703(a)(3) on September 22, 2008. The Office mailed a notice of allowance under 35 U.S.C. 151. The rule is not directed to the mailing of notices of allowability. No correction of the patent term adjustment calculation is required for the mailing of a supplemental notice of allowability. The fact that the Office mailed a supplemental notice of allowability on October 27, 2008 does not negate the fact that the Office took action

[1] PALM records indicate that the issue fee was paid on December 4, 2008.

within the meaning of 37 CFR 1.703(a)(3) with the mailing of an action under 35 U.S.C. 151 on September 22, 2008. Accordingly, the entry of a period of adjustment of 9 additional days, as argued by applicants, is not warranted.

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 Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Hodge, et al.	:	
Application No. 10/463,700	:	ON APPLICATION FOR
Filed: June 16, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. APL1P265/	:	
P3033-34	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE 37 C.F.R. § 1.705, filed December 4, 2008.

Applicants request that the determination of patent term adjustment be increased by 305 days to a total of one thousand sixty-two(1062) days partly on the basis of the Office taking in excess of three years to issue the patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008). In addition, applicants request adjustment because the Office failed to mail a supplemental Notice of Allowability within 4 months of the filing of a second request for continued examination (RCE) on June 18, 2008.

To the extent that 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). It is noted that at the time of this decision, the patent has not issued. (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)).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee 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.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment 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 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 applicants are correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was first filed in this application on September 20, 2007.

To the extent that applicants request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED**.

On September 22, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 757 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

Applicants acknowledge the period of adjustment of 834 days for Office delay and the periods of reduction of 77 days for applicant delay (in association with the filing of an IDS after the mailing of a non-final Office action, measured from the day after the response to the non-final Office action was filed, February 21, 2008, to the date of the filing of the IDS on May 7, 2008). The issuance over 3 years of the filing date of the application arguments are held in abeyance, as previously discussed. Applicants request 9 additional days of patent term adjustment due to the fact that a supplemental notice of allowability was mailed on October 27, 2008, which is 4 months and 9 days after the filing of a second RCE on June 18, 2008.

Applicants are informed that 37 CFR 1.703(a)(3) provides for adjustment to cover the number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. A notice of allowance was mailed in response to the RCE filed June 18, 2008, on September 22, 2008. This was well within the 4 month deadline for action. In other words, the Office took action within the meaning of 37 CFR 1.703(a)(3) on September 22, 2008. The Office mailed a notice of allowance under 35 U.S.C. 151. The rule is not directed to the mailing of notices of allowability. No correction of the patent term adjustment calculation is required for the mailing of a supplemental notice of allowability. The fact that the Office mailed a supplemental notice of allowability on October 27, 2008 does not negate the fact that the Office took action

[1] PALM records indicate that the issue fee was paid on December 4, 2008.

within the meaning of 37 CFR 1.703(a)(3) with the mailing of an action under 35 U.S.C. 151 on September 22, 2008. Accordingly, the entry of a period of adjustment of 9 additional days, as argued by applicants, is not warranted.

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 Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,499,232	:	
Hodge, et al.	:	
Issue Date: March 3, 2009	:	DECISION ON REQUEST FOR
Application No. 10/463,700	:	RECONSIDERATION OF
Filed: June 16, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. APL1P265/	:	
P3033-34	:	

This is in response to the "STATEMENT OF THE CORRECT PATENT TEMR ADJUSTMENT: BASIS(ES) UNDER 1.702 FOR THE ADJUSTMENT (37 CFR 1.705(b)(2)(i) and (iii)), " filed March 6, 2009. This petition will be treated under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 3, 2009, the above-identified application matured into US Patent No. 7,499,232 with a patent term adjustment of 757 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 296 of the 461 days, does not overlap with the 834 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day.

Thus, patentees request that the determination of patent term adjustment be increased by 296 days to a total of one thousand fifty-three (1,053) days.

The 461 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on June 16, 2003, and a request for continued examination (RCE) having being filed on September 20, 2007. The filing of a RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1)

Accordingly, the period of adjustment under § 1.702(b) is 461 days, counting the number of days beginning on June 17, 2006 and ending on September 20, 2007.

The 834 day period is for failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1). A non-final Office action was mailed on November 28, 2006, which is 14 months and 834 days after the application was filed on June 16, 2003.

Under 37 CFR § 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 77 days for applicant delay is not in dispute[1].

Patentees agree that the total period of Office delay is the sum of the period of Three Years Delay terminated by the filing of a RCE (461 days) and the period of Examination Delay (834 days) to the extent that these periods of delay are not overlapping. Patentees contend that 165 days of the period of delay of 834 days for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed (August 17, 2004 to November 28, 2006) overlaps with the Three Year Delay

[1] The period of reduction is, pursuant to 37 CFR 1.704(c)(8), 77 days for a supplemental reply or other paper, not expressly requested by the examiner, after a reply has been filed.

period (June 17, 2006 to September 20, 2007). Patentees assert that this overlapping period is the 165 days running from June 17, 2006 to November 28, 2006.

Accordingly, patentees submit that the total period of Office Delay is 1053 days, which is the sum of the period of Three Year Delay (461 days) and the period of Examination Delay (834 days), reduced by the period of overlap (165 days).

As such, patentees assert entitlement to a patent term adjustment of 1053 days (461 +834 reduced by 165 overlap -77 for applicant delay).

The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 834 days is correct. At issue is whether patentees should accrue 296 days of patent term adjustment (adjusted for overlap, per patentee's calculations) for the Office taking in excess of three years to issue the patent, as well as 834 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that 461 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent

term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). 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. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on June 17, 2006, the date that is 3 years after the actual filing date of the application, is incorrect.

---

[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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 entire period during which the application was pending before the Office, June 16, 2003 to March 3, 2009. 834 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the 834 days of Office delay in issuing the first Office action and the 77 days of applicant delay and the permissible timeframes for taking action, as of the filing of the request for continued examination, this application was pending 3 years and 461 days. In other words, the 834 days of delay contributed to the over three year pendency. The issuance of the patent was delayed by 834 days, not 834 + 461 days. The Office did not delay 834 days and then an additional 461 days. Entry of both periods is not warranted. 834 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 461 days for over three year pendency. Accordingly, the Office properly determined that the 461 days for Office delay in issuing the patent overlapped with the 834 days. Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 757 days (834 - 77).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on December 4, 2008. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Suzuki, et al.
Application No. 10/463,723
Filed: June 16, 2003
For: DISK ARRAY DEVICE AND METHOD OF SUPPLYING POWER TO DISK ARRAY DEVICE

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed May 3, 2005, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DENIED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (**one which has not received any examination by the examiner**) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed May 3, 2005 in the instant application fails to a meet the prerequisite requirement of a the instant application being a new application, since a first Office action on the merits was mailed on 4/15/05, prior to submission of the petition to make special on May 3, 2005. The petition therefore is considered to be untimely.

Accordingly, the petition to Make Special is **DENIED**.

Any inquiries related to this decision may be directed to Specials Programs Examiner Brian Johnson at 571-272-3595.

Brian L. Johnson
Special Program Examiner 6/10/05
Technology Center 2100
Computer Architecture, Software and Information Security

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JUN 2 5 2005

Technology Center 2100

In re Application of: Suzuki, et al. Application No.: 10/463,723 Filed: June 16, 2003 For: DISK ARRAY DEVICE AND METHOD OF SUPPLYING POWER TO DISK ARRAY DEVICE	)))))))	**DECISION ON REQUEST TO WITHDRAW PETITION TO MAKE SPECIAL *UNDER 37 CFR §1.102(d)***

This is a decision on the request to withdraw the petition to make special, filed May 3, 2005, under 37 CFR § 1.102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, filed June 7, 2005.

A review of the file record indicates that a non-final Office action was mailed to Applicant on April 29, 2005, prior to the filing of the petition to make special on May 3, 2005. Applicant's request to withdraw the petition to make special is hereby granted.

In view of the above stated reason, the original petition, filed May 3, 2005 under 37 CFR §1.102(d) to make the instant application special, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT**.

Telephone inquiries should be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Special Program Examiner 6/17/05
Technology Center 2100
Computer Architecture, Software, and Information Security

BLJ: 6/17/05

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2040 MAIN STREET, FOURTEENTH FLOOR
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Yong Hua ZHU, et *al.*	:	
Application No. 10/463,754	:	DECISION GRANTING PETITION
Filed: June 16, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **LOMAU.144A**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 18, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 18, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3731 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

In re Application of	:	
Darryl POLLICA et al.	:	
Application No. 10/463,763	:	DECISION ON PETITION
Filed: June 13, 2003	:	
Attorney Docket No. **19214-010001**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 04, 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, May 29, 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 August 30, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of 1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of May 29, 2007, is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be

submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 1797 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MARK SWEET**
FINNEGAN HENDERSON FARABOW GARRETT
& DUNNER, LLP
901 NEW YORK AVENUE, N.W
WASHINGTON, DC 20001-441

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CHICAGO, IL 60606

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In re Application of :
Robert Cameron Dotson :
Application No. 10/463,767 : DECISION REFUSING STATUS
Filed: June 16, 2003 : UNDER 37 CFR 1.47(b)
For: CUSTOM DESIGNED FLOORMAT ORDER :
PLACEMENT SYSTEM :

This is in response to the petition under 37 CFR 1.47(b), filed March 26, 2004 (Certificate of Mailing date, March 23, 2004).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 16, 2003 without an executed oath or declaration and naming Robert Cameron Dotson as the sole inventor.

Accordingly, on August 25, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on March 26, 2004, the instant petition and a five (5) month extension of time were filed.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;

(2) an acceptable oath or declaration;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest; and

(6) proof of irreparable damage.

Applicant lacks items (1), and (5), as set forth above.

applicant appears to demonstrate that the non-signing inventor was only presented with the declaration.

As to item (1), applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Before an inventor can refuse to sign an oath or declaration, he must have been presented with a copy of the application papers (specification, claims and drawings). See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that a copy of the application papers was presented to the inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

As to item (5), applicant failed to show or provide proof that Newell Rubbermaid has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Applicant has only submitted the first and last pages (out of six pages) of the "Invention Disclosure Form," signed by Robert Cameron Dotson. Based on the first and last pages of the document, there is no indication of sufficient proprietary interest in the invention by Newell Rubbermaid. Acceptable proof would include a copy of the employment agreement between the non-signing inventor and the applicant, a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the applicant.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. 9

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CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of Robert Cameron Dotson Application No. 10/463,767 Filed: June 16, 2003 For: CUSTOM DESIGNED FLOORMAT ORDER PLACEMENT SYSTEM	PETITION UNDER 37 CFR 1.47(b) DISMISSED AND DECISION NOTING JOINDER OF INVENTOR

This is in response to the "Request For Reconsideration Of Petition Under 37 CFR 1.47(b)," filed July 20, 2004.

Petitioner has submitted a Declaration executed by the previously non-signing inventor Robert Cameron Dotson in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is not required and the petition is considered unnecessary. This application does not require Rule 1.47(b) status, and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Edward Tannouse at (703)306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

In re Patent No. 7,671,047	:	
Issue Date: June 18, 2003	:	
Application No. 10/463,789	:	DECISION ON PETITION
Filed: June 18, 2003	:	
Attorney Docket No. 02481.1826	:	

This is a decision on the petition under 37 CFR 1.182, filed April 6, 2010, requesting issuance of duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to Terri Johnson at (571) 272-2991. Inquiries regarding the issuance of 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 sent to Office of Data Management for issuance of duplicate Letters Patent.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, Randolph Square, 9th Floor, Room D30-B (Fax No. (571) 270-9753)

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OFFICE OF PETITIONS

In re Application of
Jin
Application No. 10/463,804
Filed: June 17, 2003
Attorney Docket No. Meng King.P001
For: REAL ESTATE DEVALUATION INSURANCE

ON PETITION

This is a decision on the petition, filed January 12, 2009 (certificate of mailing date January 6, 2009), under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the July 2, 2008 non-final Office action. No response being timely received and no proper extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on October 3, 2008.

Applicant has submitted an amendment in reply to the July 2, 2008 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 2, 2008 non-final Office action, and the petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

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 $555.00 extension of time submitted on January 9, 2009 (certificate of mailing date January 5, 2009) was filed subsequent to the expiration of the maximum period obtainable for reply, this fee is unnecessary and will be refunded via a U.S. Treasury check that will be scheduled shortly.

After the mailing of this decision, the application will be returned to Technology Center AU 3692 for consideration of the amendment filed on January 9, 2009 (certificate of mailing date January 5, 2009).

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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HANSON & BROOKS, LLP
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SUITE 1000
WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Patent No. 7,029,598 :

Issue Date: April 18, 2006 :

Application No. 10/463,809 : ON PETITION

Filed: June 18, 2003 :

Attorney Docket No. 030736

This is a decision on the petition filed June 14, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the address 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 matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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EVAN LAW GROUP LLC
600 WEST JACKSON BLVD., SUITE 625
CHICAGO IL 60661

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OFFICE OF PETITIONS

Applicant: Suslick
Appl. No.: 10/463,833
Filing Date: June 17, 2003
Title: SURFACE MODIFIED PROTEIN MICROPARTICLES
Attorney Docket No.: ILL09-008US
Pub. No.: US 2004/0258759 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), filed on March 3, 2006, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains material errors, as the patent application publication does not include the specification, claims, abstract and drawings filed with the application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication received on March 3, 2006, was not timely filed under 37 CFR 1.221(b).

The patent application publication was published with the specification, claims, abstract and drawings from a co-pending application that was submitted with an information disclosure statement (IDS) submitted by applicants representative, but that was not cited on the PTO-892, which were improperly scanned as a specification, claims, abstract and drawings. Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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566 WEST ADAMS, SUITE 350
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OFFICE OF PETITIONS

Applicant: Boppart et al.
Appl. No.: 10/463,835
Filing Date: June 17, 2003
Title: OPTICAL CONTRAST AGENTS FOR OPTICALLY MODIFYING INCIDENT RADIATION
Attorney Docket No.: ILL09-003
Pub. No.: US 2004/0258762 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), filed on February 9, 2006, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the contents of another application submitted in an Information Disclosure Statement.

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."

The request for corrected publication received on February 9, 2006, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of Kotha, Bril and Eglit Application No. 08/671,873 Filed: June 28, 1996 For: Method and Apparatus for Asynchronous Display of Graphic Images	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the "Petition to Withdraw," filed February 22, 2000, which included a copy of a previously-filed "Request for Reconsideration...Request for Reinstatement of the Petition under 37 CFR 1.47(b)," filed March 26, 1999.

The request to withdraw the holding of abandonment is granted.

The petition under 37 CFR 1.47(b)is granted.

The request to withdraw the holding of abandonment includes a post card receipt providing proof that a reply to the January 20, 1999 petition decision was filed on March 26, 1999 in the above-identified application. The response was filed with a petition for a one-month extension of time and a check for the required fee. Since Office financial records for the above-identified application do not reflect that the fee was processed, after this decision is mailed, the $130 fee will be charged to deposit account No. 50-0274, as authorized in the petition for an extension of time.

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(b), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the Declaration filed February 22, 2000. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the $110 fee for an extension of time will be charged to deposit account No. 50-0274. Thereafter the application will be returned to Group Art Unit 2775 for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)306-3159.

Karin Tyson
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Enclosures: copy of bibliographic data sheet
Letter to inventor

OIPE JC48
AUG 1 2 2003
PATENT & TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

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APR 1 7 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

Alexander J. Eglit
647 Highland Ave
Half Moon Bay, CA 94019

In re Application of
Eglit, Kotha, and Bril
Application No. 08/671,873
Filed: June 28, 1996
For: Method and Apparatus for Asynchronous Display of Graphic Images

Dear Mr. Eglit:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)305-9285. 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).

Karin Tyson
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Michael A. Kaufman
Flehr Hohbach Test Albritton & Herbert
Suite 3400
Four Embarcadero Center
San Francisco CA 94111-4187

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Washington, D.C. 20231

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APR 1 7 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

Vlad Bril
232 Darryl Drive
Campbell CA 95008

In re Application of
Eglit, Kotha, and Bril
Application No. 08/671,873
Filed: June 28, 1996
For: Method and Apparatus for Asynchronous Display of Graphic Images

Dear Mr. Bril:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Karin Tyson
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Michael A. Kaufman
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Suite 3400
Four Embarcadero Center
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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

Srindhar Kotha
4975 Schelbert Terrace
Fremont CA 94555

In re Application of
Eglit, Kotha, and Bril
Application No. 08/671,873
Filed: June 28, 1996
For: Method and Apparatus for Asynchronous Display of Graphic Images

Dear Mr. Kotha:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)305-9285. 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).

