10/464450

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15/04

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction on Patent No.: 6,760,141

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

See Disp. Req. 10/19/04 and 10/26/04 — See Amendments - Entered?

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.

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

Comments:

Rich Moch — **SPE**

2873 — **Art Unit**

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,760,141

DATED : June 1, 2004

INVENTOR(S) : Kazuhisa TAKAGI

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

Approved by HD 8/3/06

Add [30] Foreign Application Priority Data
June 28, 2002 [JP] Japan.....2002-190158

MAILING ADDRESS OF SENDER:
Jeffrey A. Wyand, Reg. No. 29,458
Leydig, Voit & Mayer, Ltd.
700 Thirteenth St., N.W., Suite 300
Washington, D.C. 20005-3960

PATENT NO. 6,760,141
No. of additional copies
@ $.30 per page
⇨ _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-14-2005

TO SPE OF : ART UNIT 2861

SUBJECT : Request for Certificate of Correction on Patent No.: 6,801,239 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

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.

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

Comments:

DAVID L. TALBOTT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

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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EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON, TX 77002

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AUG 2 4 2006

OFFICE OF PETITIONS

In re Patent of Chen	:	
Patent No. 6,892,761	:	
Issue Date: May 17, 2005	:	Decision on Petition
Application No. 10/464,490	:	
Filing Date: June 19, 2003	:	
Attorney Docket No. 4-1146	:	

This is a decision on the petition under 37 CFR 1.182, filed October 21, 2005, requesting issuance of duplicate Letters Patent for the above-identified application.

Petitioner has demonstrated the Letters Patent have been lost. Therefore, the petition is **granted**.

Petitioner requests a refund of the fee. A fee is unnecessary when a petitioner demonstrates the Letters Patent were lost in the mail *prior to* being received at the address of record. Once the Letters Patent are received at the address of record, one may only obtain duplicate Letters Patent upon petition and payment of the fee. Therefore, the fee will not be refunded.

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to Files Repository.

Telephone inquiries related to the petition should be directed to Petitions Attorney Steven Brantley at (571) 272-3203. Any questions concerning delays in the issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 ext. 139.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Kimberly Terrell (FAX 571-273-9740)
Krystal Paige, South Tower, 8th Floor, Room C-32 (FAX 571-270-9937)

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

MAR 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

PATTON BOGGS
1660 LINCOLN STREET
SUITE 2050
DENVER, CO 80264

In re application of:	:	
Gregory E. Webb	:	
Application No. 10/464,523	:	DECISION ON REQUEST TO
Filed: June 17, 2003	:	WITHDRAW FROM RECORD
For: GLOBAL INTELLIGENT REMOTE	:	
DETECTION SYSTEM	:	

This is a decision on the request to withdraw as attorney/agent and change of address filed on May 28, 2004.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 24283 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) 272-1986

cc: Mr. Michael W. Spencer
25577 North Broken Bow Pass
Lake Barrington, IL 60010

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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JAMES Y. GO
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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JUL 11 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Venkatesan Murali
Application No. 10/464,525
Filed: June 17, 2003
Attorney Docket No. 42P10309D3

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

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before November 22, 2005. A Notice of Abandonment was mailed on January 24 2006. In response, on March 6, 2006, the present petition was filed.

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560

Mail Date: 04/21/2010

Applicant	: David Walker Harper	: DECISION ON REQUEST FOR
Patent Number	: 7599983	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/464,526	: 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 **1180** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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MAR 3 0 2007

OFFICE OF PETITIONS

In re Application of Miller et al. :
Application No. 10/464,546 :
Filing Date: June 19, 2003 :
Attorney Docket No. 1005950-000779 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed December 4, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A final Office action was mailed April 6, 2006.

A Notice of Appeal and a request for a two-month extension of time were filed September 6, 2006.

On November 15, 2006, the Office mailed a "Communication Re: Appeal." The communication stated the appeal was dismissed because "the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired." The communication also stated the application is abandoned since there are no allowed claims.

The instant petition was filed December 4, 2006.

Discussion:

The "Communication Re: Appeal" is hereby *withdrawn and vacated.*

The communication was incorrect in stating the period for obtaining an extension of time had expired. The period of time to file the appeal brief may be extended up to 5 months. Therefore, the last day the appeal brief can be timely filed is April 6, 2007.

Technology Center Art Unit 1764 will be informed of the instant decision and the examiner take further action with respect to the application in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David A. Einhorn, Esq.
Baker Hostetler LLP
45 Rockefeller Plaza
New York NY 10111

In re Application of	:	JUN 21 2010
TANAKA, YOSHIAKI et al.	:	
Application No.: 10/464,547	:	DECISION ON
Filing or 371(c) Date: June 18, 2003	:	PETITION
Attorney Docket Number: MM4625DIV	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) on October 9, 2009.

The petition is **DISMISSED**.

Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed December 10, 2008. The Notice of Abandonment was mailed September 18, 2009.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on February 19, 2009, with no authorization to charge the Issue Fee to Deposit Account. On May 1, 2009 second transmittal was received to charge the fees to the Deposit Account **after the due date**.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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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Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

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OFFICE OF PETITIONS

In re Application of

Miller, et al.

Application No. 10/464,566

Filed: June 19, 2003

Attorney Docket No. 005950-817

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 4, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on November 6, 2006, after it was believed that an appeal brief was not timely filed after the filing of a Notice of Appeal on September 5, 2006. A Notice of Abandonment was mailed on November 15, 2006.

The instant petition was filed on December 4, 2006. Petitioner argues that the holding of abandonment is improper because the period for filing an appeal brief after filing the Notice of Appeal is extendable under 37 CFR 1.136. A review of the application file reveals that the Notice of Appeal was filed September 5, 2006. It is noted that 37 CFR 41.37(a)(1) provides that an appeal brief must be filed within two months of the date of the filing of the notice of appeal. Further, 37 CFR 41.37(c)(2)(e) provides that the time period for filing the appeal brief is extendable under 37 CFR 1.136. Based on the aforementioned, this application was prematurely abandoned as the maximum extendable period for reply has not yet expired. The holding of abandonment is withdrawn, accordingly.

The application will be directed to Technology Center 1700, GAU 1764 to await the filing of an appeal brief or other proper response.

Inquires relating to this decision may directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 20, 2008

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/464593 Patent No.: 7349340 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

/Ricky Ngo/

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

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Scott Budge	: DECISION ON REQUEST FOR
Patent Number	: 7596595	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/464,619	: 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 **1600** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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KEVIN E MC VEIGH
CN-7500
8 CEDAR BROOK DRIVE
CRANBURY, NJ 08512

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OFFICE OF PETITIONS

In re Application of
Ajay Hasmukhlal Upadhyay, et al.
Application No. 10/464,629
Filed: June 18, 2003
Attorney Docket No. RD 99017 A3

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to an Office action mailed April 19, 2006. On July 3, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on July 19, 2007.

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

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, including the fee of $790; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1615 for processing of the RCE in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Aug. 22, 2008

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/464630 Patent No.: 7347996

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.

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

Comments: _____

Art Units 1646/1647

GARY B. NICKOL, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Nakazawa et al. :
Application No. 10/464,642 :
Filed: June 19, 2003 :
Attorney Docket No. 121.1011C :

ON PETITION

This is a decision on the petition filed October 2, 2003, to establish that Figures 14-18 were part of the originally filed application.

On June 19, 2003, the application was filed.

On August 7, 2003, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of June 19, 2003, and advising applicants that Figures 14-18 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figures 14-18 were deposited on June 19, 2003. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 14 sheets of drawings on June 19, 2003.[1] The file only contains ten sheets of drawings and Figures 14-18 are contained on four drawing sheets.

Upon review of the record, Figures 14-18, deposited on June 19, 2003, have not been located. However, the evidence is convincing that the application papers deposited on June 19, 2003, included Figures 14-18, and that the Figures were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figures 14-18 submitted with the petition will be used for examination purposes.

No petition fee is required and none has been charged.

The Notice mailed August 7, 2003, is vacated to the extent the Notice stated Figures 14-18 were omitted.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 19, 2003, using the application papers filed on June 19, 2003, and the copy of 4 sheets of drawings with Figures 14-18 filed on October 2, 2003.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card 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 post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JUL 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Shinzaki	:	DECISION ON
Application No. 10/464,643	:	PETITION
Filed: June 19, 2003	:	
Atty Docket No. 1075.1232	:	

This is a decision on the PETITION TO REVIVE HOLDING OF ABANDONMENT filed February 1, 2005, pursuant to 37 CFR 1.137(a). This petition was recently forwarded to the undersigned for consideration.

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

A non-final Office action was mailed in the above-identified application on May 17, 2004. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. An amendment, made timely by an accompanying petition and extension of time for response within the second month, was filed on Monday, October 18, 2004.

On January 5, 2005, the Office mailed a Notice of Non-compliant Amendment. Therein, the examiner stated that since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless Applicant corrects the deficiency and obtains an extension of time under 37 C.F.R. §1.136(a). The examiner further noted that because Applicant deliberately placed subject matter from the non-elected species into claim 1, applicant's response cannot be considered inadvertent.

As such, the response was not treated as a *bona fide* reply and a new period for reply was not set. No reply correcting the deficiency was filed (and no further extension of time was obtained) prior to the end of the statutory period for reply to the Office action mailed May 17, 2004. Accordingly, the application became abandoned effective October 18, 2004.

In response, the instant petition and a resubmission of the response were filed on February 1, 2005. The examiner responded to the resubmission of the amendment on petition with the mailing of a Notice of Non-Compliant Amendment (37 CFR 1.121) on October 24, 2006. This Notice set a one-month period for response. On November 22, 2006, applicant timely filed an amendment. Despite the abandonment and without benefit of a decision on the petition filed February 1, 2005, prosecution of this application continued. This petition is being considered to close the gap in prosecution.

The record has been reviewed, in light of applicants' arguments, and it is concluded that the burden of showing that the delay in filing a proper response within the meaning of 1.137(a) has been met. It is noted that the response filed October 18, 2004 was resubmitted on February 1, 2005. On resubmission, the response was accepted by the examiner as a *bona fide* response. Under the circumstances, the petition is granted.

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

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

COPY MAILED
NOV 27 2006
OFFICE OF PETITIONS

In re Application of :
Hideyuki Miyata et al :
Application No. 10/464,650 : ON PETITION
Filed: June 19, 2003 :
Attorney Docket No. 1460.1003D

This is a decision on the petition filed, November 17, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 7, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2613 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

COPY MAILED
AUG 1 7 2004
OFFICE OF PETITIONS

In re Application of
Gaignerot, Rigobert, Jonac, Bodart, Liegeart
Application No.: 10/464,659
Filed: June 19, 2003
Attorney Docket No: Q76161
For: SAFTEY BATTERY

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed June 7, 2004.

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 19, 2003, without a declaration. On February 5, 2004, a Notice to File Missing Parts of Nonprovisonal Application was mailed requiring a properly executed oath or declaration and surcharge. The notice set an extendable period for reply of two months from its mailing date. The instant petition was the filed on June 7, 2004, along with a request for extension of time within the second month.

Petitioner has shown that inventor Gaignerot has refused to execute the declaration in order to join the prosecution of the 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 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

1755

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

TIMOTHY J. MARTIN, PC
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD CO 80226

COPY MAILED

JAN 21 2004

OFFICE OF PETITIONS

In re Application of
Barry Brown et al
Application No. 10/464,672
Filed: June 17, 2003
Attorney Docket No. 1873

:DECISION GRANTING FILING
:DATE OF June 17, 2003

This is a decision on the petition under 37 CFR 1.10(c), filed October 20, 2003, requesting that the above-identified application be accorded a filing date of June 17, 2003, rather than the presently accorded date of June 18, 2003.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on June 17, 2003 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail label No. EU 010646947 US (the same Express Mail receipt number appears on the original "Utility Patent Application Transmittal"). However, the "date-in" is illegible. Nevertheless, the Internet USPS Express Mail Tracking and Delivery Confirmation discloses that the package was actually deposited on June 17, 2003.

In view of the evidence in the file, it is concluded that the application was deposited in Express Mail service on June 17, 2003. Accordingly, the instant application is entitled to a filing date of June 17, 2003 and has been so accorded. A filing receipt with the corrected filing date will be mailed in due course.

The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 17, 2003 and for mailing of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center Art Unit 1755 for examination.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

10/464684

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 32405

TO SPE OF : ART UNIT PET - FRWD TO R Johnson PUBS C07 IN I7W

SUBJECT : Request for Certificate of Correction on Patent No.: 6791219

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should Inventors name Change around?

R Johnson

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2836
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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

LAW OFFICES OF JAMES J. RALABATE
5792 MAIN ST.
WILLIAMSVILLE, NY 14221

COPY MAILED
JUL 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Maddox, Edward P. Jr.	:	DECISION ON PETITION
Application No. 10/464,685	:	TO WITHDRAW
Filed: June 18, 2003	:	FROM RECORD
Attorney Docket No. X0306A	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 16, 2005.

The request is **NOT APPROVED.**

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

The Office cannot approve the request at this time since the reason provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "Firm no longer represents Xybernaut Corporation," does not meet any the conditions set forth in 37 CFR 10.40.

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

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

for Denise Pothier
Petitions Examiner
Office of Petitions

Cc:

XYBERNAUT CORPORATION
ATTN: CHRISTOPHER TUCKER
12701 FAIR LAKES CIRCLE
SUITE 550, HYATT PLAZA
FAIRFAX, VA 22033

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. 3

COOLEY GODWARD LLP
ATTN: PATENT GROUP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306-2155

MAIL

JUL 01 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Zehavi et al.

Application No. 10/464,688
Filed: June 17, 2003
For: MULTIPLE WIRELESS COMMUNICATION PROTOCOL METHODS AND APPARATUSES

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on June 1, 2004.

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

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

All attorneys/agents of record are withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

CC: Intel Corporation
Mailstop SC4/202
2200 Mission College Boulevard
Santa Clara, CA 95052

OIPE JC24
AUG 05 2004
PATENT & TRADEMARK OFFICE

1772
ISW

In the United States Patent and Trademark Office

Serial Number: 10 / 464,697
Appn. Filed: 6/18/2003
Applicant(s): Coronel, Wolfgang et al.
Appn. Title: Fastener With Fiber-Covered Anchor and Sealing Elements
Examiner/GAU: Thomas, Alexander / 1772

Request to Withdraw as Attorney/Agent of Record

OCT 27 2004

August 3, 2004

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

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

Dear Sir or Madam:

I hereby apply to withdraw as attorney/agent of record in connection with the above-identified application.

The reason for this request is that I have learned that YKK, the assignee of this application, recently received U.S. Patent # 6,684,466 (Nishida) for a child-resistant buckle. Serious questions of patentability and inventorship exist with respect to this patent, because YKK did not inform the Patent Office of the existence of my underlying U.S. Patent # 5,991,985, which it had licensed, and because prototypes I supplied to YKK as early as August 1999 show all the features in many claims of the YKK patent.

The YKK patent may become the subject of re-examination proceedings or litigation, thus creating a conflict of interest for me. The license referred to was executed before I became a patent agent, and is no longer in effect. Moreover, this application is in no way related to the YKK patent or my underlying patent. The situation would personally not affect my prosecution of this application. However, I believe it is important to avoid even the appearance of a conflict of interest, and thus I am requesting withdrawl.

I have duly notified YKK of my intention to withdraw, so that they may timely seek new representation.

Respectfully submitted,

John A. Galbreath
Registered Practitioner #46,718
2516 Chestnut Woods Court
Reisterstown, MD 21136
Tel. (410) 666-7274

Certificate of Mailing: I certify that on the date below, this document and referenced attachments, if any, was sent via first-class U.S. mail to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

3 August 2004

John A. Galbreath

OIPE JC24
AUG 0 5 2004
PATENT & TRADEMARK OFFICE

1112
ISW
PET DEC

In the United States Patent and Trademark Office

Serial Number: 10 / 464,697
Appn. Filed: 6/18/2003
Applicant(s): Coronel, Wolfgang et al.
Appn. Title: Fastener With Fiber-Covered Anchor and Sealing Elements
Examiner/GAU: Thomas, Alexander / 1772

10/27/04
Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

Request to Withdraw as Attorney/Agent of Record

August 3, 2004

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

Dear Sir or Madam:

I hereby apply to withdraw as attorney/agent of record in connection with the above-identified application.

The reason for this request is that I have learned that YKK, the assignee of this application, recently received U.S. Patent # 6,684,466 (Nishida) for a child-resistant buckle. Serious questions of patentability and inventorship exist with respect to this patent, because YKK did not inform the Patent Office of the existence of my underlying U.S. Patent # 5,991,985, which it had licensed, and because prototypes I supplied to YKK as early as August 1999 show all the features in many claims of the YKK patent.

The YKK patent may become the subject of re-examination proceedings or litigation, thus creating a conflict of interest for me. The license referred to was executed before I became a patent agent, and is no longer in effect. Moreover, this application is in no way related to the YKK patent or my underlying patent. The situation would personally not affect my prosecution of this application. However, I believe it is important to avoid even the appearance of a conflict of interest, and thus I am requesting withdrawl.

I have duly notified YKK of my intention to withdraw, so that they may timely seek new representation.

Respectfully submitted,

John A. Galbreath
Registered Practitioner #46,718
2516 Chestnut Woods Court
Reisterstown, MD 21136
Tel. (410) 666-7274

Certificate of Mailing: I certify that on the date below, this document and referenced attachments, if any, was sent via first-class U.S. mail to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

3 August 2004

John A. Galbreath

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/464,715	06/18/2003	2127	1018	SJO920020027US1	7	23	4

CONFIRMATION NO. 1752

UPDATED FILING RECEIPT

OC000000011128750

Ido Tuchman
Suite 503
69-60 108th Street
Forest Hills, NY 11375

Date Mailed: 10/29/2003

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

Applicant(s)

Christopher A. S. Gage, Raleigh, NC;
Diane P. Pozefsky, Chapel Hill, NC;
Soumitra Sarkar, Cary, NC;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 08/27/2003

Pr jected Publication Date: 12/23/2004

Non-Publication Request: No

Early Publication Request: No

Title

Load balancer performance using affinity modification

Preliminary Class

709

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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Paper No.

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JUL 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
George L. King	:	DECISION ON LETTER
Application No. 10/464,720	:	REGARDING
Filed: June 17, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 10276-061002	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed on February 26, 2008. Applicant states that it is believed that the patent term adjustment should be 261 days rather than 292 days, as stated on the Determination of Patent Term Adjustment under 35 U.S.C. 154(b).

The request for review of the determination of patent term adjustment (PTA) is **granted** to the extent indicated.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance is **three hundred seventy-seven (377)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 15, 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 292 days. This was based on Office delay of 442 days reduced by applicant delay of 150 days. Applicant timely filed the instant letter.

Applicant asserts that the patent term adjustment should be reduced by 31 days as a result of applicants filing a reply to the final rejection mailed on February 22, 2007, on June 22, 2007, which is 31 days more that three (3) months after the mailing date of the final rejection mailed on February 22, 2007.

37 CFR 1.704(b) states, in pertinent part that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

Upon review, applicant's assertion is correct, as the Notice of Appeal, amendment, and one (1) month extension of time filed on June 22, 2007, were filed three (3) months and 31 days after the mailing of the final rejection mailed on February 22, 2007.

It is further noted that the notice of allowance mailed on February 15, 2008, was mailed four (4) months and one hundred sixteen (116) days after the filing of the amendment filed on June 22, 2007, in response to the final Office action. Accordingly, applicant is entitled to an additional one hundred sixteen (116) days of patent term adjustment for Office delay pursuant to 37 CFR 1.703(a)(2) and 35 U.S.C. § 154(b)(1)(A)(ii).

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance should be adjusted to three hundred seventy-seven (377) days (558 (442+116) days of Office delay reduced by 181 (150+31) days of applicant delay).