Karin Tyson
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Michael A. Kaufman
Flehr Hohbach Test Albritton & Herbert
Suite 3400
Four Embarcadero Center
San Francisco CA 94111-4187

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Bib Data Sheet

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
08/671,873	06/28/1996 RULE 1.47	345	2775	0472-VDSK

APPLICANTS

ALEXANDER EGLIT, HALF MOON BAY, CA ;
SRIDHAR KOTHA, FREMONT, CA ;
VLAD BRIL, CAMPBELL, CA ;
By Cirrus Logic, Inc., Freemont, CA UNITED STATES, (Under 35 USC 1.18);

** CONTINUING DATA **********

** FOREIGN APPLICATIONS **********

IF REQUIRED, FOREIGN FILING LICENSE GRANTED **
** 02/08/1997

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed	☐ yes ☐ no	CA	6	23	3
35 USC 119 (a-d) conditions met	☐ yes ☐ no ☐ Met after Allowance				
Verified and Acknowledged	Examiner's Signature Initials				

ADDRESS

Robert P. Bell
Kile McIntyre Harbin & Lee
The Evening Star Building, Suite 800
1101 Pennsylvania Ave NW
Washington ,DC 20004

TITLE

METHOD AND APPARATUS FOR ASYNCHRONOUS DISPLAY OF GRAPHIC IMAGES

FILING FEE RECEIVED		
966	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

Enclosure

PTO-103X
(Rev. 6-99)

OIPE JC48
AUG 1 2 2003
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FILING RECEIPT

CORRECTED

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
08/671,873	06/28/96	2775	$966.00	0472-VDSK	6	23	3

CIRRUS LOGIC INC
LEGAL DEPARTMENT M521
3100 WEST WARREN AVENUE
FREMONT CA 94538-6423

Receipt is acknowledged of this nonprovisional 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 Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts of Application" ("Missing Parts Notice") in this application, please submit any corrections to this Filing Receipt with your reply to the "Missing Parts Notice." When the PTO processes the reply to the "Missing Parts Notice," the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s) SRIDHAR KOTHA, FREMONT, CA; VLAD BRIL, CAMPBELL, CA; ALEXANDER EGLIT, HALF MOON BAY, CA.

IF REQUIRED, FOREIGN FILING LICENSE GRANTED 02/08/97
TITLE
METHOD AND APPARATUS FOR ASYNCHRONOUS DISPLAY OF GRAPHIC IMAGES

PRELIMINARY CLASS: 345

JAN 05 2000
LEGAL DEPARTMENT

DATA ENTRY BY: SCOTT, JOSEPH TEAM: 03 DATE: 12/23/99

POSTED

(See reverse for new important information)

[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
Title: METHOD AND APPARATUS FOR ASYNCHRONOUS DISPLAY OF GRAPHIC IMAGES	

The following has been received in the U.S. Patent Office on the date Stamped Hereon:

☒ PETITION TO WITHDRAW NOTICE OF ABANDONMENT UNDER 37 C.F.R. 1.53, OR, IN THE ALTERNATIVE, TO REVIVE UNDER 37 C.F.R. 1.137(a) or (b).

[illegible]

OIPE JC48
AUG 12 2003
TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Alexander J. Eglit et al.**	Docket No.: **0472-VDSK** KMHL REF: **10.200.060**
Serial Number: **08/671,873**	Art Unit: **UNASSIGNED**
Filing Date: **June 28, 1996**	Examiner: **UNASSIGNED**
Title: **METHOD AND APPARATUS FOR ASYNCHRONOUS DISPLAY OF GRAPHIC IMAGES**	

PETITION TO WITHDRAW NOTICE OF ABANDONMENT UNDER 37 C.F.R. 1.53, OR, IN THE ALTERNATIVE, TO REVIVE UNDER 37 C.F.R. 1.137(a) or (b)

Sir:

Applicant respectfully requests that the Commissioner vacate and withdraw the Notice of Abandonment under 37 C.F.R. §1.53 dated January 31, 2000, as applicant has fully responded to the outstanding Action in the Above-Captioned Application. In the alternative, applicant respectfully request the Commissioner revive the above-captioned application under 37 C.F.R. §1.137(a) on the grounds of unavoidable delay. In the alternative, applicant also respectfully requests the Commissioner revive the above-captioned application under 37 C.F.R. §1.137(b) on the grounds of unintentional delay.

FACTS

The present application is one of a number of applications naming Sasha (Alexander) Eglit and Vlad Bril as inventors (among others). Cirrus Logic, Inc., the assignee (and/or putative assignee) of the above-captioned application sold its graphics division several years ago, and at about the same time, inventors Eglit and Bril left the company. Both inventors (among others) have refused to cooperate in the prosecution of this and other applications.

Petitions under 37 C.F.R. §1.47(a) and/or (b) were prepared in this and other applications to proceed with prosecution of the applications in the absence of the inventors cooperation. Unfortunately, in some instances, the petitions (prepared in-house by Cirrus Logic) were incorrectly prepared. Petitions prepared under Rule 47(b) should have been under Rule 47(a) and vice versa.

In addition, handling of these petitions has been somewhat inconsistent. Senior Legal Advisor Karin Tyson has been most helpful in resolving issues surrounding these petitions.

However, what is most disturbing is that the Patent & Trademark Office, in at least two instances, has lost the responses to such Petitions. Such is the case here.

On January 20, 1999, a DECISION DISMISSING STATUS under 37 C.F.R. §1.47(b) was mailed to Cirrus Logic, Inc. The undersigned contacted Senior Legal Advisor Karin Tyson to discuss the merits of applicant's PETITION and moreover the necessary requirements to place the PETITION into proper form. In particular, a new declaration would be required in order to process the PETITION under 37 C.F.R. §1.47(b).

On March 26, 1999, applicant submitted a REQUEST FOR RECONSIDERATION, along with a new declaration, a PETITION FOR EXTENSION OF TIME, and the $110 extension of time fee. This RESPONSE was a complete response to the outstanding DECISION as indicated by Senior Legal Advisor Tyson.

It appears that once again, the Patent Office has lost this response.

Submitted herewith are copies of that response including a date-stamped card clearly showing that the documents were timely submitted.

Applicant respectfully requests that the Office withdraw the Notice of Abandonment, grant applicant's PETITION, and examine the application on the merits.

In the alternative, applicant requests that this document be treated as a PETITION TO REVIVE on unavoidable or unintentional grounds.

ADEQUATE SHOWING OF THE CAUSE OF UNAVOIDABLE DELAY

In this instance, it appears that the unavoidable delay was due entirely to the fault of the Patent and Trademark Office. Applicant has no control over the operations of the Patent and Trademark Office, and therefore the delay was entirely unavoidable on the part of applicant.

RESPONSE TO NOTICE OF ABANDONMENT

As noted above, attached herewith is a copy of the original RESPONSE along with a copy of the date-stamped receipt card. This RESPONSE was apparently misplaced by the Patent Office. Applicant respectively requests that the enclosed RESPONSE be entered into the file and acted upon by the Patent Office. Applicant submits that the enclosed RESPONSE fully responds to the outstanding Action in the Application.

PETITION FEE UNDER 37 C.F.R. 1.17(l)

The Commissioner is authorized to charge the petition fee of $130.00 and any other fees required, to Deposit Account No. 06-0115.

However, applicant hereby petitions that the Patent Office refund this fee to applicant, as the error which required this petition was entirely due to the fault of the Patent Office. As such, applicant is entitled to a full refund of the petition fee.

NO TERMINAL DISCLAIMER REQUIRED

Under 37 C.F.R. 1.137(c), no terminal disclaimer is necessary in the present petition, as the above-captioned application was filed after June 8, 1995 (specifically, on June 28, 1996).

However, applicant respectfully notes that the term of applicant's patent has been correspondingly truncated by the delay introduced by the Patent Office due to the loss of applicant's RESPONSE papers. Moreover, further delay in prosecution could seriously affect applicant's patent rights due to the rapid advances in technology.

Thus, applicant respectfully requests that the above petition be acted on without delay and that the present application be immediately advanced for examination and further prosecution.

REQUEST FOR ALTERNATIVE RELIEF

As stated above, a Notice of Abandonment under 37 C.F.R. 1.53 in the above-captioned application was sent in error, probably due to applicant's RESPONSE being inadvertently misplaced by the Patent Office. Applicant respectfully requests vacating and withdrawing that Notice of Abandonment as outlined above.

In the alternative, applicant respectfully requests this petition be treated as a petition to revive under 37 C.F.R. 1.137(a) on the grounds of unavoidable delay. Moreover, applicant respectfully requests that any and all fees necessary to revive the above-captioned application be charged to the Deposit Account No. 06-0115. Moreover, applicant respectfully requests that any and all petition fees necessary to revive the above-captioned application be refunded to the same Deposit Account, as such petition fees were only made necessary due to an error on the part of the Patent Office.

Serial No. 08/671,873 **PATENT**

If there are any additional papers or items necessary to complete this petition, the Office is encouraged to call the undersigned at **202-639-1260** to expedite the above-captioned application.

Respectfully submitted,

Robert P. Bell
Registration Number 34,546

Kile McIntyre Harbin & Lee
The Evening Star Building, Suite 800
1101 Pennsylvania Ave. NW
Washington, DC 20004

February 21, 2000
n:\work\forms\pto\petition\revive

0472 P.2/43 RT

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APRIL 08, 1997

PTAS

100353445A

CIRRUS LOGIC, INC.
STEVEN A. SHAW
LEGAL DEPARTMENT, M/S 521
3100 W. WARREN AVENUE
FREMONT, CA 94538

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, NORTH TOWER BUILDING, SUITE 10C35, WASHINGTON, D.C. 20231.

RECORDATION DATE: 01/08/1997

REEL/FRAME: 8336/0662
NUMBER OF PAGES: 19

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
EGLIT, ALEXANDER J.

DOC DATE: 01/08/1997

ASSIGNOR:
BRIL, VLAD

DOC DATE: 01/08/1997

ASSIGNOR:
KOTHA, SRIDHAR

DOC DATE: 01/08/1997

ASSIGNEE:
CIRRUS LOGIC, INC.
3100 WEST WARREN AVENUE
FREMONT, CALIFORNIA 94538-6423

SERIAL NUMBER: 08671873
PATENT NUMBER:

FILING DATE: 06/28/1996
ISSUE DATE:

RECEIVED BY:

APR 16 1997

CIRRUS LOGIC
PATENT DEPARTMENT

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DOROTHY RILEY, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

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02-13-1997

FORM PTO-1595 RECORD

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100353445

DEPARTMENT OF COMMERCE
Patent and Trademark Office

Attorney Docket No. 0472-VDSK

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): 02/18/97

Alexander J. Eglit, Vlad Bril and Sridhar Kotha

Additional name(s) of conveying party(ies) attached? [ ] Yes [X] No

3. Nature of conveyance:

[X] Assignment [ ] Merger
[ ] Security Agreement [ ] Change of Name

Other:

Execution Date: January 8, 1997

2. Name and address of receiving party(ies):

Name: CIRRUS LOGIC, INC

Address: 3100 West Warren Avenue
Fremont, CA 94538-0420

Additional name(s) & address(es) attached? [ ] Yes [X] No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Application No.(s)

08/671,873

B. Patent No.(s)

Additional numbers attached? [ ] Yes [X] No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Legal Department, M/S 521

Address: CIRRUS LOGIC, INC
3100 W. Warren Avenue
Fremont, California 94538

6. Total number of applications and patents involved: SHP

Total fee (37 CFR 3.41): 40.00

[ ] Enclosed

[X] Authorized to be charged to deposit account, if necessary

8. Deposit account number:

03-2028

DO NOT USE THIS SPACE

9. Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Steven A. Shaw
Name of Person Signing
Registration No. 39,368

Signature

January 8, 1997
Date

Total number of pages including cover sheet, attachments, and document: 19

Do not detach this portion

03-2028 01/21/97 08671873
40.00CH

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks
Box Assignment
Washington, D.C. 20231

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of Information Systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C. 20503.

A:\0472ASSCOV.PAT

...us File Number: 0472-VDSK

JOINT TO CORPORATE ASSIGNMENT

WHEREAS, the undersigned,

1. Sridhar Kotha 2. Vlad Bril

3. Alexander Eglit

(hereinafter termed "Inventors"), residents of

1. Fremont 2. Campbell

3. Half Moon Bay

Respectively, Counties of

1. Alameda 2. Santa Clara

3. San Mateo

respectively, States of

1. California 2. California

3. California

respectively, have invented certain new and useful improvements in:

METHOD AND APPARATUS FOR ASYNCHRONOUS DISPLAY OF GRAPHIC IMAGES

and have executed a declaration or oath for an application for a United States patent disclosing and identifying the invention:

Said application having Application Number 08/671,873 and filed on the 28th day of June, 1996.

WHEREAS **CIRRUS LOGIC, INC.** (hereinafter termed "Assignee"), a corporation of **California**, having a place of business at **3100 West Warren Avenue, Fremont, California 94583**, wishes to acquire the entire right, title and interest in and to said application and the invention disclosed therein, and in and to all embodiments of the invention, heretofore conceived, made or discovered jointly or severally by said Inventors

and other forms of protection thereon (hereinafter termed "patents" applied for or granted in the United States and/or other countries.

NOW THEREFORE, for good and valuable consideration acknowledged by each of said Inventors to have been received in full from said Assignee:

[illegible] title and interest (a) in and to said application and said invention, (b) in and to all rights to apply in any or all countries of the world for patents, certificates of inventions or other governmental grants on said invention, including the right to apply for patents pursuant to the International Convention for the Protection of Industrial Property or pursuant to any other convention, treaty, agreement or understanding; (c) in and to any and all applications filed and any and all patents, certificates of inventions or other governmental grants granted on said invention in the United States or any other country, including each and every application filed and each and every patent granted on any application which is a division, substitution, or continuation of any of said applications; (d) in and to each and every reissue or extension of any of said patents; and (e) in and to each and every patent claim resulting from a reexamination certificate for any and all of said patents.

2. Said Inventors hereby jointly and severally covenant and agree to cooperate with said Assignee to enable said Assignee to enjoy to the fullest extent the right, title and interest herein conveyed in the United States and other countries. Such cooperation by said Inventors shall include prompt production of pertinent facts and documents, giving of testimony, executing of petitions, oaths, specifications, declarations or other papers, and other assistance all to the extent deemed necessary or desirable by said Assignee (a) for perfecting in said Assignee the right, title and interest herein conveyed; (b) for complying with any duty of disclosure; (c) for prosecuting any of said applications; (d) for filing and prosecuting substitute, divisional, continuing or additional applications covering said invention; (e) for filing and prosecuting applications for reissue of any of said patents; (f) for interference or other priority proceedings involving said invention; and (g) for legal proceedings involving said invention and any applications therefor and any patents granted thereon, including without limitation opposition proceedings, cancellation proceedings, priority contests, public use proceedings, reexamination proceedings, compulsory licensing proceedings, infringement actions and court actions; provided, however, that the expense incurred by said Inventors in providing such cooperation shall be paid for by said Assignee.

3. The terms and covenants of this Assignment shall inure to the benefit of said Assignee, its successors, assigns and other legal representatives, and shall be binding upon said Inventors, their respective heirs, legal representatives and assigns.

4. [illegible] and will not enter into any assignment, contract, or understanding in conflict herewith.

IN WITNESS WHEREOF, the said Inventors have executed and delivered this instrument to said Assignee.

(1) Sridhar Kotha

(2) Vlad Bril — For Vlad Bril

(3) Alexander Eglit — For Alexander Eglit

JUL 09 '98 12:30PM ELCHE P.1/43

COPY CERTIFICATION OF DOCUMENT CUSTODIAN

State of California

County of Alameda

I, David McCormack, hereby declare that the attached reproduction of
(NAME OF CUSTODIAN OF ORIGINAL DOCUMENT)

Alexander Eglit's Employment Agreement
(DESCRIPTION OF ORIGINAL DOCUMENT)

is a true, correct, and complete photocopy of a document in my possession or control.

STEVEN A. SHAW
COMM. # [illegible]
Notary Public — California
ALAMEDA COUNTY
My Comm. Expires [illegible]

[signature]
SIGNATURE AND ADDRESS OF CUSTODIAN OF ORIGINAL DOCUMENT

[illegible]

Subscribed and sworn (or affirmed) to before me this [illegible] day of [illegible], 19 97.