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

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR screen

PALM INTRANET

Day : Tuesday
Date: 7/8/2008
Time: 18:21:38

PTA Calculations for Application: 10/464720			
Application Filing Date:	06/17/2003	PTO Delay (PTO):	442
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	150
Post-Issue Petitions:	0	Total PTA (days):	377
PTO Delay Adjustment:	85		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
43	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
42	07/03/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	116		
34	02/15/2008	MAIL NOTICE OF ALLOWANCE			
33	02/15/2008	MAIL EXAMINER'S AMENDMENT			
32	02/05/2008	ISSUE REVISION COMPLETED			
31	02/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
30	02/05/2008	CASE DOCKETED TO EXAMINER IN GAU			
29	02/05/2008	DOCUMENT VERIFICATION			
28	02/04/2008	EXAMINER'S AMENDMENT COMMUNICATION			
27	02/04/2008	NOTICE OF ALLOWABILITY			
26	06/22/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	06/26/2007	DATE FORWARDED TO EXAMINER			
24	06/22/2007	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
23	02/22/2007	MAIL FINAL REJECTION (PTOL - 326)			
22	02/20/2007	FINAL REJECTION			
21	06/17/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	12/07/2006	DATE FORWARDED TO EXAMINER			
19	11/20/2006	RESPONSE AFTER NON-FINAL ACTION		93	15
18	11/20/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
17.7	06/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	06/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

16	06/17/2003	PRELIMINARY AMENDMENT			
15	05/19/2006	MAIL NON-FINAL REJECTION			
14	05/15/2006	NON-FINAL REJECTION			
13	04/06/2006	DATE FORWARDED TO EXAMINER			
12	03/31/2006	RESPONSE TO ELECTION / RESTRICTION FILED		57	9
11	03/31/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
10	11/30/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	11/02/2005	MAIL RESTRICTION REQUIREMENT	442		-1
8	10/31/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
7	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
6	01/12/2004	CASE DOCKETED TO EXAMINER IN GAU			
5	08/07/2003	APPLICATION DISPATCHED FROM OIPE			
4	08/07/2003	APPLICATION IS NOW COMPLETE			
3	06/27/2003	CLEARED BY OIPE CSR			
2	06/25/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/17/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

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

MAILED

SEP 14 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Michael D. Bednarek
Shaw Pittman LLP
1650 Tysons Boulevard
McLean, VA 22102

In re application of
Thomas A. Murray et al.
Application No. 10/464,737
Filed: June 19, 2003
For: SYSTEM AND METHOD FOR FACILITATING RIDESHARING

DECISION ON PETITION TO MAKE SPECIAL (ENERGY)

This is a decision on the petition filed October 21, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicants or their attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petitioner states that the invention contributes to the more efficient utilization and conservation of energy by providing a system and method for facilitating and encouraging automobile commuters to rideshare, thereby reducing pollution and greenhouse gasses attributable to vehicle traffic, as well as contributing to the conservation of energy resources such as fossil fuels. This allows for the restoration and maintenance of the life-sustaining natural element, air.

For the above stated reasons, the petition is **GRANTED**.

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

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

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

KJD/vdb: 8/17/04

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/6/06

TO SPE OF : ART UNIT 2821 OWENS, Douglas (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/464760 Patent No.: 6933664

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Douglas K. Owens — SPE

2821 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILTON S. GERSTEIN
MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO IL 60606-1615

COPY MAILED

NOV 14 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Angela PETROSKI et al.	:	
Application No. 10/464,821	:	
Filed: June 18, 2003	:	
Attorney Docket No. 4001527.0007	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2005, and resubmitted October 12, 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 of Non-Compliant Amendment mailed March 15, 2005, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 16, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Non-Compliant Amendment mailed March 15, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 3723 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/464,824	06/17/2003	2852	2730	Q75791	12	50	18

CONFIRMATION NO. 2353

CORRECTED FILING RECEIPT

OC000000012315676

23373
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Date Mailed: 04/08/2004

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

Applicant(s)

Takatoshi Sugita, Nagano-ken, JAPAN;

Assignment For Published Patent Application

SEIKO EPSON CORPORATION;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2002-175390 06/17/2002
JAPAN 2002-180788 06/21/2002
JAPAN 2003146102 05/23/2003
JAPAN 2003-146103 05/23/2003
JAPAN 2002-175389 06/17/2002

If Required, Foreign Filing License Granted: 09/04/2003

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus and method of rewriting firmware

Preliminary Class

399

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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SEP - 3 2004

In re Application of Granguillhome, E. et al. Serial Number: 10/464,837 Filed: June 19, 2003 For: PROCESS FOR THE PRODUCTION OF INVERT LIQUID SUGAR	: : : : :	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed July 02,2004, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

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

Stephen L. Peterson
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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FEB 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Naghian et al.	:	
Application No. 10/464,863	:	ON APPLICATION FOR
Filed: June 19, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-0235	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed January 26, 2009. Applicants request that the determination of patent term adjustment be corrected from eight hundred ninety-three (893) days to one thousand one hundred fifty-two (1152) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

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

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

It is acknowledged that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on August 25, 2008.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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MAR 10 2010

OFFICE OF PETITIONS

In re Patent No. 7,512,783	:	DECISION ON REQUEST
Naghian et al.	:	FOR
Issue Date: March 31, 2009	:	RECONSIDERATION OF
Application No. 10/464,863	:	PATENT TERM ADJUSTMENT
Filed: June 19, 2003	:	and
Atty Docket No. 088245-0235	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 1, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred fifty-four (1154) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand one hundred fifty-three (1153)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on June 20, 2006 and ends on October 18, 2007, the day before the first RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 486 not 487 days, and considering the 226 days of overlap, the patent term adjustment is being increased by 260 days. Thus, the patent term adjustment is 1153 days, not 1154 days.

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on January 26, 2009. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred fifty-three (1153)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,512,783 B2

DATED : **March 31, 2009** **DRAFT**

INVENTOR(S) : Naghian et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 893 days

Delete the phrase "by 893 days" and insert – by 1153 days--

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International Business Machines Corporation
Intl Prop Law Dept., Internal Zip 4054
11400 Burnet Road
Austin, TX 78758

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OCT 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Walid M. Kobrosly, et. al.	:	
Application No. 10/464,887	:	ON PETITION
Filed: June 19, 2003	:	
Attorney Docket No. AUS920030075US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on August 10, 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 31, 2006. A Notice of Abandonment was mailed on August 3, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of a Terminal Disclaimer and fee of $130 filed on August 10, 2006. 37 CFR 1.137(c) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since this application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer is unnecessary and the fee of $130 will be refunded to petitioner's deposit account.

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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Paper No. 3

Mark E. McBurney
International Business Machines Corporation
Intellectual Property Law Department
11400 Burnet Road-4054
Austin, TX 78758

COPY MAILED
MAR 17 2004
OFFICE OF PETITIONS

In re Application of: :
Mullen et al. :
Application No. 10/464,896 :
Filed: June 19, 2003 : DECISION GRANTING
Attorney Docket Number: : PETITION
AUS920030035US1 :

This is a decision in response to the correspondence filed January 16, 2004 (Certificate of Mailing dated January 9, 2004, notifying the Office of an incorrect filing date assigned to the above-identified application. The correspondence is properly treated as a petition under 37 CFR 1.10(c), requesting the application be accorded a filing date of June 19, 2003, instead of the presently accorded filing date of June 18, 2003.

This Petition is hereby **granted**.

Petitioner alleges that the application was deposited in Express Mail service on June 19, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV309142004US. The "Date In" indicated on the Express Mail label is June 19, 2003; the Express Mail Label is properly addressed to the Commissioner of Patents, and the Express Mail label contains a United States Postal Service (USPS) stamp of June 19, 2003. The same Express Mail label number was placed on the original application papers located in the official file.

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

Applicant requests that this Office notify the assignment Office of the granting of this petition. Applicant has not included a copy of the putative assignment with the instant petition. Applicant is advised to re-file the assignment and include a copy of this Decision.

Applicant also includes instructions as to the correspondence address; however, the petition does not include a copy of the putative assignment, and absent an assignment, the inventor is presumed to be the owner of the invention. Correspondence will continue to be sent to correspondence address specified in the oath/declaration until instructions are received to the contrary.

Applicant is also advised that separate matters should be filed on separate papers. *Accord* 37 CFR 1.4.

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 778
JERSEY, JE1 1BL
COTE D'IVOIRE

AIRMAIL

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Lothar Willms et al	:	
Application No. 10/464,906	:	ON PETITION
Filed: June 19, 2003	:	
Attorney Docket No. 514413-3355.1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 24, 2006, 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 Wan Laymon at (571) 272-3220.

---

[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).

This matter is being referred to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

cc: FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE - 10TH FL
NEW YORK, NY 10151

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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60610-4764

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MAY 12 2008

OFFICE OF PETITIONS

In re Application of :
Joseph PALOMO et al. :
Application No. 10/464,914 : DECISION ON PETITION
Filed: June 19, 2003 :
Attorney Docket No. 050251-0143 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 2008 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before 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.

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.

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 documents 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 Ramesh Krishnamurthy at (571) 272 - 4914.

This application is being referred to the Office of Data Management for processing into a patent.

Anthony Knight for

David Bucci
Petitions Examiner
Office of Petition

CC: Arent Fox LLP
1050 Connecticut Ave., N.W.
Suite 400
Washington D.C., 20036 - 5339

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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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DEC 22 2004

OFFICE OF PETITIONS

In re Application of :
Lawrence A. Black, et al. :
Application No. 10/464,928 : ON PETITION
Filed: June 19, 2003 :
Attorney Docket No. 6168.US.D4 :

This is a decision on the petition, filed October 12, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b). The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed December 3, 2003.

The petition is **GRANTED**.

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

The application file is being forwarded to Technology Center AU 1624 for consideration of the amendment filed October 12, 2004.

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

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ALEXANDRIA, VA 22313-1450
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T. MURRAY SMITH, ESQ.
BAKER BOTTS L.L.P.
SUITE 600
2001 ROSS AVENUE
DALLAS, TX 75201-2980

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OFFICE OF PETITIONS

In re Application of	:	
Robert B. Chipper	:	
Application No. 10/464,970	:	ON PETITION
Filed: June 18, 2003	:	
Atty Docket No. 069078.0117	:	

This is a decision on the petition, filed November 17, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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 2872 for further processing of the request for continued examination under 37 CFR 1.114 filed November 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GROSSMAN TUCKER PERREAULT & PFLEGER PLLC
55 SOUTH COMMERCIAL STREET
MANCHESTER, NH 03101

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Liusheng Liu et al	:	
Application No. 10/464,973	:	DECISION GRANTING PETITION
Filed: June 19, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. O2MICRO 03.03	:	

This is a decision on the petition, filed January 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 December 13, 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 2838 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) (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).*

OIPE JC181
OCT 1 0 2003
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Larry F. Rhodes, et al. Examiner: W. K. Cheung

Serial No.: 10/464,978 Group Art Unit: 1713

Filed: June 18, 2003 Date: October 8, 2003

FOR: POLYMERIZED CYCLOOLEFINS USING TRANSITION METAL CATALYST AND END PRODUCTS THEREOF

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

Sir:

PETITION UNDER 37 CFR 1.17(h)
NOTICE OF OMITTED ITEM(S) IN A NONPROVISONAL APPLICATION RECEIVED BY THE USPTO

In a formalities letter, dated 08/12/2003, the undersigned was informed in a Notice of Omitted Item(s) in a Nonprovisional Application that pages 37-38 of the specification had been omitted from the application received by the U.S. Patent and Trademark Office. Applicants' hereby petition for reconsideration because it is submitted that said pages 37-38 were part of the nonprovisional application submitted to the Patent Office and received by the USPTO on 06/18/03.

Evidence that the USPTO received all of the pages of the application is a copy of the postcard receipt that was attached to the above-noted patent application where it is stated that a copy of parent application (260 pages total) were submitted and the USPTO acknowledged the receipt of all of the items listed thereon. Also attached is a copy of the Express Mail Certificate which breaks down even further what was submitted to the USPTO.

10/16/2003 BABRAHA1 00000102 10464978
01 FC:1460 130.00 OP

For the convenience of the Patent Office, pages 37-38 are attached hereto. However, since the USPTO received the complete application as acknowledged on the postcard receipt, it is submitted that the filing date of 06/18/03 has been appropriately granted and should be maintained for this application.

As required, a copy of the Notice of Omitted Item(s) in a Nonprovisional Application and a check for $130.00 (petition fee under 37 CFR 1.17(h)) are attached to this Petition.

In view of the fact, however, that a complete application had been submitted on the filing date which has been acknowledged by the Patent Office, it is requested that the Petition Fee of $130.00 be refunded and credited to **Deposit Account 08-3150.**

Respectfully submitted,

HUDAK, SHUNK & FARINE CO. L.P.A.

By: Nestor W. Shust

Nestor W. Shust
Registration No. 23,034

NWS/js

2020 Front St., Suite 307
Cuyahoga Falls, OH 44221
330-535-2220

Attorney Docket No. 1980045D

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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JAN 09 2008

OFFICE OF PETITIONS

In re Application of :
Robert B. STASZEWSKI et al. :
Application No. 10/464,982 :
Filed: June 19, 2003 :
Attorney Docket No. TI-34759 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 06, 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, February 27, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 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 $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of February 27, 2007 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 2611 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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APR 0 4 2008

OFFICE OF PETITIONS

In re Application of Ohara et al. :
Application No. 10/465,001 :
Filing Date: June 19, 2003 :
Attorney Docket No. TI-35099 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed October 1, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed June 11, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned as of midnight on September 11, 2007. A Notice of Abandonment was mailed on October 9, 2007.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,540. Petitioner has submitted a reply to the Notice of Allowance in the form of the issue fee and publication fee. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

The Office notes the petition was not accompanied by a completed copy of the Issue Fee Transmittal Form (Form PTOL-85(b)) mailed with the Notice of Allowance. However, the petition has been granted since the Issue Fee Transmittal Form is not required in order to grant the relief requested.

The Office of Data Management will be informed of the instant decision and the application will be issued as a patent 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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P.O. Box 1450
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K&L GATES LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

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DEC 3 0 2009

OFFICE OF PETITIONS

In re Application of
Francine HALLE, et *al.*
Application No. 10/465,010
Filed: June 19, 2003
Attorney Docket No. **1784-US**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 11, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by James A. Culverwell on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the address below until otherwise properly notified by the applicant.

The application issued into Patent Number 7,636,642 on December 22, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **CHESTER CEKALA, TERADYNE, INC.**
700 RIVERPARK DRIVE, NR700-2-3
NORTH READING, MA 01864

SPE W. Garber

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/465,013

Paper No.: _____

DATE : 8/4/05

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction on Patent No.: 6909459

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

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

Lamonte M. Newsome

Thank You For Your Assistance

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

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

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

Comments:

2615

SPE **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/465,034	06/19/2003	Gary Johansson	13425-119001 / BV-1029 US	3492

26161 7590 02/19/2008
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
COPPINS, JANET L

ART UNIT	PAPER NUMBER
1626	

MAIL DATE	DELIVERY MODE
02/19/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 1 9 2008

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of:	:
Johansson et al.	:
Serial No.: 10/465,034	: PETITION DECISION
Filed: June 19, 2003	:
Attorney Docket No.: 13425-119001 / BV-1029 US	:

This is in response to the petition under 37 CFR § 1.181, filed January 14, 2008, requesting that the finality of the Office action of July 13, 2007 be withdrawn.

BACKGROUND

More recently, the examiner mailed a non-final Office action on November 3, 2006 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-57 were pending and claims 9,17-29, 39-42, 44 and 46-57 were withdrawn from examination on the merits as being directed toward a non-elected invention. The examiner rejected claims 1-3, 5-8, 10-16, 30-38, 43 and 45 under 35 U.S.C. 102(b) as being anticipated by Bromidge et al. and indicated that claim 4 was objected to for being dependant upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants filed arguments on April 5, 2008 in response to the non-final Office action of November 3, 2006. Applicants' response did not contain any claim amendments.

On July 13, 2007, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1-57 were pending and claims 9, 17-29, 39-42, 44 and 46-57 remained withdrawn from examination on the merits as being directed toward a non-elected invention. The examiner stated on the record that the previous rejection made over claims 1-3, 5-8, 10-16, 30-38, 43 and 45 under 35 U.S.C. 102(b) as being anticipated by Bromidge et al. was removed due to applicants' convincing arguments traversing the rejection. Subsequently, the examiner newly rejected claims 1-3, 5-8, 10-16, 30-38, 43 and 45 under 35 U.S.C. 103(a) as being unpatentable over Bromidge et al. and again indicated that claim 4 was objected to for being dependant upon a rejected base claim, but would be allowable if

rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response thereto, applicants filed this petition on January 14, 2008, requesting that the finality of the Office action of July 13, 2007 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In this petition filed on January 1, 2008, applicants argue that the final Office action mailed on July 13, 2007 was premature and improper. Specifically, applicants contend that the rejection made over claims 1-3, 5-8, 10-16, 30-38, 43 and 45 under 35 U.S.C. 103(a) as being unpatentable over Bromidge et al. in the final Office action mailed by the examiner on July 13, 2007 was a new ground of rejection, not necessitated by applicants' amendments to the claims. Applicants state that there were no claim amendments presented with applicants' response on April 5, 2008.

Applicants' points are well taken. While the examiner did not add any new reference(s) to the rejection made over claims 1-3, 5-8, 10-16, 30-38, 43 and 45 under 35 U.S.C. 103(a) as being unpatentable over Bromidge et al., the examiner did change the rejection from a 102(b) rejection to a 103(a) rejection in the final Office action after explicitly admitting that applicants were correct in their assessment that Bromidge et al. did not anticipate the claimed invention. The examiner also explicitly indicated that the rejection made under 35 U.S.C. 103(a) as being unpatentable over Bromidge et al. was a new grounds of rejection (see top of page 3, final Office action).

The rejection of claims 1-3, 5-8, 10-16, 30-38, 43 and 45 under 35 U.S.C. 103(a) as being unpatentable over Bromidge et al. in the final Office action is considered a new ground of rejection, as readily admitted by the examiner. The crux of this new rejection is different from the non-final rejection, in that the final Office action provides new reasoning and new motivation to arrive at the claimed invention not previously set forth by the examiner . This new rejection was not necessitated by applicants' amendments, because there were no claim amendments submitted by applicants in the interim between the mailings of the non-final Office action and the final Office action.

MPEP § 706.07 Final Rejection states:

> Before final rejection is in order *a clear issue should be developed between the examiner and applicant*. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, *the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied....The applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to*

which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application....(emphasis added)

It is decided that the final Office action mailed on July 13, 2007 was improper and premature. The rejection set forth in the final Office action over claims 1-3, 5-8, 10-16, 30-38, 43 and 45 under 35 U.S.C. 103(a) as being unpatentable over Bromidge et al. was a new ground of rejection not necessitated by an amendment or any IDS submitted by applicants. Applicants have not been given a fair chance to rebut this new rejection.

It is noted that this petition was filed more than six months from the date of the final Office action. Pursuant to 37 CFR 1.181(f), the petition may properly be dismissed as untimely filed without considering its merits. Petitioner is advised that any future request for review of an examiner's action must be timely submitted to avoid any potential dismissal based on its timeliness in filing.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

John LeGuyader
Director, Technology Center 1600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Gary Johansson et al.	Art Unit	: 1626
Serial No.	: 10/465,034	Examiner	: Janet L. Coppins
Filed	: June 19, 2003	Conf. No.	: 3492
Title	: NEW COMPOUNDS		

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

PETITION UNDER 37 C.F.R. § 1.181
(FROM A PREMATURE FINAL REJECTION)

The applicant hereby petitions the Technology Center Director under 37 C.F.R. § 1.181 to review the finality of the Office Action of July 13, 2007 and respectfully requests that the finality of the Office Action be withdrawn.

I. Statement of Facts

In the Office Action mailed November 3, 2006, the Office rejected claims 1-3, 5-8, 10-16, 30-38, 43, and 45 under 35 U.S.C. § 102(b). In response to the applicants' reply filed on April 3, 2007, in the Office Action mailed July 13, 2007 the Office rejected claims 1-3, 5-8, 10-16, 30-38, 43, and 45 under 35 U.S.C. § 103(a). The rejection was made final, even though no rejection under 35 U.S.C. § 103(a) had been made in the prior Office Action. The substitution of the rejection under 35 U.S.C. § 103(a) for the rejection under 35 U.S.C. § 102(b) was not necessitated by applicants' amendments (indeed, several claims, including claim 1, were not amended). The new ground of rejection was made based upon the same reference as the rejection under 35 U.S.C. § 102(b).

II. Points to be Reviewed and the Action Requested

The Director is respectfully requested to review the whether the Office Action mailed July 13, 2007 was properly made final when it contained a new ground of rejection under 35 U.S.C. § 103(a) which was not necessitated by the applicants' amendments. If the Director agrees with the applicants that the rejection was premature and not properly made final, the Director is respectfully requested to require that the finality of the Office Action of July 13, 2007 be

withdrawn and that applicants' amendment and arguments being submitted concurrently herewith be entered and considered, as of right, as if made in response to a non-final Office Action.

III. Arguments

Under the proper procedures set forth in the MPEP, although second or subsequent Office Actions may be made final, it is not proper for an Office Action to mad final when the examiner "introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement" *See* MPEP 706.07(a). Further, the MPEP specifically states that "a final rejection is improper where there is another new ground of rejection introduced by the examiner which was not necessitated by amendment to the claims nor based on information submitted in an information disclosure statement". *Id.* (Examiner Note to form paragraph 7.40.02).

The rejection under 35 U.S.C. § 103(a) made in the Office Action dated July 13, 2007 was a new ground of rejection because no such rejection had been made previously. The rejection was neither necessitated by amendments to applicants' claims (since claim 1, for example, was not amended) nor by information provided in an information disclosure statement (the rejection was based upon the same reference as the prior rejection under 35 U.S.C. § 102(b)). Applicants received no opportunity to respond to the rejection under 35 U.S.C. § 103(a) prior to it being made final. Accordingly the rejection under 35 U.S.C. § 103(a) constituted a new ground of rejection, and the Office Action dated July 13, 2007 was not properly made final.