[signature]
NOTARY'S SIGNATURE

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY CUSTODIAN

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICER

TITLE(S)

- ☐ UNIVERSITY/SCHOOL OFFICER
- ☐ BUSINESS PROPRIETOR/MANAGER
- ☐ GOVERNMENTAL OFFICER/AGENT
- ☐ ATTORNEY
- ☐ TRUSTEE
- ☐ OTHER:

CUSTODIAN IS REPRESENTING:
NAME OF FIRM, SCHOOL, GOVERNMENTAL AGENCY, ETC.

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TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OR ISSUING AGENCY

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EMPLOYEE AGREEMENT

In consideration of my employment by CIRRUS LOGIC, INC. and/or its subsidiaries (together collectively, the "Company"), I agree as follows:

1. I will devote my best efforts to the interest of Company and will not, without written consent of Company during my employment, engage in any activity, investment, interest or association (i) which is hostile or adverse to or competitive with Company or (ii) which so occupies my attention as to interfere with the proper and efficient performance of my duties at Company or (iii) which interferes with the independent exercise of my judgement in Company's best interest.

2. I agree that I shall not use for the benefit of, or disclose to, Company any proprietary information of third parties (including my former employers). I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any oral or written agreement in conflict herewith.

3. I have disclosed on the attached page(s) all inventions, whether or not patented, and all mask works and copyrights whether or not registered ("Intellectual Property") which I own or in which I have a direct or indirect interest. If no such page is attached, then I agree that I do not own or have any such interest in any Intellectual Property. I agree not to incorporate into a product, a process, a machine or a software program or otherwise use Intellectual Property owned by me or in which I have an interest, and should I do so Company shall be and is hereby granted a royalty-free, irrevocable, worldwide license to make, have made, use, sell, reproduce, distribute, perform, display or prepare derivative works based upon such Intellectual Property without restriction, to the extent of my ownership or interest.

4. I agree that, except as required or authorized by Company, I shall not, both during and after my employment, reveal to others any proprietary information, technical (including proprietary information of third parties), financial, legal, or otherwise, received or developed by me during my employment relating to the business of Company, nor shall I make use of any such information except as authorized by Company. I promise to return all papers, films, documents, and other materials belonging to Company or containing proprietary information of the Company promptly upon termination of my employment, or upon earlier request.

5. Without any further compensation, I agree to promptly disclose, maintain written records of, and, except as provided in California Labor Code Section 2870, to assign, and do hereby assign to Company all right, title and interest in and to all ideas, discoveries, inventions and improvements, whether or not patentable or protectable by mask work or copyright registration, which I make solely or jointly hereafter where such ideas, discoveries, inventions, or improvements relate to any of Company's past or present lines of business or were made during my working hours or with the use of the Company's materials, tools or equipment. With respect to these ideas, discoveries, inventions, and improvements, I agree to execute all documents requested by Company to effect the above assignment to Company and to obtain U.S. and foreign patents, mask work rights and copyrights; to communicate to Company any pertinent facts I know; to testify at Company's request and expense in any interference or litigation which may arise during or after my employment: and otherwise to assist Company to enjoy full benefits in such ideas, discoveries, inventions or improvements.

6. If the Company is unable for any reason to secure my signature to apply for or to pursue any application for any United States or foreign letters patent or mask work or copyright registration covering inventions, mask works or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me. I hereby waive and quitclaim to the Company any and all claims, of any nature whatsoever, which I now or may hereafter have for infringement of any patents, mask works or copyrights resulting from any such application for letters patent or copyright registrations assigned hereunder to the Company.

7. This Agreement does not apply to an invention which qualifies fully under Section 2870 of the California Labor Code as one which cannot be required to be assigned to the Employer. I acknowledge that I have been provided a copy of Section 2870 as an attachment to this Agreement. I agree, however, to disclose to Company all my inventions made solely or jointly with others during my employment by Company in accordance with Section 2870.

8. I agree to abide faithfully by all Company rules and regulations.

9. The obligations contained herein will continue in full force and effect beyond the termination of my employment with Company, and in perpetuity, except for those obligations which are expressly limited by terms hereof to the duration of my employment or to a fixed period thereafter.

10. This Agreement shall be governed for all purposes by the laws of the State of California. If any provision(s) of this agreement are declared void, or otherwise unenforceable, such provision shall be deemed to have been severed from this agreement, which shall otherwise remain in full force and effect.

11. This Agreement sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and merges all prior discussions between us. This Agreement cannot be modified except in writing executed by the President or the Vice President of Finance of Company and by myself. Any subsequent change or changes in my duties, salary or compensation will not affect the validity or scope of this Agreement. This Agreement does not constitute any agreement of employment and, unless otherwise provided in a separate agreement in writing, either I or the Company may terminate my employment with or without cause, with or without notice, at any time.

12. This Agreement will be binding upon my heirs, executors, administrators, and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.

Employee's Signature

Date Signed: April 14, 1992

Inventions listed on attached page(s):

☑ YES, on 1 # of pages

☐ NO

Witnessed by_____

Date_____

SECTION 2870 OF THE CALIFORNIA LABOR CODE

§ 2870. Employment agreements; assignment of rights

(a) Any provision in an employment agreement which provides that an employee shall assign or offer to assign any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstratably anticipated research or development of the employer.

(2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.

The list of intellectual property:

1. LDL logic description language - syntax and semantics.
2. Silicon compiler from LDL description to Xilinx LCA programmable gate array.
3. Silicon compiler from LDL to standard cell pinlist.

COPY CERTIFICATION BY DOCUMENT CUSTODIAN No. 5909

State of California

County of Alameda

I, David McCormack (NAME OF CUSTODIAN OF ORIGINAL DOCUMENT), hereby declare that the attached reproduction of

Vlad Brilb Employment Agreement
(DESCRIPTION OF ORIGINAL DOCUMENT)

is a true, correct, and complete photocopy of a document in my possession or control.

SIGNATURE AND ADDRESS OF CUSTODIAN OF ORIGINAL DOCUMENT

STEVEN A. SHAW
COMM. # 993046
Notary Public — California
ALAMEDA COUNTY
My Comm. Expires APR 26, 1997

Subscribed and sworn (or affirmed) to before me this 12th day of December 19 96.

NOTARY'S SIGNATURE

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY CUSTODIAN

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICER

TITLE(S)

- ☐ UNIVERSITY/SCHOOL OFFICER
- ☐ BUSINESS PROPRIETOR/MANAGER
- ☐ GOVERNMENTAL OFFICER/AGENT
- ☐ ATTORNEY
- ☐ TRUSTEE
- ☒ OTHER: Human Resources representative Custodian of Documents

CUSTODIAN IS REPRESENTING:
NAME OF FIRM SCHOOL GOVERNMENTAL AGENCY ETC

FURTHER DESCRIPTION OF ORIGINAL DOCUMENT

Employment Agreement
TITLE OR TYPE OF DOCUMENT

8
NUMBER OF PAGES

DATE OF DOCUMENT

COPY CERTIFICATION BY DOCUMENT CUSTODIAN

No. 5909

State of California

County of Alameda

I, David McCormack (NAME OF CUSTODIAN OF ORIGINAL DOCUMENT) hereby declare that the attached reproduction of

Wad Bill Employment Agreement
(DESCRIPTION OF ORIGINAL DOCUMENT)

is a true, correct, and complete photocopy of a document in my possession or control.

[signature]
SIGNATURE AND ADDRESS OF CUSTODIAN OF ORIGINAL DOCUMENT

Subscribed and sworn (or affirmed) to before me this 12th day of December 1996.

[signature]
NOTARY'S SIGNATURE

Notary Public — California
ALAMEDA COUNTY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY CUSTODIAN

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICER

TITLE(S)

- ☐ UNIVERSITY/SCHOOL OFFICER
- ☐ BUSINESS PROPRIETOR/MANAGER
- ☐ GOVERNMENTAL OFFICER
- ☐ ATTORNEY
- ☐ TRUSTEE
- ☒ OTHER

Human Resources Representative
Custodian of Documents

CUSTODIAN IS REPRESENTING:
NAME OF FIRM, SCHOOL, GOVERNMENTAL AGENCY, ETC.

Circuit Logic, Inc.

FURTHER DESCRIPTION OF ORIGINAL DOCUMENT

Employment Agreement
TITLE OR TYPE OF DOCUMENT

8
NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OR ISSUING AGENCY

COPY CERTIFICATION BY DOCUMENT CUSTODIAN

State of California

County of Alameda

I, David McCormack, hereby declare that the attached reproduction of
(NAME OF CUSTODIAN OF ORIGINAL DOCUMENT)

Vlad Brilb
Employment Agreement
(DESCRIPTION OF ORIGINAL DOCUMENT)

is a true, correct, and complete photocopy of a document in my possession or control.

STEVEN A. SHAW
COMM. # 993[illegible]
Notary Public — California
ALAMEDA COUNTY
My Comm. Expires APR 25, 1997

SIGNATURE AND ADDRESS OF CUSTODIAN OF ORIGINAL DOCUMENT

Subscribed and sworn (or affirmed) to before me this 12th day of December 1996.

NOTARY'S SIGNATURE

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY CUSTODIAN

- [ ] INDIVIDUAL
- [ ] CORPORATE OFFICER

TITLE(S)

- [ ] UNIVERSITY/SCHOOL OFFICER
- [ ] BUSINESS PROPRIETOR/MANAGER
- [ ] GOVERNMENTAL OFFICER/AGENT
- [ ] ATTORNEY
- [ ] TRUSTEE
- [x] OTHER:

Human Resource Agreement
Custodian of Documents

CUSTODIAN IS REPRESENTING:
NAME OF FIRM, SCHOOL, GOVERNMENTAL AGENCY, ETC.

Cirrus Logic, Inc

FURTHER DESCRIPTION OF ORIGINAL DOCUMENT

Employment Agreement
TITLE OR TYPE OF DOCUMENT

8
NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OR ISSUING AGENCY

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COPY CERTIFICATION BY DOCUMENT CUSTODIAN No. 5909

State of California

County of Alameda

I, David McCormack, hereby declare that the attached reproduction of
(NAME OF CUSTODIAN OF ORIGINAL DOCUMENT)

Vlad Brilb
Employment Agreement
(DESCRIPTION OF ORIGINAL DOCUMENT)

is a true, correct, and complete photocopy of a document in my possession or control.

STEVEN A. SHAW
COMM. # 993046
Notary Public — California
ALAMEDA COUNTY
My Comm. Expires APR 25, 1997

SIGNATURE AND ADDRESS OF CUSTODIAN OF ORIGINAL DOCUMENT

Subscribed and sworn (or affirmed) to before me this 12th day of December 19 96.

NOTARY'S SIGNATURE

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY CUSTODIAN

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICER

TITLE(S)

- ☐ UNIVERSITY/SCHOOL OFFICER
- ☐ BUSINESS PROPRIETOR/MANAGER
- ☐ GOVERNMENTAL OFFICER/AGENT
- ☐ ATTORNEY
- ☐ TRUSTEE
- ☒ OTHER: Human Resources representative Custodian of Documents

CUSTODIAN IS REPRESENTING:
NAME OF FIRM, SCHOOL, GOVERNMENTAL AGENCY, ETC.
Cirrus Logic, Inc

FURTHER DESCRIPTION OF ORIGINAL DOCUMENT

Employment Agreement
TITLE OR TYPE OF DOCUMENT

8
NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OR ISSUING AGENCY

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CIRRUS LOGIC, INC.

EMPLOYEE CONFIDENTIALITY AGREEMENT

As an employee of CIRRUS LOGIC, INC., a California corporation its subsidiaries or its affiliate (together, the "Company"), and in consideration of the compensation now and hereafter paid to me, I agree to the following:

1. Maintaining Confidential Information

a. Company Information. I agree at all times during the term of my employment and thereafter to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation, except in furthering the business of the Company, without written authorization of the Board of Directors of the Company, any trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any of its clients, consultants or licensees.

b. Former Employer Information. I agree that I will not, during my employment with the Company, improperly use or disclose any proprietary information or trade secrets of my former or concurrent employers or companies, if any, and that I will not bring onto the premises of the Company any unpublished document or any property belonging to my former or concurrent employers or companies, if any, unless consented to in writing by said employers or companies.

c. Third Party Information. I recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree that I owe the Company and such third parties, during the term of my employment and, thereafter, a duty to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation (except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party) or to use it for the benefit of anyone other than for the Company or such third party (consistent with the Company's agreement with such third party) without the express written authorization of the Board of Directors of the Company.

2. Retaining and Assigning Inventions and Original Works

a. Inventions and Original Works Retained by Me. I have attached hereto, as Exhibit A, a list describing all inventions, original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company, which belong to me, which relate to the Company's proposed business and products, and which are not assigned to the Company; or, if no such list is attached, I represent that there are no such inventions.

b. Inventions and Original Works Assigned to the Company. I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and will assign to the Company all my right, title, and interest in and to any and all inventions, original works of authorship, developments, improvements or trade secrets which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company. I recognize, however, that Section 2870 of the California Labor Code (as set forth in Exhibit B hereto) exempts from this provision any invention as to which I can prove the following:

(i) It was developed entirely on my own time; and

(ii) No equipment, supplies, facility or trade secret of the Company was used in its development; and

(iii) It either:

(aa) does not relate to the business of the Company or to the Company's actual or demonstrably anticipated research and development, or

(bb) does not result from any work performed by me for the Company.

I acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of my employment and which are protectable by copyright are "works made for hire" as that term is defined in the United States Copyright Act (17 USCA, Section 101).

c. Maintenance of Records. I agree to keep and maintain adequate and current written records of all inventions and original works of authorship made by me

(solely or jointly with others) during the term of my employment with the Company. The records will be in the form of notes, sketches, drawings, and any other format that may be specified by the Company. The records will be available to and remain the sole property of the Company at all times.

d. Inventions Assigned to the United States. I agree to assign to the United States government all my right, title, and interest in and to any and all inventions, original works of authorship, developments, improvements or trade secrets whenever such full title is required to be in the United States by a contract between the Company and the United States or any of its agencies.

e. Obtaining Letters Patent and Copyright Registrations. I agree that my obligation to assist the Company to obtain United States or foreign letters patent and copyright registrations covering inventions and original works of authorship assigned hereunder to the Company shall continue beyond the termination of my employment, but the Company shall compensate me at a reasonable rate for time actually spent by me at the Company's request on such assistance. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign letters patent or copyright registrations covering inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me. I hereby waive and quitclaim to the Company any and all claims, of any nature whatsoever, which I now or may hereafter have for infringement of any patents or copyright resulting from any such application for letters patent or copyright registrations assigned hereunder to the Company.

f. Exception to Assignments. I understand that the provisions of this Agreement requiring assignment to the Company do not apply to any invention which qualifies fully under the provisions of Section 2870 of the California Labor Code, a copy of which is attached hereto as Exhibit B. I will advise the Company promptly in writing of any inventions, original works of authorship, developments, improvements or trade secrets that I believe meet the criteria in Subparagraphs 2b(i), (ii), and (iii) above; and I will at that time provide to the Company in writing all evidence necessary to substantiate that belief. I understand that the Company will keep in confidence and will not disclose to third parties without my consent any confidential information disclosed in writing to the Company relating to inventions that qualify fully under the provisions of Section 2870 of the California Labor Code.

3. Conflicting Employment. I agree that, during the term of my employment with the Company, I will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of my employment, nor will I engage in any other activities that conflict with my obligations to the Company.

4. Returning Company Documents. I agree that, at the time of leaving the employ of the Company, I will deliver to the Company (and will not keep in my possession or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to the Company, its successors or assigns. In the event of the termination of my employment, I agree to sign and deliver the "Termination Certificate" attached hereto as Exhibit C.

5. Representations. I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into and I agree I will not enter into, any oral or written agreement in conflict herewith.

6. General Provisions

a. Governing Law. This Agreement will be governed by the laws of the State of California.

b. Entire Agreement. This Agreement sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and merges all prior discussions between us. This Agreement cannot be extended except in writing executed by the President or the Vice President of Finance of Company and myself. Any subsequent change or changes in my duties, salary or compensation will not affect the validity or scope of this Agreement.

c. Severability. If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

d. Successors and Assigns. This Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.

Date: 11/24/86

Employee:

Signature

VLAD BRIL

Name of Employee (typed or printed)

Company:
CIRRUS LOGIC, INC.

By: Kathy Cr

Title: Mgr Human Resources

EXHIBIT A

LIST OF PRIOR INVENTIONS AND ORIGINAL WORKS OF AUTHORSHIP

Title	Date	Identifying Number or Brief Description
None.		