IV. Conclusion

Based on the foregoing, the applicants respectfully submit that the Office Action dated July 13, 2007 was prematurely made final. Applicants respectfully request that the finality of the Office Action be withdrawn and applicants' amendments and remarks made in response be entered and treated as if made in response to a non-final action.

Please apply any charges or credits to deposit account 06-1050, referencing Attorney Docket No. 13425-119001.

Respectfully submitted,

Date: January 14, 2008

/Eifion Phillips/
Eifion Phillips, J.D., D.Phil.
Reg. No. 55,538

Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022
Telephone: (302) 778-8438
Facsimile: (877) 769-7945

80053771.doc

UNITED STATES PATENT AND TRADEMARK OFFICE

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Kilpatrick Stockton LLP- Adobe Systems, Inc. 58083
Kilpatrick Stockton LLP
1100 Peachtree Street
Atlanta, GA 30309-4530

Mail Date: 04/21/2010

Applicant	: Andrew Lin	: DECISION ON REQUEST FOR
Patent Number	: 7665036	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/465,039	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1112** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Apr-06

G. TURNER MOLLER
SUITE 720
711 NORTH CARANCAHUA
CORPUS CHRISTI, TX 78475

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APR 17 2006

OFFICE OF PETITIONS

In re Patent No. 6,951,224	:	
Melvin C. Garrett	:	DECISION ON REQUEST
Issue Date: October 4, 2005	:	FOR RECONSIDERATION OF
Application No. 10/465,052	:	PATENT TERM ADJUSTMENT
Filed: June 19, 2003	:	and
For: WALKING STICK HAVING	:	NOTICE OF INTENT TO ISSUE
SHOEHORN/GRIPPER AND MAGNET	:	CERTIFICATE OF CORRECTION
ACCESSORIES	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (UNDER 37 C.F.R. § 1.705(d)" filed 30 November, 2005. Patentee requests that the Patent Term Adjustment for the above-identified patent be corrected from zero (0) days to two hundred eleven (211) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of ninety-one (91) days.

Patentee is given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On 4 October, 2005, application No. 10/465,052 matured into U.S. Patent No. 6,951,224. The instant request for reconsideration filed 30 November, 2005, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a Patent Term Adjustment of 0 days. Herein, patentee requests entry of a period of adjustment of 211 days on the basis that the first office action was issued 14 months and 34 days after the filing date of the application, and that the patent issued four

months and 177 days after the date of payment of the issue fee. Additionally, patentee states that the reduction of 120 days for the filing of drawings after the mailing of the Notice of Allowance and 120 days for the filing of a miscellaneous letter after the mailing of the notice of allowance are erroneous.

The Patent issued with a revised Patent Term Adjustment of 0 days. The PTA of 34 days indicated in the notice of allowance was increased by 177 days for Office delay in issuing the patent, but reduced by 120 days pursuant to 37 CFR § 1.704(c)(10) for the submission of drawings after the mailing of the notice of allowance and by an additional 120 days pursuant to 37 CFR § 1.704(c)(10) for the filing of a "miscellaneous incoming letter" after mailing of the Notice of Allowance.

As to the reductions of 120 days for the filing of drawings, this entry has been reviewed and found to be correct. Patentee acknowledges submitting formal drawings after the mailing of the notice of allowance. Patentee is advised that the filing of drawings and letters after the mailing of a notice of allowance is properly a basis for reduction of patent term adjustment.

37 CFR § 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, it is undisputed that the drawings were filed after the mailing of the notice of allowance.

By Notice entitled *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001), the Director set forth examples of papers deemed not to cause substantial interference and delay in the patent issue process. A Comment on the Statement of Reasons for Allowance was so

identified; however, a submission of formal drawings was not. Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office. Filing of any drawings after allowance will be treated as a failure to engage in reasonable efforts to conclude prosecution.

However, petitioner's argument that the letter filed on 26 May, 2005, should not reduce the patent term is persuasive. Under the circumstances of this case, and in this instance, it is determined that the filing of the letter should not be considered a failure to engage in reasonable efforts to conclude prosecution. (Patentee is cautioned that in the future the filing of such a paper may be considered a failure to engage. Petitioner may wish to consider having the examiner memorialize agreements by way of an Interview Summary or Examiner's Amendment). The reduction of 120 days associated therewith is removed.

In view thereof, it is concluded that the patent should have issued with a revised Patent Term Adjustment of ninety-one (91) 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 **NINETY-ONE (91)** days.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure : DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,951,224 B2

DATED : **October 4, 2005**

INVENTOR(S) : Garrett

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (0) days

Delete the phrase "by 0" and insert – by 91 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

DEC 14 2004

In re Application of:
Robert Metzger
Serial No.: 10/465,056
Filed: June 19, 2003
Attorney Docket No.: **5490-000338**

DECISION *SUA SPONTE*
WITHDRAWING HOLDING
OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment and vacating the Notice of Allowance and Fee(s) Due (Notice of Allowance) in the above-identified application.

A Notice of Allowance was mailed on April 02, 2004. In an apparent failure to receive the issue fee, the application was held abandoned and a Notice of Abandonment was mailed on August 23, 2004.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending. The record indicates that the Notice of Allowance was not intended for the instant application but, due to a typographical error in the identification of the application serial number, was mailed for this application in error. Therefore, the application is not abandoned in fact.

Since the Notice of Allowance was mailed in error, it is hereby vacated. The examiner will issue a proper Office Action shortly. Inconvenience to the applicant is regretted.

Any inquiry regarding this decision should be directed to Paula Bradley, Supervisory Patent Examiner, at (571) 272-2001.

Richard K. Seidel, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Notice of Abandonment	Application No.	Applicant(s)	
	10/465,056	METZGER, ROBERT	
	Examiner	Art Unit	
	NGUYEN	2833	

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

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☒ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-22-05

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 6885954

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.

Check Reconsideration

Thank You For Your Assistance

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

Approved 8/29/05

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:

MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2857
Art Unit

MNDSPD.0015P

PATENT

C of C

VJ

JUL 29 2005

PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Keith R. Jones, et al.
Patent No.	:	6,885,954
Issued	:	April 26, 2005
Appl. No.	:	10/465,064
Filed	:	June 18, 2003
For	:	SEQUENCE TIME DOMAIN REFLECTOMETRY USING COMPLEMENTARY GOLAY CODES

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Attn: Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

July 25, 2005
(Date)

Chad W. Miller, Reg. No. 44,943

REQUEST FOR CERTIFICATE OF CORRECTION

Attn: Decisions & Certificate of Corrections Branch
Valerie Jackson
Newman Cecelia
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sirs:

Enclosed for filing is a Certificate of Correction with respect to the above-referenced patent.

In response to your letter of June 23, 2005, the Applicants submit that the Decisions & Certificate of Corrections Branch improperly denied the initial Request. The patent is not printed as filed. Reconsideration is requested.

Enclosed are the following:

1) A letter of June 23, 2005 denying correction in column 35, line 46;

2) The original filing of the specification (cover page and page that contains the data in question) shown the application as filed. No amendments were made during prosecution.

3) The patent as published (cover page and page that contains the error) showing the error as printed.

AUG 09 2005

Patent No. : 6,885,954
Issued : April 26, 2005

The errors, which are cited in the Certificate of Correction, occurred as a result of mistakes on the part of the Patent Office, and therefore a fee is not required in accordance with 37 C.F.R. Section 1.322. Applicants respectfully submit that these mistakes do not involve changes that would constitute new matter or require reexamination of the patent.

Column 35, line 46, "(Where m(ℓn)*, should be -- (Where m(-n)*--

Please direct any questions to the undersigned via telephone.

Respectfully submitted,

Dated: 7/25/05 By: C. Miller

Chad W. Miller
Attorney of Record
Registration No. 44,943
Weide & Miller, Ltd.
Bank West Building, Suite 530
7251 W. Lake Mead Blvd.
Las Vegas, NV 89128
(702) 382-4804 (Pacific time)

AUG 09 2005

JUL 29 2005

UNITED . .TES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date: 6-23-05

Patent No.: 6,885,954 B2
Issued : April 26, 2005

Inventor : Jones, et al.
Title : **SEQUENCE TIME DOMAIN REFLECTOMETRY USING COMPLEMENTARY GOLAY CODES**

Docket No:

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 provision of Rule 1.322.

Respecting the alleged error, in column 35, line 46, is printed in accordance with the record. Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 or 255 the Code of Federal Regulation (C.F.R.) R1.322 R 1.323.

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

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period.

Valerie Jackson
Newman Cecelia
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. # 114

Chad W. Miller
Weide & Miller, Ltd
7251 West Lake Mead Blvd., Suite 530
Las Vegas, NV 89128

vj/CBN

AUG 0 9 2005

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,885,954

DATED : April 26, 2005

INVENTOR(S) : Keith R. Jones, 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:

Column 35, line 46, "(Where m(+n)*, should be – (Where m(-n)*–

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. 6,885,954

No. of additional copies

Chad W. Miller
Weide & Miller, Ltd.
7251 West Lake Mead Blvd., Suite 530
Las Vegas, NV 89128

AUG 09 2005

P15/REV03

U.S. Express Mail No.: EU957748095US
Filing Date: Herewith

PATENT
W&M Matter No. MNDSPD.0015P

JUL 29 2005
PATENT & TRADEMARK OFFICE

SEQUENCE TIME DOMAIN REFLECTOMETRY USING COMPLEMENTARY GOLAY CODES

INVENTORS

KEITH R. JONES

GILBERTO ISSAC SADA TREVINO

WILLIAM W. JONES

RAGNAR H. JONSSON

This application is a continuation-in-part of Application Number 10/095,825, entitled Optical Time Domain Reflectomentry, filed March 11, 2002, which is a continuation-in-part of Application No. 09/810,932, entitled Method and Apparatus for Transmission Line Analysis filed March 16, 2001.

1. Field of the Invention

This invention relates generally to communications and in particular to a system and method for analyzing a transmission line.

2. Related Art

Historically, new communication technologies are continually being introduced to improve the ease and rate at which data can be exchanged between remote locations. One factor that must be considered when communicating electronic data is the medium over which the data will travel. This is often referred to as determining the channel quality, line characteristics, line transfer function, insertion loss, or channel impulse response. Numerous different types of conductors are utilized to conduct communication signals. One example medium that is commonly

combination that has the impulse response. As discussed below, other types of processing may occur.