Name of Employee: _____

EXHIBIT B

CALIFORNIA LABOR CODE SECTION 2870
EMPLOYMENT AGREEMENTS; ASSIGNMENT OF RIGHTS

"Any provision in an employment agreement which provides that an employee shall assign or offer to assign any of his or her rights in an invention to his or her employer shall not apply to an invention for which no equipment, supplies, facility, or trade secret information of the employer was used and which was developed entirely on the employee's own time, and (a) which does not relate (1) to the business of the employer or (2) to the employer's actual or demonstrably anticipated research or development, or (b) which does not result from any work performed by the employee for the employer. Any provision which purports to apply to such an invention is to that extent against the public policy of this state and is to that extent void and unenforceable."

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Alameda

On Sep 8, 1997 (Date) before me, Steven A. Shaw, Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared Sridhar Kotha (Name(s) of Signer(s))

☒ personally known to me
☐ proved to me on the basis of satisfactory evidence

STEVEN A. SHAW
COMM. # 993046
Notary Public — California
ALAMEDA COUNTY
My Comm. Expires APR 25, 1997

to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Individual
☐ Corporate Officer
Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____

☐ Individual
☐ Corporate Officer
Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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EXHIBIT C

CIRRUS LOGIC, INC.
TERMINATION CERTIFICATION

This is to certify that I do not have in my posession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to CIRRUS LOGIC, Inc., its subsidiaries, affiliates, successors or assigns (together, the "Company").

I further certify that I have complied with all the terms of the Company's Employee Proprietary Information Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein), conceived or made by me (solely or jointly with others) covered by that agreement.

I further agree that, in compliance with the Employee Proprietary Information Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any of its clients, consultants or licensees.

Date: _____

_____
(Employee's Signature)

_____
(Type/Print Employee's Name)

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS

Fax to Bob Bell

0472-PC

Cirrus Logic Inc.
Legal Department M521
3100 West Warren Ave.
Freemont CA 94538-6423

CIR Ref. CRUS-0060

COPY MAILED

JAN 20 1999

LEGAL DEPARTMENT

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Kotha, Bril and Partani
Application No. ~~08/671,~~873
Filed: June 28, 1996
For: Method and Apparatus for Asynchronous Display of Graphic Images

DECISION DISMISSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the "Request for Reconsideration...Request for Reinstatement of the Petition under 37 CFR 1.47(b)," filed August 31, 1998. The petition had the incorrect Application Number in the heading thereof which delayed processing of the petition.

The petition is now properly considered under 37 CFR 1.47(b), but the petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in abandonment of the application. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.47(b)" and may include an oath or declaration signed by the previously non-signing inventors.

The request for reconsideration includes proof that the previously signing inventor Kotha is now refusing to join in the filing of the above-identified application. In addition, the request for reconsideration is accompanied by a declaration signed by Robert Donohue on behalf of Cirrus Logic and the non-signing inventors. (See the last paragraph of page 2 of the request for reconsideration.) It is noted that it is not clear from Exhibit C, the declaration, who signed or what was written, but it does appear that the same person signed on all three signature lines. The petition filed January 8, 1998 has been reconsidered and establishes that Cirrus Logic, Inc. has proprietary interest in the application and provides proof of

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irreparable damage.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks item (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration does comply with 37 CFR 1.64 since it is not clear from the declaration that the inventors did not sign the document and because the declaration does not state the relationship of the Mr. Donohue, the person who apparently signed the document, to the inventors. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(b). It is noted that 35 U.S.C. 115 permits the oath to be varied so that it can be signed by a person other than the inventor. There is no provision in the rules of practice that allows someone other than *the* inventor to sign *the* inventor's name to the oath or Declaration. In re Stryker, 182 USPQ 507 (Comm'r Pat. 1973); Ex Parte Hipkins, 20 USPQ2d 1694, 1696 (BPAI 1991). It should be clear from the oath who is signing the document.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: One Crystal Park, Suite 520
2011 Crystal Drive
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-3159.

Karin Tyson
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/671,873	06/28/96		0472-VDSK

LM61/0131

CIRRUS LOGIC INC
LEGAL DEPARTMENT M501
3100 WEST WARREN AVENUE
FREMONT CA 94538-6423

EXAMINER

ART. UNIT	PAPER NUMBER

DATE MAILED: 01/31/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

CIRRUS LOGIC
FEB 00 2000
LEGAL DEPARTMENT

POSTED

Notice of Abandonment	Application No. 08/671,873	Applicant(s) Kotha et al.
	Examiner Srilakshmi Kumar	Group Art Unit 2775

This application is abandoned in view of:

☒ applicant's failure to timely file a proper response to the Office letter mailed on Jan 20, 1999.

☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of ____ month(s)) which expired on _____.

☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.
(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC)).

☒ No response has been received.

☐ applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.

☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.

☐ The submitted issue fee of $_____ is insufficient. The issue fee required by 37 CFR 1.18 is $_____.

☐ The issue fee has not been received.

☐ applicant's failure to timely file new formal drawings as required in the Notice of Allowability.

☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.

☐ The proposed new formal drawings filed _____ are not acceptable.

☐ No proposed new formal drawings have been received.

☐ the express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.

☐ 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.

☐ 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.

☐ 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:

STEVEN J. SARAS
SUPERVISORY PATENT EXAMINER
GROUP 2700

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/671,873	06/28/96		0472-VDSK

LM61/0131

CIRRUS LOGIC INC
LEGAL DEPARTMENT M501
3100 WEST WARREN AVENUE
FREMONT CA 94538-6423

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED: 01/31/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

CIRRUS LOGIC
FEB 00 2000
LEGAL DEPARTMENT

POSTED

Notice of Abandonment	Application No. 08/671,873	Applicant(s) Kotha et al.
	Examiner Srilakshmi Kumar	Group Art Unit 2775

This application is abandoned in view of:

☒ applicant's failure to timely file a proper response to the Office letter mailed on Jan 20, 1999.

☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of ____ month(s)) which expired on _____.

☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.

(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC)).

☒ No response has been received.

☐ applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.

☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.

☐ The submitted issue fee of $_____ is insufficient. The issue fee required by 37 CFR 1.18 is $_____.

☐ The issue fee has not been received.

☐ applicant's failure to timely file new formal drawings as required in the Notice of Allowability.

☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.

☐ The proposed new formal drawings filed _____ are not acceptable.

☐ No proposed new formal drawings have been received.

☐ the express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.

☐ 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.

☐ 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.

☐ 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:

STEVEN J. SARAS
SUPERVISORY PATENT EXAMINER
GROUP 2700

[illegible]

[illegible]	[illegible]
Alexander J. Holt et al.	[illegible]
Serial Number: 08/671,873	[illegible]
Filing Date: June 28, 1996	[illegible]
Title: METHOD AND APPARATUS FOR ASYNCHRONOUS DISPLAY OF GRAPHIC IMAGES	

The following has been received in the U.S. Patent Office on the Date Stamped Hereon:

- ☒ Check For $110.00
- ☒ Request for Reconsideration of Petition under 37 CFR §1.47(b)
- ☒ Petition for Extension of Time (1 MOS)

[illegible]
[illegible]
(703) 683-8822

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	
Alexander J. Eglit et al.	Atty Docket No. CRUS-0060
Serial Number: 08/671,974	Art Unit: UNASSIGNED
Filed: June 28, 1996	Examiner: UNASSIGNED
For: **METHOD AND APPARATUS FOR ASYNCHRONOUS DISPLAY OF GRAPHIC IMAGES**	

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. 1.47(b)

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

A response to applicant's previous REQUEST FOR RECONSIDERATION was mailed on January 20, 1999 from the Special Programs Office with regard to the above-captioned application.

Karin Tyson, Senior Legal Advisor, indicated that the petition will be considered under 37 C.F.R. 1.47(b).

Unfortunately, Senior Legal Advisor Tyson dismissed that petition on the grounds that the declaration was improperly signed. Applicant would like to take this opportunity to thank Senior Legal

Advisor Tyson for the courtesy shown to applicant's representative in an informal telephone conference regarding this matter.

Ms. Tyson clarified the position in the petition decision during that telephone conference. Ms. Tyson indicated it was unclear from the previous declaration who was signing in place of the non-signing inventors for a petition under 37 C.F.R. 1.47(b). Ms. Tyson suggested that a new declaration be submitted, clearly showing who was signing on behalf of the inventors.

To prevent any further delay in prosecution, applicant respectfully requests that Ms. Tyson CALL the undersigned if any additional documentation is necessary to complete this Petition. In addition, applicant respectfully requests that any responses or requests for additional documentation clearly state what documentation is required by Petitions Branch. The response of January 20, 1999, while complete, was not readily decipherable.

The declaration attached herewith clearly indicates that Mr. Donohue, General Counsel and Secretary (and thus Officer) of Cirrus Logic, Inc. is signing on behalf of the non-signing inventors. Per the telephone conversation with Ms. Tyson, applicant submits that this declaration satisfies the requirements of item (2) of the communication of January 20, 1999.

Applicant believes that no additional fee is necessary for this request for reconsideration. However, the Commissioner is hereby authorized to charge any additional fees associated with this communication, to **Deposit Account Number 50-0274**.

Respectfully submitted,

Robert P. Bell
Registration No. 34,546

Robert Platt Bell & Associates, P.C.
917 Duke Street
Alexandria, Virginia 22314

March 26, 1999

In re Application of: **Alexander J. Eglit et al.**	Docket No.: **0472-VDSK** RPBPC REF: **CRUS-0060**
Serial Number: **08/671,873**	Art Unit: **UNASSIGNED**
Filing Date: **June 28, 1996**	Examiner: **UNASSIGNED**
Title: **METHOD AND APPARATUS FOR ASYNCHRONOUS DISPLAY OF GRAPHIC IMAGES**	

Declaration for Patent Application and Appointment of Attorney

DECLARATION OF SOLE OR JOINT INVENTORSHIP

As a below-named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name; I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention (Design, if applicable) entitled above, the specification of which is either attached hereto, or was filed on the date listed above as with the Application Serial Number listed above (whichever is applicable).

REVIEWED AND UNDERSTOOD CLAUSE

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s). I acknowledge the duty to disclose information which is material to the examination of this application in accordance with *Title 37, Code of Federal Regulations, § 1.56(a)*.

DOMESTIC PRIORITY CLAIM

I hereby claim the benefit under *Title 35, United States Code, § 120* of any United States application(s) or PCT international application(s) designating The United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of *Title 35, United States Code, § 112*, I acknowledge the duty to disclose material information as defined in *Title 37, Code of Federal Regulations, § 1.56(a)* which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

APPLICATION NUMBER	FILING DATE	STATUS (Patented, Pending, Abandoned)

Declaration for Patent Application and Appointment of Attorney

WILLFUL FALSE STATEMENTS CLAUSE

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under *Section 1001 of Title 18 of the United States Code*, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

CORRESPONDENCE ADDRESS

Direct all correspondence to:	Direct all phone calls to:
Robert P. Bell **Robert Platt Bell & Associates, P.C.** 917 Duke Street Alexandria, Virginia 22314	**Robert P. Bell** **(703) 683-8822** FAX: (703) 683-8823

POWER OF ATTORNEY

I (We) hereby appoint as my (our) attorneys, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith the following registered Patent Attorneys:

NAME	REGISTRATION NUMBER
Robert P. Bell	34,546
Robert G. Lev	30,280
Steven A. Shaw	39,368
J.P. Violette	33,042
Frank G. Nguyen	39,790
Dan Shifrin	34,473

Full Name of First or Sole Inventor Alexander J. Eglit	*Citizenship* Russia
Residence Address - Street 647 Highland Ave	*Post Office Address Street* 647 Highland Ave
City Half Moon Bay	*City* Half Moon Bay
State or Country *Zip* California 94019	*State or Country* *Zip* California 94019
DATE 2/18/99	*SIGNATURE* By Robert Donohue, Secretary of Cirrus Logic, Inc. on behalf of non-signing inventor:

Full Name of Second Inventor Sridhar Kotha	*Citizenship* India
Residence Address - Street 4975 Schelbert Terrace	*Post Office Address Street* 4975 Schelbert Terrace
City Fremont	*City* Fremont
State or Country *Zip* California 94555	*State or Country* *Zip* California 94555
DATE 2/18/99	*SIGNATURE* By Robert Donohue, Secretary of Cirrus Logic, Inc. on behalf of non-signing inventor:

Full Name of Third Inventor Vlad Bril	*Citizenship* USA
Residence Address - Street 232 Darryl Drive	*Post Office Address Street* 232 Darryl Drive
City Campbell	*City* Campbell
State or Country *Zip* California 95008	*State or Country* *Zip* California 95008
DATE 2/18/99	*SIGNATURE* By Robert Donohue, Secretary of Cirrus Logic, Inc. on behalf of non-signing inventor:

n:\work\crus\0060\decl-poa.crs

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Cathryn Campbell
McDERMOTT, WILL & EMERY
7th Floor
4370 La Jolla Village Drive
San Diego CA 92122

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OFFICE OF PETITIONS

In re Application of
Huse et al.
Application No. 10/463,847
Filed: June 16, 2003
For: ANTI-ALPHAVBETA3 RECOMBINANT HUMAN ANTIBODIES, NUCLEIC ACIDS ENCODING SAME AND METHODS OF USE
Attorney Docket No: 66797-373
Pub. No.: US 2004/0006213 A1
Pub. Date: January 8, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on March 8, 2004 for the above-identified application.

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains an error on the front page of the patent application publication, as it lists that the application is a continuation in part of application No. 08/791,391; it contains an error on page 22, paragraph [0183], as the phrase "$\alpha_v B_3$." is missing after ". . . 92 are active in binding" and before "Oligionucleotides"; page 22, paragraph [0183] "Oligionucleotides encoding a single . . ." begins a new paragraph and page 24, the sequences in Table 9 are misaligned.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The error in the continuity data is not a material mistake by the Office because the amendment was not in compliance with 37 CFR 1.52 and 1.121. With respect to the errors on page 22,

[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).

paragraph [0183] and the misaligned sequences in Table 9, the errors are Office mistakes, but they are not material mistakes as required by 37 CFR 1.221(b). The errors are not material mistakes because the application is a continuation of U.S. Application 09/016,061 filed January 30, 1998, now U.S. Patent 6, 596,850. Since, the parent application is patented and contains the information printed correctly, the errors do not 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. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the patent has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of July 31, 2004.

To correct the continuity data, Applicant should file a amendment to the specification or file an application data sheet (ADS). See 37 CFR 1.76.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Keiko Matsubara, et al.
Application No. 10/463,859
Filed: June 18, 2003
Atty Docket No. 1587-1055

This is a decision on the petition, filed November 2, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1745 for further processing of the request for continued examination under 37 CFR 1.114 filed November 2, 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 5, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Keiko Matsubara, et al.
Application No. : 10/463,859
Filed : June 18, 2003

The above-identified application has been assigned Patent No. 6,821,674 and an issue date of November 23, 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 23, 2004:

"All reference to Patent No. 6,821,674 to KEIKO MATSUBARA, ET AL. of JAPAN for ELECTRODE FOR RECHARGEABLE LITHIUM BATTERY, METHOD OF PREPARING SAME AND RECHARGEABLE LITHIUM BATTERY HAVING THE SAME appearing in the Official Gazette of November 23, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Law Office of Michael Sanzo
15400 Calhoun Drive
Suite 125
Rockville MD 20855

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of
Hummel et al.
Application No. 10/463,868
Filed: June 18, 2003

: DECISION REGARDING PTA

This decision is in response to applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed[1] May 25, 2006 requesting that the USPTO adjust the patent term adjustment determination at the time of the mailing of the notice of allowance from a determination of three hundred and eight (308) days to a determination of three hundred and - four (304) days. This request is being construed as a letter of good faith and candor concerning the PTA determination.

Applicants' request for reconsideration Patent Term Adjustment is **GRANTED**. The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance from determination of 308 days to a determination of 304 days.

Applicants point out that the Office improperly entered the response to the restriction requirement as July 2, 2005 rather than the proper date of July 6, 2005. Accordingly, applicants bring the discrepancy to the attention of the Office in order that the correct amount of PTA is awarded at the time of the mailing of the notice of allowance. Applicants also point out that the Office may miss the 3 year to issue requirement.

Applicants' arguments are persuasive. A review of the file history reveals that the response to the restriction requirement occurred on July 6, 2005 not July 2, 2005. Accordingly, the Office reply to the restriction requirement did occur beyond the four month requirement but was only a 3-day delay and not a 7-day delay that was assessed. See 37 CFR 1.702(a)(2). As for the three year provision, any decision related to such provision will be calculated at the time of the issuance of the patent and will be reflected in the determination that is mailed to applicant as an issue notification letter. Applicants may request reconsideration of such determination by submitting a request for reconsideration of the patent term within two months of the issuance of the patent. See 37 CFR 1.705(d). Accordingly, at the time of the mailing of the notice of allowance, the Office has delayed by periods of 301 days under 37 CFR 1.702(a)(1) and 3 days under 37 CFR 1.702(a)(2). Applicants have not failed to engage in any reasonable efforts to conclude prosecution of the application and thus 304 days is correct.

The Office notes that any additional PTA pursuant to 37 CFR 1.702(a)(4) and 1.702(b) will be

[1]Issue fee paid on 8/1/2006

reflected in the PTA determination at the time of the issuance of the patent. Any delays by applicants pursuant to 37 CFR 1.704(c)(10) will also be reflected in the calculation that is determined at the time of issuance of the patent. Request for reconsideration of any of the adjustments under 37 CFR 1.702(a)(4), 1.702(b), or 1.704(c)(10) must be filed within two months of the issue date of the patent.

After the mailing of this decision, the Office will forward the file to the Office of Publications for a prompt issuance of the patent.

The applicants have submitted this document as a good faith and candor letter regarding the Office awarding too much time for PTA. The Office notes that under these circumstances the Office will not assess a fee for review of the PTA determination.

Any questions concerning this letter should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Deputy Commissioner
For Patent Examination Policy

cc: Adjusted Pair Calculation

Day : Tuesday
Date: 1/16/2007

PALM INTRANET

Time: 09:33:27

PTA Calculations for Application: 10/463868			
Application Filing Date:	06/18/2003	PTO Delay (PTO):	308
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	304
PTO Delay Adjustment:	-4		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	01/16/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
40	05/05/2006	MAIL NOTICE OF ALLOWANCE			
39	03/22/2006	ISSUE REVISION COMPLETED			
38	03/22/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	03/20/2006	NOTICE OF ALLOWABILITY			
36	11/24/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	09/16/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	02/15/2006	DATE FORWARDED TO EXAMINER			
33	02/08/2006	RESPONSE AFTER NON-FINAL ACTION			
32	11/09/2005	MAIL NON-FINAL REJECTION	7		29
31	08/08/2005	NON-FINAL REJECTION			
30	07/13/2005	DATE FORWARDED TO EXAMINER			
29	07/02/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
28	06/15/2005	MAIL RESTRICTION REQUIREMENT	301		-1
27	06/08/2005	MISCELLANEOUS INCOMING LETTER			
26	06/13/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
25	12/07/2004	MISCELLANEOUS INCOMING LETTER			
24	04/19/2004	REFERENCE CAPTURE ON IDS			
23	11/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	04/19/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	09/16/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	09/16/2003	PRELIMINARY AMENDMENT			

19	04/19/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	03/18/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	03/09/2004	PRELIMINARY AMENDMENT			
16	09/16/2003	PRELIMINARY AMENDMENT			
15	10/03/2003	APPLICATION DISPATCHED FROM OIPE			
14	10/03/2003	APPLICATION IS NOW COMPLETE			
13	09/16/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
11	09/16/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
10	09/16/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	09/30/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
8	07/16/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
7	06/18/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
6	07/07/2003	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
5	07/01/2003	CLEARED BY OIPE CSR			
4	06/26/2003	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	06/26/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	06/18/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	06/18/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 6

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
BIRMINGHAM, MI 48009

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NOV 1 3 2003

OFFICE OF PETITIONS

In re Application of:
Hector Velez and David Neranjan
Application No. 10/463,869
Filed: June 17, 2003
Title of Invention: CYLINDRICAL SEAL FOR REFRIGERANT TUBE CONNECTOR

DECISION REFUSING STATUS UNDER 37 CFR 1.47

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed October 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 **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 17, 2003, without, *inter alia*, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on August 18, 2003, requiring *inter alia*, a properly signed oath or declaration.

In response to the Notice, Applicant files the instant Petition wherein Petitioner avers that the nonsigning inventor cannot be reached after diligent effort. Included with the petition is an oath or declaration that lists inventor Hector Velez as Velez Hector.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the

last known address of the non-signing inventor. Applicant lacks item (2) as set forth above.

The oath or declaration has reversed the first and last name of inventor Hector Velez. Applicant has not presented an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64. An oath or declaration that accurately depicts the inventive entity is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries 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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Paper No. 6

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OFFICE OF PETITIONS

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
BIRMINGHAM, MI 48009

In re Application of:
Hector Velez and David Neranjan
Application No. 10/463,869
Filed: June 17, 2003
Title of Invention: CYLINDRICAL SEAL FOR REFRIGERANT TUBE CONNECTOR

DECISION REFUSING STATUS UNDER 37 CFR 1.47

This Decision is in response to the Request for Reconsideration of Petition Under 37 C.F.R. 1.47(a), filed November 18, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Hector Velez, cannot be found or reached after diligent effort.

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 Declaration/Power of Attorney has been entered and made of record.

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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Hector Velez
5761 SW 13 Terrace
Miami, FL 33144

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OFFICE OF PETITIONS

In re Application of:
Hector Velez and David Neranjan
Application No. 10/463,869
Filed: June 17, 2003
Title of Invention: CYLINDRICAL SEAL FOR REFRIGERANT TUBE CONNECTOR

LETTER

Dear Mr. Velez:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

CC: CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
BIRMINGHAM, MI 48009

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

CARLSON GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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MAR 15 2010

OFFICE OF PETITIONS

In re Patent No. 6,938,437 :
Issue Date: September 6, 2005 :
Application No. 10/463,869 : ON PETITION
Filed: June 17, 2003 :
Patentee(s) Velez Hector et al :

This is a decision on the petition under 37 CFR 1.378(c), filed December 4, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Steven D. Kerr
P.O. Box 7037
Atlanta, GA 30357-0037

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LAKEWAY 3, SUITE 3290
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METAIRIE LA 70002

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OFFICE OF PETITIONS

In re Application of
Shelton
Application No.: 10/463,870
Filed: June 17, 2003
Attorney Docket No.: A02137US (98134.8)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply to the final Office action mailed March 30, 2006. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Therefore, this application became abandoned on July 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 a Notice of Appeal and an Appeal Brief and required fees, (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

After the mailing of this decision, the file will be forwarded to Technology Center AU 3744 for consideration of the Notice of Appeal and Appeal Brief.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 091304

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

OCT 1 2004

In re Application of:	:	
ANTHONY D. KURTZ	:	
Serial No.: 10/463,890	:	DECISION ON REQUEST TO WITHDRAW
Filed: November 03, 2001	:	FROM RECORD
Attorney Docket No.: **N0843-00103**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 02, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090

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JJGJR.: 06-05

Paper No: __

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WARFARE CENTER, BLDG 112T
DIVISION, NEWPORT
1176 HOWELL STREET
NEWPORT RI 02841-1708

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JUN 1 6 2005
OFFICE OF PETITIONS

In re Application of	:	
Baylog, et al.	:	
Application No. 10/463,906	:	DECISION ON PETITION
Filing Date: 16 June, 2003	:	
Attorney Docket No. 83139	:	

This is a decision on the petition filed on 14 September, 2004, alleging, *inter alia*, unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 14 November, 2003, due on or before Monday, 16 February, 2004;
- the application went abandoned after midnight 14 February, 2004;
- Notice of Abandonment was mailed by the Office on 8 March, 2004;

- the instant petition (with fee authorization to charge Deposit Account 14-0590) was filed on 14 September, 2004, and included therewith the reply in the form of the authorization to charge the Issue and Publication Fees as well.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the petition, fee, reply and statement/showing requirements of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**, and fees charged as authorized.

The instant application is released to Publications Branch to be processed into a patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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DEC 0 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hartmut Ruelke, et al. :
Application No. 10/463,910 :
Filed: June 16, 2003 :
Atty Docket No. 2000.105700 :

This is a decision on the petition, filed September 8, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 3, 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 2825 for further processing of the request for continued examination under 37 CFR 1.114 filed September 8, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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THE LUBRIZOL CORPORATION
PATENT ADMINISTRATOR
MAIL DROP 022B
29400 LAKELAND BOULEVARD
WICKLIFFE, OH 44092-2298

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OFFICE OF PETITIONS

In re Application of	:	
Butke, Betsy J.	:	
Application No. 10/463,932	:	DECISION ON PETITION
Filed: June 18, 2003	:	
Attorney Docket No. 3230	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1797 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RICHARD KOPPEL
KOPPEL & JACOBS
SUITE 107
555 ST. CHARLES DRIVE
THOUSAND OAKS CA 91360

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OFFICE OF PETITIONS

In re Application of
Christopher Michalski
Application No. 10/463,933
Filed: June 18, 2003
Attorney Docket No. A5GN2284US

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition filed September 18, 2003, under 37 CFR 1.47(b).

The petition is **GRANTED**.

The instant petition is timely filed in response to the Notice to File Missing Parts mailed September 2, 2003. Thus, the Notice of Incomplete Application Papers mailed October 3, 2003 was mailed in error and is hereby withdrawn.

Petitioners have shown that a copy of the application was sent to the non-signing inventor. The inventor, however, has failed to sign and return the declaration naming him as the sole inventor. Additionally, petitioners have shown proprietary interest by providing a copy of the "Employment Agreement" between the nonsigning inventor and Analog Devices, Inc., which shows that the inventor had an obligation to assign any patent rights to Analog Devices, Inc. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and has demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Douglass A. Wistendahl :
Application No. 10/463,949 : ON PETITION
Filed: June 16, 2003 :
Attorney Docket No. 08-473-US-CIP3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 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 and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of 1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2425 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Douglass A. Wistendahl	: DECISION ON REQUEST FOR
Patent Number	: 7577978	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/463,949	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1380** 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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7600 B N. CAPITAL OF TEXAS HIGHWAY
SUITE 350
AUSTIN, TX 78731

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AUG 0 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Derrick C. Wei et al	:	
Application No. 10/463,961	:	DECISION GRANTING PETITION
Filed: June 18, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 026-0032	:	

This is a decision on the petition, filed May 12, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 15, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m);

and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 11, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being referred to Technology Center Art Unit 2811 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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SUITE 4000
CHARLOTTE, NC 28280-4000

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OFFICE OF PETITIONS

In re Application of	:	
Miao Hsueh Tsai	:	
Application No. 10/463,971	:	ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. 048937/295402	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 27, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 28, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion 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; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)).

The instant petition does not satisfy requirement (2) above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon

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

ALSTON & BIRD
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE, NC 28280-4000

COPY MAILED

JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Miao Hsueh Tsai	:	
pplication No. 10/463,971	:	ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. 048937/295402	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 7, 2005, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 27, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 28, 2004.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of a continuing application No. 11/231,524.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions

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.

COPY MAILED
SEP 22 2008
OFFICE OF PETITIONS

OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS MN 55402

In re Application of	:	
Frank Ingle et al.	:	
Application No. 10/463,976	:	DECISION ON PETITION
Filed: June 17, 2003	:	UNDER 37 C.F.R. § 1.181
Attorney Docket No. 687-3013/US	:	
Title: DEVICES, METHODS, AND	:	
SYSTEMS FOR SHRINKING TISSUES	:	

This is a decision on the petition filed on September 11, 2006, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The Office regrets the period of delay in issuing this decision.

It is noted that the header of this petition contains a typographical error, in that the application number is identified as 10/473,976.

Receipt of the concurrently submitted form PTOL-85b is acknowledged.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed

August 23, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees.[1] On November 7, 2005, form PTOL-85b was submitted, however no payment was included and no Deposit Account information was listed on the form. As such, payment was not submitted to the Office. Accordingly, the above-identified application became abandoned on November 24, 2005. A Notice of Abandonment was mailed on August 25, 2006.

With this petition, Petitioner has argued that both the Fee Transmittal sheet that was included on initial deposit and the petition for an extension of time that was submitted on May 25, 2005 contain an authorization to charge any fee deficiencies to the Deposit Account of the prior address of record.[2] As such, the issue and publication fees should have been charged to this Deposit Account.

Petitioner's argument has been considered, and it is deemed to be persuasive. Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The issue and publication fees have been charged to Petitioner's Deposit Account, as authorized in the petition.

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries

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1 See MPEP § 710.02(e).
2 A Revocation of Power of Attorney and an Appointment of Power of Attorney were filed on August 18, 2006.
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET
SUITE 3300
MINNEAPOLIS MN 55402

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OCT 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Frank Ingle, et al.	:	
Application No. 10/463,976	:	DECISION GRANTING PETITION
Filed: June 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 687-3013/US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 21, 2008 and Supplemented on October 22, 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 October 21, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the information disclosure statement filed October 22, 2008.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

April 23, 2009

Adam P. Kledrowski
Oppenheimer Wolff & Donnelly LLP
Suite 3300 Plaza VII
45 South Seventh Street
Minneapolis, MN 55402-1609

Patent No.: 7,483,755 B2
Application No.: 10/463,976
Inventor(s): Frank Ingle
Issued: *January 27, 2009
Title: **DEVICES, METHODS, AND SYSTEMS FOR SHRINKING TISSUES**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) 756-1591

vt

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

OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS MN 55402

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,483,755	:	
Issue Date: January 27, 2009	:	
Application No. 10/463,976	:	ON PETITION
Filed: June 17, 2003	:	
Attorney Docket No. 687-3013/US	:	

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 JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

As authorized, the $130 fee for the petition under 37 CFR 3.81(b) has been assessed to petitioner's deposit account.

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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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

BEVER HOFFMAN & HARMS, LLP
901 Campisi Way
Suite 370
Campbell, CA 95008

Mail Date: 04/20/2010

Applicant	: Anthony G. Russell	: DECISION ON REQUEST FOR
Patent Number	: 7646028	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/463,979	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **315** 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
Washington, DC 20231
www.uspto.gov

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 10/464,022 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.

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

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MAY 12 2006

OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY, LLP
18191 VON KARMAN AVE.
SUITE 500
IRVINE, CA 92612-7108

In re Application of	:	
Alpert, et. al.	:	DECISION ON REQUEST
Application No. 10/464,026	:	TO WITHDRAW FROM
Filed: June 27, 2003	:	RECORD
Attorney Docket No. 070822-0013	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on March 8, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents associated with Customer No. 31824 have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the first address indicated below.

This application file is being referred to Technology Center Art Unit 3728, for consideration of the Request for Continued Examination (RCE) filed May 1, 2006.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272- 3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: LEWIS, BRISBOIS, BISGAARD & SMITH, LLP
221 NORTH FIGUEROA STREET
SUITE 1200
LOS ANGELES, CA 90012

THOMAS PARSEKIAN, ESQ.
28202 CABOT ROAD, SUITE 300
LAGUNA NIGEL, CA 92677

UNITED STATES PATENT AND TRADEMARK OFFICE

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Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: David Mayhew	: DECISION ON REQUEST FOR
Patent Number	: 7631313	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/464,027	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/17/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **785** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 05/17/2010

Applicant : David Mayhew
Patent Number : 7631313
Issue Date : 12/08/2009
Application No : 10/464,027
Filed : 06/17/2003

: 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 **811** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ROSS PRODUCTS DIVISION OF ABBOTT LABORATORIES
DEPARTMENT 108140-DS/1
625 CLEVELAND AVENUE
COLUMBUS, OH 43215-1724

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MAY 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Paul W. Johns et al	:	
Application No. 10/464,052	:	ON PETITION
Filed: June 18, 2003	:	
Attorney Docket No. 6967.US.01	:	

This is a decision on the petition filed January 8, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed September 26, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 27, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Sept. 30, 2008

TO SPE OF : ART UNIT 2145

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/464065 Patent No.: 7376652

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Kindly enter the requested changes as shown on the COCIN dated 7/14/2008.

Thanks,
/Cheryl Lewis
Cheryl Lewis
Primary Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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RAYMOND R. MOSER JR., ESQ.
MOSER IP LAW GROUP
1040 BROAD STREET
2ND FLOOR
SHREWSBURY NJ 07702

COPY MAILED

AUG 09 2007

OFFICE OF PETITIONS

In re Patent No. 6975266 :
Issue Date: 12/13/2005 :
Application No. 10/464069 : NOTICE
Filed: 06/17/2003 :
Attorney Docket No. GLBL/ 034 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on 21 May, 2007.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE, NY 11747-2712

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JAN 16 2004

OFFICE OF PETITIONS

In re Application of
Fulop, Mota-Lopez, and Cuccaro
Application No.: 10/464,077
Filed: June 18, 2003
Attorney Docket No: FULOP-BRUSH-CIP
For: MANUAL AND ELECTRONIC ORTHODONTIC TOOTHBRUSHES

: DECISION ACCORDING RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed December 12, 2003.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on June 18, 2003, and was not accompanied by an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on August 12, 2003, requiring an properly executed declaration, $65.00 surcharge, and substitute drawings, and filing fees. The notice allowed an extendable period for reply of two months from its mailing date. On December 12, 2003, the instant petition was filed along with a declaration signed by inventors Mota-Lopez and Cuccaro, a request for an extension of time within the second month, and substitute drawings.