For example and in reference to Figure 4, the sequence correlator 446 or the analysis module 450 may comprise or include memory or registers configured to store the two or more correlated signals. Similarly the analysis module 450 or the sequence correlator 446 may be configured to combine or process the correlated signals as described herein.

Hence, it is contemplated that more than two sequences may be transmitted and processed in any manner to generate a correlated output that can yield an impulse response. Likewise, it is contemplated that inverted sequence pairs may be utilized. Examples of complementary sequences are discussed in more detail in Chapter 13 of the book Sequence Design for Communication Applications by P. Fan and M. Darnell, offered by John Wiley Publishing, copyright 1996, which is incorporated in its entirety herein.

That the signals described herein may be utilized may be shown mathematically starting with the known principles for m-sequences. Assuming

$$m(n,N) * m(-n)^{*} = \delta(n,N)$$

(Where $m(-n)^{*}$ is the time reversed complex conjugate of $m(n)$, and * represents the convolution operator. This is known as correlation. Another note, the correlation doesmay not yield the Kronecker delta function, which is described bellow, but may yield a scaled version of it depending on the period of the m-sequence. Namely, $N\delta(n,N)$!. In the case of the Golay codes and, after correlation the combination may

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Paper No. 7

SQUARE D COMPANY
INTELLECTUAL PROPERTY DEPARTMENT
1415 SOUTH ROSELLE ROAD
PALATINE IL 60067

COPY MAILED
MAY 06 2005
OFFICE OF PETITIONS

In re Application of
Carl P. Morse
Application No. 10/465,105
Filed: June 19, 2003
Attorney Docket No. SAA-96

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2005, to revive the above-identified application.

This application became abandoned for failure to respond timely to the Notice to File Corrected Application Papers mailed on August 15, 2003, which set a two-month extendable period to reply. Accordingly, this application became abandoned on October 16, 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). Petitioner submitted the required reply in the form of two sheets of replacement drawings containing Figures 1-4B and made the proper statement of unintentional delay.

Accordingly, the petition is **granted.**

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL ZARRABIAN
1925 CENTURY PARK EAST
SUITE 500
LOS ANGELES CA 90067

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Ferguson et al.	:	
Application No. 10/465,136	:	DECISION GRANTING PETITION
Filed: June 19, 2003	:	UNDER 37 CFR 1.137(b)
Title: Snap-Hook Tether	:	

This is a decision on the petition, filed September 13, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on June 18, 2004. However, the USPTO was unintentionally not notified of this filing date 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) was rescinded on July 29, 2004 and the Notice was mailed on August 23, 2004. The instant application was published on December 23, 2004.

This matter is being referred to Technology Center 3600.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JAN 1 2 2006

OFFICE OF PETITIONS

MICHAEL ZARRABIAN
1925 CENTURY PARK EAST
SUITE 500
LOS ANGELES CA 90067

In re Application of	:	
Thomas B. Ferguson et al	:	
Application No. 10/465,136	:	ON PETITION
Filed: June 19, 2003	:	
Attorney Docket No. None	:	

This is a decision on the petition, filed January 10, 2006, under 37 CFR 1.313(c)(1) 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 due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

The application is hereby withdrawn from issue.

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.

This matter is being referred to Technology Center AU 3677.

Karen Creasy

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

cc:
MICHAEL ZARRABIAN
19900 MACARTHUR BLVD., 11TH FLOOR
IRVINE, CA 92612

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/2/09

Paper No.: —

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/465168 Patent No.: 6989080B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

SPE

1791
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

COPY MAILED

MAY 31 2007

OFFICE OF PETITIONS

In re Application of
Anne Elizabeth Kellog et al. :
Application No. 10/465,176 : ON PETITION
Filed: June 22, 2003 :
Attorney Docket Number: **5218.68DV** :

This is a decision on the petition under 37 CFR 1.182 filed February 28, 2007, to Correct the Name of the Inventor due to divorce.

The petition is **GRANTED**.

Petitioner has requested that the inventor formerly known as Anne Elizabeth Wernerberg be listed as Anne Elizabeth Kellog. The petition fee, a statement from the inventor as to how the change was effected, divorce, as well as a certified copy of the court order has been submitted in compliance with 37 CFR 1.182.

The issue fee in this application was paid on even date. Effective May 29, 2000, the Office changed the practice by clarifying that an amendment under 37 CFR 1.312 (after allowance) must be filed prior to or with payment of the issue fee, and eliminated 37 CFR 1.312(b).

Since the petition was filed with payment of the issue fee the petition is granted.

In view of the instant request, the following inventor name data will be changed.

Inventor 1) Anne Elizabeth Kellog

A petition under 37 CFR 1.182 carries with it a fee in the amount of $400.00 pursuant to 37 CFR 1.17(f). Therefore, petition's deposit account no. 50-0220 has been charged in the amount of $400.00

This matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 06/02/2010

Applicant	: Muthurajah Sivabalan	: DECISION ON REQUEST FOR
Patent Number	: 7626925	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/465,179	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1409** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-7195

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Henderson et al.	:	DECISION ON PETITION
Application No. 10/465,197	:	TO WITHDRAW
Filed: June 19, 2003	:	FROM RECORD
Attorney Docket No. 11867.0019NP	:	

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 9, 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 Gregg A. Duffey on behalf of all attorneys of record. All attorneys/agents of record have been withdrawn.

In accordance with the Power of Attorney filed July 10, 2006 by the assignee, the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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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Attorney, Intellectual Property
Honeywell International, Inc.
101 Columbia Rd.
P.O. Box 2245
Morristown NJ 07962

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APR 10 2006

OFFICE OF PETITIONS

In re Application of :
Cook, et al. :
Application No. 10/465,202 : ON PETITION
Filed: June 18, 2003 :
Attorney Docket No. H0004560 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 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 December 1, 2004. Accordingly, this application became abandoned on March 2, 2005. A Notice of Abandonment was mailed on February 21, 2006.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the December 1, 2004 Notice of Allowance and Fee(s) Due, and the petition fee.[1]

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

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[1] The statement of unintentional delay was signed by a person who may not have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office. A courtesy copy of this decision is being mailed to practitioner. However, any future correspondence regarding this application will be mailed to the address of record.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

CC: BRYAN ANDERSON
2500 W. UNION DRIVE
PHOENIX, AZ 85027

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Beex et al.	:	
Application No. 10/465,207	:	
Filed: June 19, 2003	:	
Attorney Docket No. 83959	:	

This is a decision on the petition under 37 CFR 1.181, filed January 6, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 3, 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 November 4, 2003. A Notice of Abandonment was mailed on September 9, 2004.

Petitioner contends and has established the Notice of Missing Parts was not received

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

The Notice to File Missing Parts is vacated.

The Office of Initial Patent Examination will mail a new Notice to File Missing Parts and the time period for reply will be set from the mailing date thereof.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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NEW YORK, NY 10104-3800

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OFFICE OF PETITIONS

In re Application of	:	
Hirokazu KAWAMOTO	:	
Application No. 10/465,223	:	DECISION GRANTING PETITION
Filed: June 20, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **03500.014312.1**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 11, 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 August 14, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2625 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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Kramer & Amado, P.C.
1725 Duke Street
Suite 240
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Chad William Kendall	: DECISION ON REQUEST FOR
Patent Number	: 7580408	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/465,236	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1196** 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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ATLANTA, GA 30339

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OFFICE OF PETITIONS

In re Application of	:
Christian Fitzgerald	:
Application No. 10/465,252	: DECISION ON PETITION
Filed: June 19, 2003	: UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 8F11.1-011	:

This is a decision on the petition, filed July 22, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue in favor of a continuing application.

Pursuant to a telephone conversation with Mr. Arthur Gardner on August 2, 2005, Mr. Gardner confirmed that this application is to be expressly abandoned in favor of the continuing application.

Accordingly, this application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

This abandoned matter is being referred to Files Repository.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

rvk

Mailed: 2-14-06 Paper No. _____

In re application of:
Heribert Lorenz et al
Serial No.: 10/465,255
Filed: June 19, 2003
For: COMPOSITION FOR THE DYEING OF HUMAN HAIR

DECISION ON PETITION

This is a response to the REQUEST TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181, filed August 18, 2005. The request asks that the abandonment, as set forth in the Notice of Abandonment of August 10, 2005, for failure to timely file a proper response to the Office letter dated February 01, 2005 be withdrawn. The petitioner asserts that applicants timely filed a proper response with a wrong serial number on April 26, 2005.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of February 01, 2005 in a timely manner. The evidence provided includes a copy of the Response to the Office letter of February 01, 2005 with a Certificate of Facsimile Transmission dated April 26, 2005, wherein the Response was erroneously referred to the Application Serial Number 10/465,225 instead of the instant Application Serial Number 10/465,255, and a copy of the Auto-Reply Facsimile Transmission Report confirming receipt of the Response by the USPTO (EXHIBIT 1).

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application will be forwarded to the Technical Support Staff

for entering of the Response dated August 26, 2005 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED.**

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

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101 COLUMBIA ROAD
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MORRISTOWN, NJ 07962-2245

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OFFICE OF PETITIONS

In re Application of
Darren D. Cofer et al
Application No. 10/465,267
Filed: June 19, 2003
Attorney Docket No. H0005006(1100.1144102)

: 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, filed September 30, 2005, which is being treated under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment

to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been previously submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2878 for appropriate action on the amendment submitted September 30, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT Corrected Filing Receipt

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ONE LIBERTY PLACE, SUITE 4900
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OFFICE OF PETITIONS

In re Application of
Jean-Luc Farat
Application No. 10/465,272
Filed: June 19, 2003
Attorney Docket Number: 1223-03
Title of Invention: SYSTEMS AND METHODS FOR PROMOTING CUSTOMER LOYALTY ON THE INTERNET

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 February 25, 2004.

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 above-identified application was filed on June 19, 2003, without an executed oath or declaration, and naming Jean Luc Farat as the sole inventor. Accordingly, on August 28, 2003, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit for the purposes of this decision an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed a four (4) month extension of time, the instant petition and fee and the surcharge for late filing of the declaration. Accompanying the petition is the employment document of inventor Farat, and a declaration from Mrs Pascale Fournaise.

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 an 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).