Petitioner has shown that inventor Fulop has refused to join the filing of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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Dr. Jacqueline Fulop
c/o Richard Crisona, Esq.
Ableman, Frayne 7 Schwab, PC
150 East 42nd Street
New York, NY 10017-5612

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JAN 16 2004

OFFICE OF PETITIONS

In re Application of
Fulop, Mota-Lopez, and Cuccaro
Application No. 10/464,077
Filed: June 18, 2003
Attorney Docket Number: FULOP-BRUSH-CIP
For: MANUAL AND ELECTRONIC ORTHODONTIC TOOTHBRUSHES

LETTER

Dear Dr. Fulop:

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 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, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. 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).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE, NY 11747-2712

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HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Mark Nixon, et. al.	:	
Application No. 10/464,087	:	ON PETITION
Filed: June 18, 2003	:	
Attorney Docket No. 20040/59-11452	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on June 6, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed November 6, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790 filing fee and an amendment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $900 for a three months extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $900 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being revived for consideration of the RCE filed on June 6, 2007.

The application file is being referred to Technology Center Art Unit 2617, 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEYDIG VOIT & MAYER, LTD.
(Rockford Office)
Two Prudential Plaza, Suite 4900
180 North Steston Avenue
Chicago, IL 60601-6780

In re Application of John M. Hamilton, et al. Application No. 10/464,101 Filed: June 18, 2003 For: MAGNETIC CENTERGUIDE	**DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on March 4, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____, 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 August 12, 2004.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

KJD/js: 8/2/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CA / LA1 / A109
P O BOX 956
EL SEGUNDO, CA 90245-0956

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JAN 1 1 2008

OFFICE OF PETITIONS

In re Application of Patel :
Application No. 10/464,113 : Decision on Petition
Filing Date: June 18, 2003 :
Attorney Docket No. PD-990227 :

This is a decision on the petition filed September 21, 2007, which is being treated as a petition under 37 CFR 1.183 to waive the need for the signature of the inventor on a 37 CFR 1.131 declaration.[1]

The petition is **granted**.

Petitioner requests a declaration filed pursuant to 37 CFR 1.131(a) signed on behalf of the assignee be accepted in lieu of a declaration signed by the sole inventor. In view of the efforts recounted in the petition to obtain the signature of the inventor, it is agreed that justice would be served by waiving the requirement for his signature on the declaration filed May 30, 2007.

The May 30, 2007, declaration has been accepted, on petition, and placed in the file.

The petition fee of $400 has been charged to petitioner's deposit account.

Technology Center Art Unit 2618 will be informed the petition was granted and the declaration accepted.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] 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. The instant petition is properly treated under 37 CFR 1.183.

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OFFICE OF PETITIONS

In re Application of Patel :
Application No. 10/464,113 :
Filing Date: June 18, 2003 :
Attorney Docket No. 020991 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181 filed October 28, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

The Office mailed a Notice of Allowance requiring submission of an issue fee on May 2, 2008. The Notice set a time period for reply of three months.

The Office did not receive a reply to the Notice of Allowance. As a result, a Notice of Abandonment was mailed August 28, 2008.

Petitioner contends the Notice of Allowance was never received. The Office has considered the entire record and determined petitioner has proven non-receipt of the Notice of Allowance.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

A Notice of Allowability was mailed with the Notice of Allowance on May 2, 2008. Since petitioner did not receive the Notice of Allowance, it is presumed petitioner did not receive the Notice of Allowability. Therefore, both the Notice of Allowance and Notice of Allowability mailed on May 2, 2008, are vacated.

Technology Center Art Unit 2618 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new Notice of Allowance and a new Notice of Allowability. The time period for responding to the new Notices will be set to run from the mailing date of the new Notices.

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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Paper No. 5

PEACOCK MYERS AND ADAMS P C
PO BOX 26927
ALBUQUERQUE, NM 87125-6927

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DEC 0 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Sharma et al.	:	
Application No. 10/464,117	:	DECISION GRANTING PETITION
Filed: June 17, 2003	:	
Attorney Docket No. 70025-UT-50075	:	

This is a decision on the petition filed October 31, 2003, to accord the above-identified application a filing date of June 17, 2003.

On September 2, 2003, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings.

In response, the present petition alleges that drawings are not "necessary for the understanding of the subject matter sought to be patented" within the meaning of 35 USC 113.

The Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113.

In view of the above, the petition is **granted**.

The Notice mailed September 2, 2003, is hereby vacated.

The supplemental declaration is evidence that the applicants' invention is adequately disclosed in, and they wish to rely on, the application as thus amended without the drawings, and the references thereto in the specification, for purposes of an original disclosure and filing date.

The petition states that a $130 check is enclosed for the petition fee. However, Office records fail to indicate receipt of the check. The petition authorizes the Office to charge necessary fees to petitioner's deposit account. However, since the petition has been granted, a petition fee will not be charged to the deposit account.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 17, 2003, using the application papers filed on June 17, 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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ALBUQUERQUE NM 87125-6927

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MAY 2 6 2005

OFFICE OF PETITIONS

In re Application of
Shubh D. Sharma et al.
Application No. 10/464,117
Filed: June 17, 2003
Attorney Docket No. 70025-UT-50075

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition which is being treated under 37 CFR 1.78(a)(3) and 1.78(a)(6) filed March 14, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § § 120 and 119(e) for the benefit of priority to the prior-filed PCT and provisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

Petitioner submits, for the reasons set forth in the petition, which will not be repeated here, that no petition under 37 CFR 1.78 is necessary here because "the requirements of 35 U.S.C. § 120 and 37 C.F.R. § 1.78 were substantially complied with, and that a corrected Filing Receipt should be issued with the priority claim as set forth in the Second Preliminary Amendment submitted herewith." In the alternative, petitioner petitions the Office to accept an unintentionally delayed claim of priority under 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(3).

DISCUSSION OF PETITIONER'S "REQUEST TO ACCORD BENEFIT OF EARLIER FILING DATE PURSUANT TO 35 U.S.C. § 120 AND 37 C.F.R. § 1.78"

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Further, a claim for priority within the time period specified in 37 CFR 1.78(a)(2)(ii) which set forth the specific reference under 35 U.S.C. § 120 and 37 CFR 1.78(a)(i) was not made. In this regard, each prior-filed application must be identified by application number or international application number and international filing date and indicating the relationship of the application (continuation, division, or continuation-in-part). Additionally, the provisions of 37 CFR 1.78(a)(iii) were not satisfied in that the reference to the PCT application must have been included in an application data sheet (§ 1.76) or the specification as an amendment to the first line of the specification. It is noted, too, that the Office did not pick up the reference made to the provisional application set forth in the first line of the

specification as filed since the subject application was filed more than 12 months from the filing date of the prior-filed provisional application. Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

DISCUSSION OF PETITIONER'S ALTERNATIVE PETITION UNDER 37 CFR 1.78(a)(3)AND 37 CFR 1.78(a)(6)

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) is required. However, as authorized,deposit account no. 13-4213 has been charged in the amount of $1370.00 for the petition fee

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
40I Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *Note* 37 CFR 1.121

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Paper No. None

XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE CA 95124

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OFFICE OF PETITIONS

In re Application of Ping-Chen Liu et al. Application No. 10/464,129 Patent No. 6,861,895 Filed: June 17, 2003 Issue Date: March 1, 2005 Attorney Docket Number: X-1176 US Title: HIGH VOLTAGE REGULATION CIRCUIT TO MINIMIZE VOLTAGE OVERSHOOT	DECISION ON PETITION UNDER 37 C.F.R. §3.81(B)

This is a decision on the petition filed April 4, 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 an assignee was inadvertently omitted from form PTOL-85B, and requests that a Certificate of Correction be issued identifying this assignee. Petitioner submits a "Certificate of Correction" for this purpose, which lists the assignee's name as "Xilinx, Inc., San Jose, CA (US)."

37 CFR 3.81(b), effective June 25, 2004, reads:

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a

1 See Official Gazette, June 22, 2004.

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 30, 2003 (Reel/Frame 014211/0265). This was prior to the payment of the Issue Fee on January 24, 2005.

Payment of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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MATHEWS, COLLINS, SHEPHERD & MCKAY, P.A.
SUITE 306
100 THANET CIRCLE
PRINCETON, NJ 08540

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OFFICE OF PETITIONS

In re Application of	:
Alakhov et al.	:
Application No. 10/464,135	: DECISION GRANTING PETITION
Filed: June 18, 2003	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 3874-140 US	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 31, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on June 18, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Additionally, the intermediate nonprovisional application was filed within twelve months of provisional Application No. 60/352,200, which was filed on January 29, 2002, for which priority is claimed. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1618 for appropriate action on the amendment submitted August 31, 2007, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/464,135	06/18/2003	1618	565	3874-140 US	20	2

CONFIRMATION NO. 2280

CORRECTED FILING RECEIPT

OC000000025862612

Patrick H. Higgins
Mathews, Collins, Shepherd & McKay, P.A.
Suite 306
100 Thanet Circle
Princeton, NJ 08540

Date Mailed: 09/17/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Valery Alakhov, Baie D'Urfe, CANADA;
Greg Pietrzynski, Montreal, CANADA;
Evgueni Klinski, Kirkland, CANADA;
Kishore Patel, Lasalle, CANADA;
Shengmin Li, Saint-Laurent, CANADA;
Lev E. Bromberg, Swampscott, CANADA;

Power of Attorney:

Bruce Collins--20066
Diane McKay--34586
David Krivoshik--39258
Patrick Higgins--39709
Kristine Butler--42376
Philip Abramowitz--47375
Gregory Houghton--47666

Domestic Priority data as claimed by applicant

This application is a CIP of 10/298,808 11/18/2002 PAT 7,204,997
which claims benefit of 60/352,200 01/29/2002

Foreign Applications

If Required, Foreign Filing License Granted: 09/03/2003

The country code and number of your priority application, to be used for filing abroad under the Paris

Convention, is US10/464,135

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Compositions for oral administration of camptothecin and its analogs

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: John Carl Steichen	: DECISION ON REQUEST FOR
Patent Number	: 7575931	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/464,141	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1229** 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.:20090604

DATE : June 04, 2009

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7151652

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Certificate of Correction filed 5/22/09.

/WAYNE R YOUNG/
Supervisory Patent Examiner.Art Unit 2627

APPROVED: /W.Y./ (06/04/2009)

OK TO ENTER: /W.Y./ (06/04/2009)

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

ATTORNEY DOCKET NUMBER: 200206849-1

IN RE APPLICATION OF: U.S. Patent No. 7,151,652

USPTO CONFIRMATION CODE: 9798

APPLICATION NO.: 10/464,161

FILED: Jun. 18, 2003

EXAMINER: A. J. Heinz

GROUP ART UNIT: 2627

FOR: TOP-PINNED MAGNETORESISTIVE DEVICE HAVING ADJUSTED INTERFACE PROPERTY

37 CFR 1.322 & 37 CFR 1.323 REQUEST FOR CERTIFICATE OF CORRECTION

HONORABLE COMMISSIONER OF PATENTS & TRADEMARKS

Sir:

The following is a request for a certificate of correction in Serial Number 10/464,161, now Patent Number 7,151,652.

A certificate of correction under 35 USC 254 is respectfully requested in the above-identified patent.

☒ All errors were the fault of the USPTO, no fee required. In the event that a further fee is required, please charge the amount to Deposit Account No. 082025.

☐ All errors were the fault of the applicant and, accordingly, please charge **$100.00** to our Deposit Account No. 082025. In the event that a further fee is required, please charge the amount to the same Deposit Account.

☐ The errors were the fault of both the applicant and USPTO and, accordingly, please charge **$100.00** to our Deposit Account No. 082025. In the event that a further fee is required, please charge the amount to the same Deposit Account.

The exact locations where the errors appear in the patent and patent application are as follows:

In column 6, line 32, in Claim 4, delete "layer." and insert - - layers. - -, therefor.
(Amendment to claims filed on Dec. 23, 2005, page 6, in Claim 20, lines 1-2)

In column 7, line 8, in Claim 19, delete "claim 1" and insert - - claim 18 - -, therefor.
(Amendment to claims filed on Dec. 23, 2005, page 3, in Claim 2, line 1)

In column 7, line 12, in Claim 20, delete "claim 1" and insert - - claim 18 - -, therefor.
(Amendment to claims filed on Dec. 23, 2005, page 3, in Claim 3, line 1)

In column 7, line 16, in Claim 21, delete "claim 1" and insert - - claim 18 - -, therefor.
(Amendment to claims filed on Dec. 23, 2005, page 3, in Claim 5, line 1)

In column 7, line 19, in Claim 22, delete "claim 1" and insert - - claim 18 - -, therefor.
(Amendment to claims filed on Dec. 23, 2005, page 4, in Claim 6, line 1)

In column 8, line 3, in Claim 25, delete "claim 1" and insert - - claim 18 - -, therefor.
(Amendment to claims filed on Dec. 23, 2005, page 4, in Claim 9, line 1)

In column 8, line 6, in Claim 26, delete "claim 1" and insert - - claim 18 - -, therefor.
(Amendment to claims filed on Dec. 23, 2005, page 4, in Claim 10, line 1)

In column 8, line 9, in Claim 27, delete "claim 1" and insert - - claim 18 - -, therefor.
(Examiner's amendment dated Oct. 11, 2006, page 4, in Claim 12, line 3)

In column 8, line 13, in Claim 28, delete "claim 1" and insert - - claim 18 - -, therefor.
(Amendment to claims filed on Dec. 23, 2005, page 4, in Claim 13, line 1)

In column 8, line 17, in Claim 29, delete "claim 1" and insert - - claim 18 - -, therefor.
(Amendment to claims filed on Dec. 23, 2005, page 4, in Claim 14, line 1)

In column 8, line 20, in Claim 30, delete "claim 1" and insert - - claim 18 - -, therefor.
(Amendment to claims filed on Dec. 23, 2005, page 5, in Claim 15, line 1)

The requested corrections are attached on Form PTO 1050.

Respectfully Submitted

May 21, 2009
DATE

Manisha Chakrabarti
Name: Manisha Chakrabarti
Registration No.: 41,665

Attorney/Agent of Record

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,151,652

APPLICATION NO. : 10/464,161

ISSUE DATE : Dec. 19, 2006

INVENTOR(S) : Janice H. Nickel, et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 6, line 32, in Claim 4, delete "layer." and insert - - layers. - -, therefor.

In column 7, line 8, in Claim 19, delete "claim 1" and insert - - claim 18 - -, therefor.

In column 7, line 12, in Claim 20, delete "claim 1" and insert - - claim 18 - -, therefor.

In column 7, line 16, in Claim 21, delete "claim 1" and insert - - claim 18 - -, therefor.

In column 7, line 19, in Claim 22, delete "claim 1" and insert - - claim 18 - -, therefor.

In column 8, line 3, in Claim 25, delete "claim 1" and insert - - claim 18 - -, therefor.

In column 8, line 6, in Claim 26, delete "claim 1" and insert - - claim 18 - -, therefor.

In column 8, line 9, in Claim 27, delete "claim 1" and insert - - claim 18 - -, therefor.

In column 8, line 13, in Claim 28, delete "claim 1" and insert - - claim 18 - -, therefor.

In column 8, line 17, in Claim 29, delete "claim 1" and insert - - claim 18 - -, therefor.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, Colorado 80527-2400

This collection of information is required by 37 CFR 1.322, and 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 Patent, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,151,652

APPLICATION NO. : 10/464,161

ISSUE DATE : Dec. 19, 2006

INVENTOR(S) : Janice H. Nickel, et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 8, line 20, in Claim 30, delete "claim 1" and insert - - claim 18 - -, therefor.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, Colorado 80527-2400

This collection of information is required by 37 CFR 1.322, and 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 Patent, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6948446
Issue Date: September 27,2005
Application No. 10464172
Filed: June 18,2003
Attorney Docket No. GREV-515

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 14,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 14,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,948,446	2005-09-27	10/464,172	2003-06-18	RTS2164-003

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Matthew W. Upton/	Date (YYYY-MM-DD)	2009-12-14
Name	Matthew W. Upton	Registration Number	63435

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS TX 75201-4761

In re Application of Shawn Thomas et al. Application No. 10/464,176 Filed: June 18, 2003 Attorney Docket No.: 52577-00701USC1 Title: METHOD AND SYSTEM FOR WEB-BASED ASSET MANAGEMENT	DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on August 17, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed November 16, 2006, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on February 17, 2007. A notice of abandonment was mailed on May 31, 2007.