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jean-Luc Farat
363 Rue Lecourbe
F-75015 Paris
France
AIR MAIL

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JUN 1 6 2004

OFFICE OF PETITIONS

In re Application of
Jean-Luc Farat
Application No. 10/465,272
Filed: June 19, 2003
Attorney Docket Number: 1223-03
Title of Invention: SYSTEMS AND METHODS FOR PROMOTING CUSTOMER LOYALTY ON THE INTERNET

LETTER

Dear Mr. Farat:

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 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 Petitions Attorney Charlema R. Grant at (703) 306-0251. 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

Charlema R. Grant
Petitions Attorney
Office of Petitions

T. Daniel Christenbury
IP DEPARTMENT OF PIPER RUDNICK LLP
ONE LIBERTY PLACE, SUITE 4900
1650 MARKET ST
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of :
Jean-Luc Farat :
Application No. 10/465,272 : DECISION ACCORDING STATUS
Filed: June 19, 2003 : UNDER 37 C.F.R. §1.47(b)
Attorney Docket Number: 1223-03 :
Title of Invention: SYSTEMS AND METHODS FOR PROMOTING CUSTOMER LOYALTY ON THE INTERNET :

This is in response to the renewed petition for status under 37 C.F.R. §1.47(b), filed May 7, 2004.

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 been presented with a copy of the application papers for signature and that he refused to sign the declaration. Applicant submitted the declaration of Marc Bidou Chairman and CEO of Maximiles, SA. applicant corporation. 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. The employment agreement and petition establishes the applicant's proprietary interest in the application.

---

[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.

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.

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 (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,203,844 :
Issue Date: April 10, 2007 :
Application No. 10/465,274 : DECISION GRANTING PETITION
Filed: June 19, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **(OPT.) RETR1120-1** :

This is a decision on the petition, filed March 20, 2008, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 6, 2007. 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. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country 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 as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The petition fee in the amount of $770.00 has been charged to deposit account no.50-3183 as authorized by the petition.

This application matured into Patent No. 7,203,844 on April 10, 2007, therefore, there is no further action required.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Hill et al.	:	
Application No. 10/465,289	:	ON PETITION
Filed: June 19, 2003	:	
Attorney Docket No.	:	
ARL01-35R	:	

This is a decision on the Petition to Correct Unintentional Error in Claim for Benefit of Provisional Filing Date (37 CFR § 1.53(b), filed October 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

This Petition is hereby **dismissed**.

Applicable Law

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.

A review of the priority claim reveals that the above-identified application was filed on June 19, 2003. The application for which the benefit is sought, number 09/579,707, now U.S. Patent No. 6,532,067, issued on March 11, 2003, more than three (3) months before the instant pending nonprovisional application was filed. Therefore, copendency does not exist between the instant application and the application for which the benefit is sought. *See*, MPEP 1481.

Also, Applicant notes in the priority claim that the present application is related to application number 10/360,767 (filed June 19, 2002). While it is appropriate to identify related applications, if Applicant wishes to claim the benefit of application number 10/360,767, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. *See* MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application.

A review of the Amendments to the Specification filed with the instant petition indicate that Applicant is attempting to Amend the application to claim the benefit of prior-filed provisional application no. 60/389,544, filed June 19, 2002.

If this assumption is correct, Applicant is advised to include the claim for the benefit of provisional application 60/389,544, filed June 19, 2002, in an amendment to the first line of the specification, and include information regarding "related" applications in a second/separate paragraph, to avoid any possible confusion and to provide clarity.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a

substitute amendment[1] which properly sets forth the applications being claimed and their relationship is required.

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

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

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

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

Any questions concerning this matter may be directed to Attorney Derek L. Woods at (571) 272-3232.

Frances Hicks

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

---

[1] *Note* 37 CFR 1.121

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2800 POWDER MILL RD
ADELPHI MD 20783-1197

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OFFICE OF PETITIONS

In re Application of	:	
Hill et al.	:	
Application No. 10/465,289	:	ON PETITION
Filed: June 19, 2003	:	
Attorney Docket No.	:	
ARL01-35R	:	

This is a decision on the Renewed Petition Under 37 CFR 1.78(a)(6) to Correct Unintentional Error in Claim for Benefit of Provisional Filing Date, filed December 14, 2005, 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.

Background

Applicant filed a Petition Under 37 CFR 1.78(a)(6) to Correct Unintentional Error in Claim for Benefit of Provisional Filing Date on October 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional application no. 60/389,544, filed June 19, 2002.

A review of the originally filed specification and of the amendment filed with the petition, revealed that the above-identified application was filed on June 19, 2003, and the application for which the benefit is sought, number 09/579,707, now U.S. Patent No. 6,532,067, issued on March 11, 2003, more than three (3) months before the instant pending nonprovisional application was filed. Therefore, copendency does not exist between the instant application and the application for which the benefit is sought. *See*, MPEP 1481. (Emphasis supplied). Applicant was so notified in a Decision dismissing the petition, mailed December 2, 2005.

The instant petition

Applicant files the instant Request for Reconsideration of petition and amendment and included in the amendment is the claim for priority to application number 09/579,707, now U.S. Patent No. 6,532,067, which issued on March 11, 2003, more than three (3) months before the instant pending nonprovisional application was filed. The amendment also claims priority from 09/579,707 to provisional application no. 60/147,794.

Accordingly, the petition is **GRANTED in PART**.

Applicable Law

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 claim for priority to nonprovisional application 09/579,707 and provisional application no. 60/147,794

Applicant is again advised that the claim for priority to application number 09/579,707, now U.S. Patent No. 6,532,067, which issued on March 11, 2003, which in turn claims priority to provisional application no. 60/147,794, is improper.

The claim for priority to application number 09/579,707, now U.S. Patent No. 6,532,067, which issued on March 11, 2003, which in turn claims priority to provisional application no. 60/147,794, is improper, and has been removed.

The claim for priority to provisional application no. 60/389,544

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 in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-fiiled provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/389,544, which was filed on June 19, 2002, 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.

The petition is granted to the extent that the unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to prior-filed provisional application no. 60/389,544, filed June 19, 2002, satisfies the conditions of 37 CFR 1.78(a)(6), and is accepted.

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 Petitions Attorney Derek L. Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2877 for appropriate action on the amendment submitted December 14, 2005, 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. 60/389,544.

Frances Hicks

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

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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Alexandria, Virginia 22313-1450
www.uspto.gov

Law Offices of John C. Scott
c/o PortfolioIP
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 05/13/2010

Applicant	: Yuval Finkelstein	: DECISION ON REQUEST FOR
Patent Number	: 7623836	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/465,291	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1878** 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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3RD FLOOR
SCHAUMBURG, IL 60196

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OFFICE OF PETITIONS

In re Application of
Mao Zhu Zhang, et al.
Application No. 10/465,326
Filed: June 18, 2003
Attorney Docket No. DO2985

ON PETITION

This is a decision in response to the petition, filed July 13, 2009, 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 reply in a timely manner to the non-final Office action mailed, April 7, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July8, 2008. A Notice of Abandonment was mailed on October 21, 2008. On July 13, 2009, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

It is noted that 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 referred to Technology Center AU 2819 for appropriate action by the Examiner in the normal course of business on the amendment received July 13, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: LARRY T. CULLEN
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

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Patrick W. Rasche
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Square
St. Louis MO 63102

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NOV 03 2005

TECHNOLOGY CENTER 3600

In re Application of
Kathleen M. Scweitzer
Application No. 10/465,329
Filed: June 19, 2003
For: METHODS AND APPARATUS FOR A STEP MOUNTING SYSTEM

DECISION ON PETITION TO WAIVE EXTENSION OF TIME FEE

This is in response to the petition under 37 CFR 1.181 received in the United States Patent and Trademark Office (USPTO), on May 31, 2005, to waive the fee for the three-month extension of time required to make the Response filed May 31, 2005 considered timely.

The petition is **Dismissed**.

A review of the file record reveals that a Final Rejection setting a three-month extendable response period was mailed on November 29, 2004.

The petitioner states that the Final rejection mailed November 29, 2004 was never received and that he only became aware of it on May 27, 2005 after inquiring as to the status of the application via the PAIR system. Petitioner requests that the three-month extension of time required to make the response filed herewith timely be waived as a response was filed promptly after applicant became aware of the November 29, 2004 Office Action.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) 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.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around February 28, 2005**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

Applicant has set forth that the Office Action mailed on November 29, 2004 was not received, has provided a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office Action was not received, and has provided a copy of the docket record where the Office Action would have been logged.

The petitioner has failed to comply with requirement (3) indicated above. The "docket record" submitted appears to be nothing other than a file jacket. The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around February 28, 2005**. Petitioner's evidence of non-receipt of the Office Action mailed on November 29, 2004 is insufficient to waive the fee for the three-month extension of time. The three-month extension of time will be charged in order to make the response filed May 31, 2005 considered timely. In the event that petitioner may perfect the showing of non-receipt in a renewed petition, petitioner may petition to request a refund of the fee charged for the three-month extension of time.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

This application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to enter the response filed with this petition, charge Deposit account 01-2384 the necessary fee for entry as authorized on page 5 of the response, and then to forward to the examiner for prompt action on the response.

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

KJD/rjc 10/25/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 02, 2008

TO SPE OF : ART UNIT 3734

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/465332 Patent No.: 7244267 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

SPE

3773
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 02, 2008

TO SPE OF : ART UNIT 3734

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/465332 Patent No.: 7244267 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

[signature] 3773
SPE **Art Unit**

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OFFICE OF PETITIONS

THOMAS, KAYDEN, HORSTEMEYER &
RISLEY, LLP
100 GALLERIA PARKWAY, NW
SUITE 1750
ATLANTA GA 30339-5948

In re Patent No. 7,107,089 :
Issue Date: September 12, 2006 :
Application No. 10/465,341 : ON PETITION
Filed: June 19, 2003 :
Attorney Docket No. 062004-1752 :

This is a decision on the petition filed October 24, 2006, which is being treated under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

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KAREN B. TRIPP
P.O. BOX 1301
HOUSTON, TX 77251-1301

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OFFICE OF PETITIONS

In re Application of :
Ali I. Mese et al :
Application No. 10/465,357 :
Filed: June 19, 2003 :
Attorney Docket No. HALB:006C1 :

ON PETITION

This is a decision on the petition, filed May 21, 2004, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment in favor of a continuing application No. 10/851,964. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Files Repository.