With the present petition, Petitioner has asserted that a three-month extension of time and a Request for Continued Examination (RCE) were concurrently submitted to the Office on May 16, 2007.

Petitioner has not included a copy of this response.

Copied from 11464176 on 01/02/2008

However, the electronic file has been reviewed, and a copy of the submission that was received in the Office on May 22, 2007, has been located. The RCE form contains a certificate of mailing or transmission dated May 16, 2007.

It is clear why this response was not associated with the present application - Petitioner placed the wrong serial number on the RCE form. The RCE form identifies the request as associated with serial number 10/646,176. This serial number has been stricken out, and the correct serial number appears next to it. It is not clear if this was done by Petitioner before submission of this paper, or by Office personnel, upon discovering Petitioner's filing error.

Either way, Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

The RCE is located in the correct electronic file.

Both the three-month extension of time and the fee associated with the filing of an RCE will be removed from the electronic file associated with application number 10/646,176 and placed into the electronic file associated with the present application in due course.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner timely submitted a response.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the RCE that was received on May 22, 2007 can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Copied from 11464176 on 01/02/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUN 21 2010

OFFICE OF PETITIONS

Sadler, Breen, Morasch & Colby, PS
422 W. Riverside Ave, Suite 424
Spokane WA 99201

In re Application of	: DECISION ON REQUEST FOR
Thomas, et al.	: RECONSIDERATION OF PATENT
Application No. 10/464,176	: PATENT TERM ADJUSTMENT
Filed: June 18, 2003	: AND NOTICE OF ABANDONMENT
Attorney Docket No.CALD0011	:

This is a decision on the APPLICATION FOR PATENT TERM ADJUTSMENT, filed January 21, 2010, which is properly treated under 37 C.F.R. § 1.705(b). Applicants request that the Office reconsider the determination of Patent Term Adjustment (PTA) that accompanied the Notice of Allowance. Applicants request that the initial determination of patent term adjustment be corrected from one hundred and fifty-three days (153) days to eight hundred and thirty-three (833).

The request for reconsideration of patent term adjustment is **DISMISSED AS MOOT**.

The application is also **ABANDONED**.

A review of the application file history reveals that a non-final Office action was mailed on January 21, 2004, setting forth a shortened statutory period for reply of three (3) months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). On January 30, 2004, applicants filed a copy of a preliminary amendment first filed September 24, 2003. The copy of the previously filed preliminary amendment was accompanied by a facsimile cover sheet containing a notation from Lisa Gentry, IP Department Assistant of Jekens & Gilchrist, requesting that Mr. Patrick Santos of the USPTO contact Mr. Bill Weise about the application. No further communications relative to the non-final Office action mailed January 21, 2004, were filed.

It has been determined that the copy of the preliminary amendment filed January 30, 2004, was not a *bona fide* response to the non-final Office action pursuant to 37 CFR 1.111. Further, the only statement in the papers filed January 30,

2004, other than the copy of the preliminary amendment, was made by Ms. Lisa Gentry, who is not a registered practitioner. Accordingly, even were the statement to be considered a response to the non-final Office action, it could not be entered because it was not properly signed pursuant to 37 CFR 1.33(b). A proper response to the non-final Office action mailed January 21, 2004, was not filed within the shortened statutory period for reply. Accordingly, the application became abandoned on April 22, 2004.

It is noted that because the non-final Office action mailed January 21, 2004, did not consider the preliminary amendment filed September 24, 2003, a non-final Office action was mailed March 23, 2006, that did consider the preliminary amendment filed September 23, 2004. This has no bearing on applicants' obligation to file a proper and timely response to the non-final Office action mailed January 21, 2004. Applicants were obligated to file a timely and proper response to the non-final Office action or file a request to restart or reset the time period for responding to the non-final Office action if applicants believed it to be defective. See MPEP 710.06. Section 711.02 of the Manual of Patent Examining Procedure, citing 37 CFR 1.135(a) states, in pertinent part, that, "…an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e., failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period (37 CFR 1.135(b))." In this case, applicant failed to respond to the non-final Office action mailed January 21, 2004, and the application became abandoned on April 22, 2004.

Petitioner must file a petition to revive the application pursuant to 37 CFR 1.137. The patent term adjustment will be recalculated once the Notice of Allowance and Issue Fee Due is mailed.

Telephone inquiries regarding this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Director
Office of Petitions

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Sadler, Breen, Morasch & Colby, ps
422 W. Riverside Ave, Suite 424
Spokane WA 99201

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JUL 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Shawn Thomas, et al.	:	
Application No. 10/464,176	:	DECISION ON PETITION
Filed: June 18, 2003	:	
Attorney Docket No. CALD0011	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the non-final Office action mailed, July 21, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 22, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b).

By issuance of this decision, the prosecution of this case is ratified.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Publication Branch for issuance of the patent.

/Anthony Knight/
Anthony Knight
Director
Office of Petitions

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MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:
Tom Fleck et al	:
Application No. 10/464,181	: DECISION GRANTING PETITION
Filed: June 18, 2003	: UNDER 37 CFR 1.313(c)(2)
Atty Dkt No. 13425-116001/BV-1002 US	:

This is a decision on the petition, filed March 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 23, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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JUN 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Eric J. HORVITZ, et al.	:	
Application No. 10/464,184	:	DECISION GRANTING PETITION
Filed: June 18, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **MS303528.1/MSFTP472US**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 29, 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 May 11, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2443 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Michael Donovan Mitchell	: DECISION ON REQUEST FOR
Patent Number	: 7614506	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/464,210	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **401** 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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NISKAYUNA, NY 12309

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OFFICE OF PETITIONS

In re Application of	:
Vanita Mani et al	:
Application No. 10/464,243	: DECISION ON PETITION
Filed: June 18, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 122243-1	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 13, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to satisfy item (1) above. In this regard, the amendment to claim benefit of priority is improper since this application (10/464,243, filed on June 18, 2003) is claiming priority to a later-filed application; namely, application No. 10/657,874, which was filed on September 8, 2003. A claim for priority is only proper if made to a prior-filed application.

Additionally, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be

amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. Further, an application that states that it is a continuation, division, or continuation-in-part of Application Nos. C, B, and A is improper. Applicant instead must state, for example, that "this application is a continuation of Application No. C, filed ---, and a continuation of Application B, filed ---, and a continuation of Application No. A, filed ---." *Note* MPEP 201.11, under subheading A. Reference to Prior Nonprovisional Applications, last paragraph.

Before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:
Vanita Mani et al	:
Application No. 10/464,243	: DECISION ON PETITION
Filed: June 18, 2003	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 122243	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 8, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, has been mailed under separate cover.

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 1746 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications and for taking such further action as the nature of the case requires.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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Mr. Robin W. Asher
Clark Hill, PLC
500 Woodward Avenue, Suite 3500
Detroit, MI 48226-3435

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OFFICE OF PETITIONS

In re Application of	:	
Fred Muxlow et al	:	
Application No. 10/464,260	:	DECISION ON PETITION
Filed: June 17, 2003	:	UNDER 37 CFR 1.10(d)
Attorney Docket No. 19351-094063	:	

This is a decision on the petition under 37 CFR 1.10(d), filed January 28, 2004, requesting that the above-identified application be accorded a filing date of June 17, 2003, rather than the presently accorded filing date of June 18, 2003, which latter date appears on the copy of the Express Mail label accompanying the instant petition.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited on June 17, 2003, with a United States Postal Representative to be delivered by "Express Mail Post Office to Addressee' service. In support, petitioner has supplied a copy of a "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post" signed receipt bearing Express Mail label No. EV202917609 (the same Express Mail label number appears on the transmittal letter found on the certificate of mailing for the application papers) and a USPS handwritten signature date of pickup of June 17, 2003.

The showing establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service.

In view of the above, the application is entitled to a filing date of June 17, 2003. The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Frances Hicks at (703) 305-8680.

This application is being referred Technology Center AU 3725 for examination in due course.

Brian Hearn

Brian Hearn
Senior 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	:
Cyrus Bamji and Xinqiao Liu	:
Application No. 10/464,299	: DECISION GRANTING PETITION
Filed: June 17, 2003	: UNDER 37 CFR 1.1.182
Attorney Docket No. A-70724-2/MAK	:

This is a decision on the petition under 37 CFR 1.182, filed August 16, 2004, to change the order of the names of the inventors.

The petition is **granted**.

Petitioner also requests that the spelling of inventor Liu's name be corrected from "Xingiao Liu" to -- Xinqiao Liu -.

A corrected Filing Receipt with the correct spelling of inventor Liu's name and the desired order of inventorship accompanies this decision on petition.

Inquiries concerning this matter may be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Narinder S. Banait, Esq.
Frenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View CA 94041

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OFFICE OF PETITIONS

In re Application of	:	
Teruna J. Siahaan et al.	:	
Application No. 10/464,302	:	DECISION ON PETITION
Filed: June 17, 2003	:	TO WITHDRAW
Attorney Docket No. 23902-08028	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. 1.36(b), filed November 14, 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).

Narinder S. Banait signed the request on behalf of all attorneys of record.

Narinder S. Banait and all attorneys/agents associated with 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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Teruna J. Siahaan
2912 Iris Lane
Lawrence, KS 66047

cc: Lana M. Knedlik
Stinson Morrison Hecker LLP
1201 Walnut Street #2900
Kansas City, MO 64119

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Alan R. Thiele
JENKENS & GILCHRIST
3200 Fountain Place
1445 Ross Avenue
Dallas, TX 75202-2799

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FEB 24 2006

OFFICE OF PETITIONS

In re Application of Spitsbergen :
Application No. 10/464,308 : Decision on Petition
Filing Date: June 18, 2003 :
Attorney Docket No. 51614-00001 USP2 :

This is a decision on the petition under 37 CFR 1.137(a), filed November 17, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

The address of record:

A request to change the address of record has been filed with the petition. Alan Thiele signed the request to change the address. The declaration signed by the inventor gave power of attorney to all attorneys associated with customer number 23932. Thiele is no longer associated with customer number 23932 and therefore does not have a power of attorney. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as proper instructions are received to the contrary.

History:

A final Office action was mailed to the address of record on November 2, 2004.

A reply to the Office action was not filed.

The application became abandoned as of February 3, 2004.

A Notice of Abandonment was mailed November 1, 2005.

Attorney Thiele states,

> My former firm did not forward the Office Action ... to me, if it ever was received. The first time I learned of the ... Office Action was a few days ago, when the inventor called to check on the status of his pending patent application.

Law:

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply,
(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 *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

Analysis:

The instant petition is not accompanied by the required reply or a showing sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

In a non-provisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(A) a Notice of Appeal (and appeal fee)
(B) an amendment that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;
(C) a Request for Continued Examination (RCE).

See MPEP 711.03(c)(III)(A)(2).

As of this date, none of the above three acceptable forms of reply have been filed. The petition is accompanied by an amendment. The proposed amendment was sent to the examiner to determine whether it placed the application in condition for allowance. The examiner determined that the proposed amendment raises new issues requiring further search or consideration. For example, the limitaions regarding mounting a cross bar at "substantially a right angle" and a "second end of the cross bar is near the rear corner of the vehicle," require further search and/or consideration.

Since the amendment does not prima facie place the application in condition for allowance, it is an improper reply to the final Office action.

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[2]

---

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

MPEP 711.03(c) states,

> [W]here an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:
>
> (A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;
>
> (B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or
>
> (C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

Petitioner has not proven the Office action was not received at the address of record. Instead, Thiele alleges they were not received at Thiele's new address.

A Notice of Abandonment was mailed November 1, 2005, to the address of record. Although not explicitly stated, the record appears to indicate Thiele had not received a copy of the Notice of Abandonment at the time the instant petition was filed.

Petitioner knew, or should have known, that having mail go to the old law firm, be processed at the old law firm, and be forwarded to him, entailed a greater risk of loss of the Office action than simply having the PTO mail the Office to the new address of record. Despite the increased risk, petitioner failed to promptly take steps to adhere to the requirement that requests for changes to a correspondence address be promptly filed.

Since neither a proper reply to the final Office action nor a showing of unavoidable delay have been filed, the petition must be dismissed.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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 a request for reconsideration under 37 CFR 1.137(a). 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)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Strasburger & Price, LLP
900 Main Street, Suite 4400
Dallas, TX 75202

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

Alan R. Thiele
JENKENS & GILCHRIST
3200 Fountain Place
1445 Ross Avenue
Dallas, TX 75202-2799

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MAY 3 1 2006

OFFICE OF PETITIONS

In re Application of Spitsbergen :
Application No. 10/464,308 :
Filing Date: June 18, 2003 :
Attorney Docket No. 51614-00001 USP2 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The address of record:

A decision mailed February 24, 2006, stated:

> A request to change the address of record has been filed with the petition. Alan Thiele signed the request to change the address. The declaration signed by the inventor gave power of attorney to all attorneys associated with customer number 23932. Thiele is no longer associated with customer number 23932 and therefore does not have a power of attorney. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as proper instructions are received to the contrary.

As a courtesy, the Office is once again mailing a decision to the address on the petition. **However, all future correspondence will be directed solely to the address currently of record until such time as proper instructions are received to the contrary.**

Discussion:

A final Office action was mailed to the address of record on November 2, 2004. A reply to the Office action was not filed. Therefore, the application became abandoned as of February 3, 2004. A Notice of Abandonment was mailed November 1, 2005.

The instant petition cannot be granted because it is not accompanied by the required reply to the final Office action.

In a non-provisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(A) a Notice of Appeal (and appeal fee)
(B) an amendment that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance; or
(C) a Request for Continued Examination (RCE).

The decision mailed February 24, 2006, stated:

> As of this date, none of the above three acceptable forms of reply have been filed. The petition is accompanied by an amendment. The proposed amendment was sent to the examiner to determine whether it placed the application in condition for allowance. The examiner determined that the proposed amendment raises new issues requiring further search or consideration. For example, the limitaions regarding mounting a cross bar at "substantially a right angle" and a "second end of the cross bar is near the rear corner of the vehicle," require further search and/or consideration.
>
> Since the amendment does not prima facie place the application in condition for allowance, it is an improper reply to the final Office action.

The instant petition is not accompanied by a new reply.

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.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Strasburger & Price, LLP
900 Main Street, Suite 4400
Dallas, TX 75202

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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ALAN R. THIELE
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901 MAIN STREET
SUITE 4400
DALLAS, TX 75202

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JAN 09 2007

OFFICE OF PETITIONS

In re Application of Spitsbergen :
Application No. 10/464,308 : Decision on Petition
Filing Date: June 18, 2003 :
Attorney Docket No. 51614-00001 USP2 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

A final Office action was mailed to the address of record on November 2, 2004. A reply to the Office action was not filed. Therefore, the application became abandoned as of February 3, 2004. A Notice of Abandonment was mailed November 1, 2005.

A petition under 37 CFR 1.137(a) was filed November 17, 2005. A decision dismissing the petition was mailed February 24, 2006.

The decision mailed February 24, 2006, stated:

> The proposed amendment was sent to the examiner to determine whether it placed the application in condition for allowance. The examiner determined that the proposed amendment raises new issues requiring further search or consideration. For example, the limitaions regarding mounting a cross bar at "substantially a right angle" and a "second end of the cross bar is near the rear corner of the vehicle," require further search and/or consideration.
>
> Since the amendment does not prima facie place the application in condition for allowance, it is an improper reply to the final Office action.

A petition under 37 CFR 1.137(b) was filed March 28, 2006. The petition was not accompanied by a new reply to the final Office action. Therefore, a decision dismissing the petition was mailed May 31, 2006.

The instant petition was filed August 23, 2006, along with a proposed reply to the final Office action.

Discussion:

The instant petition cannot be granted because it is not accompanied by a *proper* reply to the final Office action.

The proposed amendment filed August 23, 2006, was sent to the examiner to determine whether it placed the application in condition for allowance. The examiner determined that the proposed amendment raised new issues requiring further search or consideration. For example, the examiner determined the limitations regarding mounting a cross bar at "substantially a right angle" and a "second end of the cross bar is near the rear corner of the vehicle," would require further search and/or consideration. Since the amendment does not prima facie place the application in condition for allowance, it is an improper reply to the final Office action mailed on November 2, 2004. An unofficial copy of an advisory action is attached to the instant decision.

Any renewed petition should be accompanied by a proper reply in the form of a Notice of Appeal, RCE, or continuation application. If petitioner fails to reply in the form of a Notice of Appeal (and fee), proper RCE, or continuation application, it may be construed as an intentional delay in presenting a grantable petition, which may adversely affect petitioner's ability to revive the abandoned application. A form which may be used for purposes of filing a RCE is enclosed.

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.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: RCE Form

PTO/SB/30 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
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	

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

   a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

      i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

      ii. ☐ Other _____

   b. ☐ Enclosed

      i. ☐ Amendment/Reply

      ii. ☐ Affidavit(s)/ Declaration(s)

      iii. ☐ Information Disclosure Statement (IDS)

      iv. ☐ Other _____

2. Miscellaneous

   a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

   b. ☐ Other _____

3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

   a. ☐ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. _____. I have enclosed a duplicate copy of this sheet.

      i. ☐ RCE fee required under 37 CFR 1.17(e)

      ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

      iii. ☐ Other _____

   b. ☐ Check in the amount of $ _____ enclosed

   c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	
Name (Print/Type)		Registration No.	

CERTIFICATE OF MAILING OR TRANSMISSION

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: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature			
Name (Print/Type)		Date	

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop RCE, 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 contains a valid OMB control number.

Instruction Sheet for RCEs

(not to be submitted to the USPTO)

NOTES:

An RCE is not a new application, and filing an RCE will not result in an application being accorded a new filing date.

Filing Qualifications:
The application must be a utility or plant application filed on or after June 8, 1995. The application cannot be a provisional application, a utility or plant application filed before June 8, 1995, a design application, or a patent under reexamination. See 37 CFR 1.114(e).

Filing Requirements:
Prosecution in the application must be closed. Prosecution is closed if the application is under appeal, or the last Office action is a final action, a notice of allowance, or an action that otherwise closes prosecution in the application (e.g., an Office action under *Ex parte Quayle*). See 37 CFR 1.114(b).

A submission and a fee are required at the time the RCE is filed. If reply to an Office action under 35 U.S.C. 132 is outstanding (e.g., the application is under final rejection), the submission must meet the reply requirements of 37 CFR 1.111. If there is no outstanding Office action, the submission can be an information disclosure statement, an amendment, new arguments, or new evidence. See 37 CFR 1.114(c). The submission may be a previously filed amendment (e.g., an amendment after final rejection).

WARNINGS:

Request for Suspension of Action:
All RCE filing requirements must be met before suspension of action is granted. A request for a suspension of action under 37 CFR 1.103(c) does not satisfy the submission requirement and does not permit the filing of the required submission to be suspended.

Improper RCE will NOT toll Any Time Period:

Before Appeal - If the RCE is improper (e.g., prosecution in the application is not closed or the submission or fee has not been filed) and the application is not under appeal, the time period set forth in the last Office action will continue to run and the application will be abandoned after the statutory time period has expired if a reply to the Office action is not timely filed. No additional time will be given to correct the improper RCE.

Under Appeal - If the RCE is improper (e.g., the submission or the fee has not been filed) and the application is under appeal, the improper RCE is effective to withdraw the appeal. Withdrawal of the appeal results in the allowance or abandonment of the application depending on the status of the claims. If there are no allowed claims, the application is abandoned. If there is at least one allowed claim, the application will be passed to issue on the allowed claim(s). See MPEP 1215.01.

See MPEP 706.07(h) for further information on the RCE practice.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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P.O. Box 1450
Alexandria, VA 22313-1450
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ALAN R. THIELE
STRASBURGER & PRICE, LLP
901 MAIN STREET
SUITE 4400
DALLAS, TX 75202

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of Spitsbergen :
Application No. 10/464,308 :
Filing Date: June 18, 2003 :
Attorney Docket No. 51614-00001 USP2 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2007, to revive the above-identified application.

The petition is **granted**.

A final Office action was mailed to the address of record on November 2, 2004. A reply to the Office action was not filed. Therefore, the application became abandoned as of February 3, 2004. A Notice of Abandonment was mailed November 1, 2005.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee. Petitioner has submitted a reply to the final Office action in the form of a Request for Continued Examination. Petitioner has previously stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 3654 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAR 19 2007

OFFICE OF PETITIONS

Ricardo Garavito
323 Atlantic Avenue
East Rockaway NY 11518

In re Application of :
Garavito : DECISION ON PETITION
Application No. 10/464,322 :
For: June 18, 2003 :
For: DISPOSABLE UTENSIL FOR :
COOKING, WARMING, AND HEATING :
ARTICLES :

This is a decision on the petition under 37 CFR 1.137(a), January 17, 2007, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned December 16, 2006 for failure to timely submit a proper reply to the Notice of Allowance mailed September 15, 2006. Notice of Abandonment was mailed January 8, 2007.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition fails to satisfy requirement (3) set forth above.

Petitioner has failed to present a showing to the satisfaction of the Director that the entire delay in filing the required

reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

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 Director to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner attributes the failure to reply to the Notice to medical illness. Petitioner states that he "was undergoing an intensive and unpredictable treatment regimen in the preparation for a bone marrow transplant in November 2006." The letter accompanying the instant petition purportedly from a medical professional further states that "Ricardo Garavito has been under my care since spring 2006 in preparation for a bone marrow transplant in November 2006. The regimen included a series of full one or two day intensive chemotherapy sessions every couple of weeks. Mr. Garavito was hospitalized for the entire month of November 2006 and was recuperating at home when he was readmitted in for a week in early December 2006."

Petitioner's arguments have been considered but are not found convincing. The medical condition alleged by petitioner has not been substantiated by sufficiently supporting evidence to establish either the nature or period of such problems. Further, no nexus has been made between the health problems of petitioner and the failure to reply to the Notice. See, In re Patent No.

4,461,759, 16 U.S.P.Q.2d (BNA) 1883 (Comm'r Pat. & Trademarks Aug. 10, 1990).

Moreover, a reply to the Notice was due from September 15, 2006 to December 15, 2006. Petitioner has failed to establish that the entire period of time for delay was unavoidable, from the time the reply was due until the granting of a petition to revive. Further, while applicant may delay action until the end of the time period of reply, in so doing applicant must assume the risk attendant to such delay.

ALTERNATE VENUE

Petitioner is strongly urged to consider filing a petition stating that the entire delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply. *See*, enclosed.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Window

Mail Stop Petition
Randolph Building
Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 21 2007

OFFICE OF PETITIONS

Ricardo Garavito
323 Atlantic Avenue
East Rockaway NY 11518

In re Application of :
Garavito : DECISION ON PETITION
Application No. 10/464,322 :
Filed: June 18, 2003 :
Docket No.: DISPOSABLE UTENSIL FOR :
COOKING, WARMING, AND HEATING :
ARTICLES :

This is a decision on the petition renewed under 37 C.F.R. § 1.137(b), filed May 15, 2007.

The petition is hereby **GRANTED**.

This application became abandoned December 16, 2006 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed September 15, 2006. Notice of Abandonment was mailed January 8, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

August 2005

SEAN M. CASEY CO., L.P.A.
P.O. BOX 710
NEW ALBANY, OHIO 43054-0710

SEP - 8 2005

In re Application of: KEVAN GEIER Serial No.: 10/464,331 Filed: 18 June 2003 Docket: 52550.002	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d) [MANUFACTURE]

This is a decision on the petition filed on August 9, 2004, to make the above-identified application special on the ground of prospective manufacture under the procedure set forth in MPEP § 708.02(I) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petition provides the requisite petition fee, a statement by the attorney/agent registered to practice, and one copy of references deemed most relevant.

For accelerated examination under MPEP § 708.02(I) in accordance with 37 C.F.R. § 1.102(d), the following are required:

1. The requisite petition fee;
2. A statement by the applicant, assignee or an attorney/agent registered to practice before the Office alleging:

(A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;

(B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;

(C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee 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; and

3. One copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The statement lacks the approximate amount of presently available capital and the nature of the facilities required in part (A). If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 0 7 2004

TECHNOLOGY CENTER 3600

BROOKS KUSHMAN P.C./FGTL
1000 TOWN CENTER
22ND FLOOR
SOUTHFIELD MI 48075-1238

In re application of
Robin Clinesmith, et al.
Application No. 10/464,350
Filed: June 18, 2003
For: COMPUTER-IMPLEMENTED METHOD AND SYSTEM FOR GLOBAL PURCHASING

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on September 15, 2004, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (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).

In satisfaction of item (B) above, the petitioner states, "If the Patent Office determines that all the pending claims are not obviously directed to a single invention, Applicants submit that an election without traverse will be made."

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.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR: 12/1/04

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BROOKS KUSHMAN P.C./FGTL
1000 TOWN CENTER
22ND FLOOR
SOUTHFIELD MI 48075-1238

In re application of
Ramelle L. Gilliland, et al.
Application No. 10/464,358
Filed: June 18, 2003
For: METHOD AND SYSTEM FOR ELECTRONIC PROCUREMENT INVOLVING ELECTRONIC REQUESTS FOR QUOTATION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on September 15, 2004, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02, VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (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).

In satisfaction of item (B) above, the petitioner states, "If the Patent Office determines that all the pending claims are not obviously directed to a single invention, Applicants submit that an election without traverse will be made."

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.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR: 12/1/04

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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BRISTOL-MYERS SQUIBB COMPANY
Patent Department
P. O. Box 4000
Princeton, NJ 08543-4000

Date: February 17, 2006
Application No. 10/464,366
Filed: June 17, 2003
Subject: **Methods of treating factor VIIa-associated Conditions with compounds having an Amine nucleus**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed November 28, 2005 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application a restriction was required and therefore, not all of the inventors contributed to the invention as now claimed. Accordingly, this application has been changed by the **deletion of Zulan Pi, Pennington, NJ and Scott Priestley, Yardley, PA.** The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Larry C. Wilkins	: DECISION ON REQUEST FOR
Patent Number	: 7572206	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/464,373	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/18/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1463** 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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DONALD R. HOLLAND
HARNESS, DICKEY & PIERCE
SUITE 400
7700 BONHOMME AVENUE
ST LOUIS, MO 63105

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SEP 1 2 2003

OFFICE OF PETITIONS

In re Application of	:
Richard C. Theuer	:DECISION GRANTING FILING
Application No. 10/464,375	:DATE OF June 18, 2003
Filed: June 18, 2003	:
Attorney Docket No. 9850-000006/US	:

This is a decision on the petition under 37 CFR 1.10(c), filed August 28, 2003, requesting that the above-identified application be accorded a filing date of June 18, 2003, rather than the presently accorded date of June 17, 2003.

Petitioner requests the latter filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on June 18, 2003 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail label No. EL 869992611 US showing a stamped date of June 18, 2003. The same Express Mail receipt number appears on the "Utility Patent Application Transmittal."

Further, a search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on June 18, 2003 at the Saint Louis, MO USPS. Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on June 18, 2003. Accordingly, the instant application is entitled to a filing date of June 18, 2003, and has been so accorded.

The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (703) 305-8859.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

MICHAEL BEST & FRIEDRICH
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

In re Application of :
Mohammed Ebrahim et al :
Application No. 10/464,380 :
Filed: June 18, 2003 :
Attorney Docket No. 031383-9062-01 :

ON PETITION

This is a decision on the petition, filed October 26, 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 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) 272-3208.

The examiner of Technology Center AU 2834 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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DUANE MORRIS LLP
100 College Rd. West, Suite 100
Princeton, NJ 08540

DEC 02 2005

In re Application of:	:	
Kurtz	:	
Serial No.: 10/464,391	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: June 17, 2003	:	
Attorney Docket No.: **Kulite-57 DIV**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 2, 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 to Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Plevy & Howard
P.O. Box 226
Fort Washington, PA 19034

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GEORGE J PRIMAK
13480 HUNTINGTON
MONTREAL QC H8Z 1G2 CA
CANADA

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OFFICE OF PETITIONS

In re Application of		
Misrachi, et al.	:	
Application No. 10/464,404	:	DECISION ON
Filed: June 19, 2003	:	PETITION
Attorney Docket No. 529-USA	:	

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 7, 2005.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a reply to the non-final Office action mailed August 31, 2004. No response having been received, the above-identified application became abandoned on December 1, 2004. A Notice of Abandonment was mailed on March 21, 2005.

Petitioner has supplied a copy of an Auto-Reply Facsimile Transmission from the USPTO, showing that a 1 page Response to Restriction Requirement was filed in the above-identified application on November 8, 2004.

In view of the above, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required.

The application file is being forwarded to Group Art Unit 3765 for consideration of the Response to Restriction Requirement, filed November 8, 2004, a copy of which has been supplied with the instant petition.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/464,417	06/17/2003	Nigel King	021756-000300US	9282

51206 7590 11/15/2007
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER
KOHUT, DAVID M

ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
11/15/2007	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
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TOWNSEND and TOWNSEND
and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco California 94111-3834

Paper 11152007

In re Application of: KING, Nigel	:	
Application Number: 10/464,417	:	*SUA SPONTE*
	:	
For: AUDIT MANAGEMENT WORKBENCH	:	DECISION TO
	:	WITHDRAW
	:	HOLDING OF
	:	ABANDONMENT

This Decision is in response to Applicant's "Request to Withdraw the Holding of Abandonment" filed October 25, 2007 wherein Applicant's representative provides evidence of the timely filing of a proper response to the Office action mailed December 22, 2006.

A review of the application reveals that a non-final Office action setting a three month shortened statutory period for reply was mailed December 22, 2006. A "Notice of Abandonment" was mailed August 23, 2007 and indicated that the application was being held as abandoned in view of Applicant's failure to timely file a proper reply to the Office action mailed on December 22, 2006. The "Notice" further reiterates that no reply had been received.

In the instant case, a response to the Office action mailed December 22, 2006 is considered timely if filed on or before June 22, 2007 and including any necessary extension of time pursuant to 37 CFR 1.136(a).

It is noted that the Request provides evidence that a response to the Office action had been filed by Applicant. Such response included an amendment to the specification and claims and is accompanied by associated remarks.

It is further noted that the response was filed via EFS-Web with the United States Patent and Trademark Office on March 22, 2007 as evidenced by an associated "Electronic Acknowledgement Receipt" having EFS ID 1616995. Such Receipt identifies a receipt

date of March 22, 2007 and identifies the inclusion of an attachment titled "021756-000300US_Amendment_22MAR07.pdf". This attachment includes amendments to the specification, claims and Applicant Arguments/Remarks.

Moreover, a review of the file reveals that the original response is now "of record" in the electronic file wrapper in the USPTO and has been considered timely and proper.

In view of these facts, the holding of abandonment mailed August 23, 2007 is herein withdrawn and the application has been reinstated to a "pending" status.

The application has been forwarded to the Examiner for consideration of the amendment.

Jeffrey A. Smith
Supervisory Patent Examiner
Art Unit 3625, 3626
571-272-6763

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/464,418	06/17/2003	Anthony G. Martin	CLAR 1024-1	9284

61081 7590 09/17/2008
CLARIA CORPORATION
c/o HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
751 KELLY STREET
HALF MOON BAY, CA 94019

EXAMINER
THAI, HANH B

ART UNIT	PAPER NUMBER
2163	

MAIL DATE	DELIVERY MODE
09/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Claria Corporation
c/o Haynes Beffel & Wolfeld LLP
P.O. Box 366
751 Kelly Street
Half Moon Bay, CA 94019

In re Application of:
MARTIN et al.
Application No. 10/464,418
Filed: June 17, 2003
For: GENERATION AND PRESENTATION OF SEARCH RESULTS USING ADDRESSING INFORMATION

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to timely file a Request for Rehearing or to seek court review of the decision by Board of Patent Appeals and Interferences within a period of two months. A Notice of Abandonment was mailed on 25 July 2008.

A review of the Board's decision mailed 21 February 2008 indicates that the rejection of claims 9-12 under §102(e) was affirmed and the rejections of claims 1-3, 5-8, 14-17, 19 and 20 under §102(e) and of claims 4 and 18 under §103 were reversed. Thus, claims 1-3, 5-8, 14-17, 19 and 20 are allowable. Pursuant to MPEP 1214.06(II), the examiner should cancel claims 9-12 and issue the application with claims 1-8 and 14-20. Thus, the Notice of Abandonment mailed 25 July 2008 was premature.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn.

The application is being forwarded to the examiner of record to issue the application.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/28/09

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10464424 Patent No.: 7336938 B1

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: All changes apply. There's no new matter

DUC M. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

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MARGER JOHNSON & McCOLLOM PC
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

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OFFICE OF PETITIONS

In re Application of	:	
Leonard M. Chansky et al	:	
Application No. 10/464,432	:	DECISION GRANTING PETITION
Filed: June 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6639-110	:	

This is a decision on the petition, filed September 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2828 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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).*