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

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THORPE NORTH & WESTERN, LLP.
8180 SOUTH 700 EAST, SUITE 200
SANDY UT 84070

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OFFICE OF PETITIONS

In re Application of	:	
Green, L. Derek	:	
Application No. 10/465,358	:	ON PETITION
Filed: June 19, 2003	:	
Attorney Docket No. 20946.NP	:	

This is a decision on the petition under 37 CFR §1.102(d), filed November 17, 2005 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 2613 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH CA 92660

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OFFICE OF PETITIONS

In re Application of
Elliott Rudell et al.
Application No. 10/465,376
Filed: June 18, 2003
Attorney Docket No. 155660-0213

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed June 16, 2006 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 6, 2005 for failure to timely file an Appeal Brief within two months of the Notice of Appeal filed August 5, 2005. Accordingly, the Notice of Abandonment was mailed January 20, 2006.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2832 for processing of the RCE. Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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OFFICE OF PETITIONS

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE WA 98111-1247

In re Patent No. 7,490,133
Issued: February 10, 2009
Application No. 10/465,384
Filed: June 18, 2003
Dkt. No.: 418268840US

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT UNDER
: 37 CFR 1.705(d)

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R § 1.705(D)," filed April 8, 2009. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment (PTA) is DISMISSED.

The above-identified application matured into U.S. Pat. No. 7,490,133 on February 10, 2009. The patent issued with a PTA of 1,221 days. The request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment be increased from 1,221 days to 1,637 days. Patentees request an increase of 416 days pursuant to 35 USC 154(b)(1)(B). Patentees assert entitlement to an overall adjustment of 1,637 based on a period of adjustment pursuant to 35 USC 154(b)(1)(A) of 1,221 days and based on a period of adjustment pursuant to 35 USC (b)(1)(B) of 968 days, less 552 days overlap.

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, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 1,221 days is correct. At the time of issuance of the patent, the application was pending three years and 968 days. At issue is whether patentees should accrue an additional 968 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 1,221 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 968 days delay in issuance of the patent overlaps with the period of 1,221 days of examination delay. 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, 35 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[1].

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, June 18, 2003, to the date the patent issued on February 10, 2009. Prior to the issuance of the patent, 1,221 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 968 days for Office delay in issuing the patent overlap with the 1,221 days of Office examination delay. The Office did not delay 1,221 days and also delay an additional 968 days. Accordingly, as the 968 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1,221 days attributable to grounds specified in § 1.702(a)(1), entry of both periods is not warranted.

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[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).

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the required application fee of $200.00. See, 37 CFR 1.18(e).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Glen W. Sachse	:
Application No. 10/465,386	:
Filed: June 19, 2003	:
Attorney Docket No. LAR 15818-3	:

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 14, 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 2877 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/13/06

Paper No.: 20070122

TO SPE OF : ART UNIT 1651

SUBJECT : Request for Certificate of Correction for Appl. No. 10/465448 No.: 7,090,856

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

SPE

1651

Art Unit

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OFFICE OF PETITIONS

In re Application of
Raymond Lynn Goodson et al
Application No. 10/465,465
Filed: June 18, 2003
Attorney Docket No. 15999.14

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 10, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of prior-filed nonprovisional Application No. 10/086,269 and provisional Application No. 60/273,076, as set forth in the concurrently filed amendment.

The petitions are **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was 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). Additionally, prior-filed intermediate nonprovisional Application No. 10/086,269 (filed March 1, 2002) was filed within

twelve months of the filing date of prior-filed provisional Application No. 60/273,076, which was filed on March 5, 2001.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the 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) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the above-noted, prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 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 <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to 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 1774 for examination in due course, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Frances Hicks

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

ATTACHMENT : Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of	:	
Elaine Y. Wan	:	
Application No. 10/465,466	:	ON PETITION
Filed: June 18, 2003	:	
Attorney Docket No. COL221.232256	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed September 26, 2005, which set a one (1) month period for response. Accordingly, this application became abandoned on October 27, 2005.

The file is being forwarded to Technology Center 3700 for review of the response, filed April 21, 2006.

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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Paper No: __

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OFFICE OF PETITIONS

In re Application of
Brooks, et al. :
Application No. 10/465,481 : ON PETITION
Filed: 18 June, 2003 :
Attorney Docket No.: 014208.1620 :

This is a decision on the petition filed (with fee) on 15 March, 2006, under 37 C.F.R. §1.182.

The petition is **GRANTED**.[1]

NOTE:

The address of record is other than that on the petition. A courtesy copy will be mailed to the address on the petition, however, Petitioner hereby is placed on notice that all correspondence will continue with the address of record, above, and Petitioner must Notice the Office if he intends that the address of record be changed.

---

[1] Petitioner's attention is drawn to the commentary at MPEP 605.04(c), which provides in pertinent part:

605.04(c) Inventor Changes Name [R-3] - 600 Parts, Form, and Content of Application
605.04(c) Inventor Changes Name [R-3]
In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and ** the procedure whereby the change of name was effected, or a certified copy of the court order.

* * *

If an application data sheet is not submitted, the petition may still be granted, but the patent may not reflect the correct spelling of the inventor's name. (Emphasis supplied.)

* * *

BACKGROUND

The Petition and the statement accompanying it alleges that the statement of the co-inventor (formerly known as) Deborah W. Jakubowski was divorced by Decree of Divorce dated 5 February, 2005, and, by the Amended Decree of Divorce dated 9 June, 2005, her named was corrected/legally changed to **DEBORAH K. WAGNER**.

Petitioner is reminded to submit to the Assignment Division a corrected assignment document and cover sheet--as well as the appropriate fee--as set forth in 37 C.F.R. §1.21(h) for change of the assignment record.

CONCLUSION

The petition under 37 C.F.R. §1.182 is **granted.**

This application is released to OIPE with instructions to reflect the correct statement of the co-inventor's name (formerly known as Deborah W. Jakubowski) to DEBORAH K. WAGNER, and to:

- **issue a corrected filing receipt; and**
- **insert into the record the corrected bib sheet,**

before releasing the application for further processing in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

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

cc:
ELECTRONIC DATA SYSTEMS CORPORATION
5400 LEGACY DRIVE/H3-3A-05
PLANO, TEXAS 75024

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NIXON & VANDERHYE P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

In re Application of	:
ROBINS et al	:
Serial Number: 10/465,495	: DECISION ON PETITION
Filed: June 19, 2003	:
Attorney Docket No. 4145-11	:

This is in response to the Rule 181 Petition requesting withdrawal of the restriction requirement filed on July 1, 2005. The petition is treated as if filed under 37 CFR 1.144.

BACKGROUND

On December 23, 2004, a restriction requirement was mailed to applicants. The restriction requirement under 35 USC 121 set forth the following groups:

I. Claims 1-4, drawn to a microorganism, classified in class 435, subclass 252.1,
II. Claims 5-7, drawn to nitrile hydratase, classified in class 435, subclass 183.
III. Claims 8-11, drawn to a method for preparing amides comprising means of a microorganism, classified in class 540, subclass 1.
IV. Claims 12-15, drawn to a method for preparing amides comprising an enzyme extract, classified in class 540, subclass 1.
V. Claims 16-23, drawn to a method for preparing amides comprising a nitrile hydratase, classified in class 540, subclass 1.
VI. Claim 24, drawn to a method for removing acetonitrile waste comprising a microorganism, classified in class 435, subclass 262.5.
VII. Claim 25, drawn to a method for removing acetonitrile waste comprising an enzyme extract, classified in class 435, subclass 262.5.
VIII. Claim 26, drawn to a method for removing acetonitrile waste comprising a nitrile hydratase, classified in class 435, subclass 262.5.

The examiner properly included the rejoinder paragraph at the end of the restriction.

On January 24, 2005, applicants elected Group I with traverse and requested reconsideration of the restriction requirement. Applicants requested the examiner to provide further explanation as to how Groups III to V are classified in class 540, subclass 1. Applicants also argued that Groups I, III and IV would not present an undue burden to the examiner. Moreover, applicants urged that Groups I and II are circular. Applicants further requested rejoinder of Groups I and IV because claim 12 has been amended to recite the requirement for an extract derived from the culture of claim 1. Applicants also noted that Groups III – V, and Groups VI – VIII are classified in the same classes and subclasses, thus there is no burden of search. Applicants further noted that the examiner's supervisor examined the claims of US Patent 6,503,746, in class 435, subclasses 252.1, 262.5 as well as other subclasses of the classes noted on the face of the patent. Applicants listed several US Patents searched in 435/252.1 and 262.5.

On March 1, 2005, examiner responded to the traversal and made the restriction requirement Final. The examiner correctly reclassified Groups III – V. The examiner also agreed that the nonelected Groups III and IV are no longer patentably distinct in view of amended claim 12. The examiner further pointed out that the microorganism of Group I as claimed could be used in numerous processes unrelated to the processes of group III. The examiner cited several US Patents to show that the microorganism has several patentably distinct uses. The examiner also addressed the burden of search in detail.

On July 1, 2005, the present petition was filed. Applicants urged that the search of four subclasses in a single class does not present an undue burden on the examiner. Applicants again cited a list of US Patents that were searched in at least these two subclasses. Applicants further alleged that the examiner's statement that the microorganism of Group I may be used in a materially different process appears unsupported. Applicants requested that at least Groups I and III be rejoined. Applicants further urged that Groups V – VIII should be similarly rejoined. Applicants believe that there is no burdensome search for the examiner.

DISCUSSION

The restriction requirement and applicants' arguments have been carefully reviewed and considered. Applicants did not argue that the Groups are not patentably distinct. The main argument is that there is no burden to search all the inventions. The examiner properly set forth the reasons in the restriction requirement dated 12/23/04 and addressed applicants' traversal in Office action dated 3/1/05. With respect to Groups I and Group III, the amide can also be prepared by a materially different process -- a chemical process. As pointed out by applicants, the numerous US patents that required a search in multiple classes and subclasses is noted. It is believed that none of the patents are directed to the same categories of products and processes as instantly claimed. As clearly pointed out by the examiner, there are other databases to search for foreign patents and literature searches are also required. Thus, there is a burden. The restriction requirement has met the two criteria, the inventions are independent and there is a burden of search. Therefore, the restriction is deemed proper.

DECISION

The petition is DENIED.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Application of
Motohiro Suziki et al.
Application No. 10/465,507
Filed: June 19, 2003
Attorney Docket No. MTS-3259US1
Title: CATALYST COMBUSTION APPARATUS AND FUEL VAPORIZING APPARATUS

DECISION ON PETITION

This is a decision on the "Petition under 37 C.F.R. §1.17(h) in Response to Notice of Omitted Items in a Non-Provisional Application,[1]" filed September 2, 2003, requesting that the above-identified application be accorded a filing date of June 19, 2003, with page seven (7) of the specification as part of the original disclosure of the application.

The application was filed on June 19, 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, and advising applicants that the application appeared to have been deposited without page seven (7) of the specification.

In addition to the above-mentioned petition, petitioner has filed a copy of page seven (7) of the specification, and has submitted the petition fee.

Petitioners state that page seven (7) of the specification was constructively included on filing, through incorporation by reference. The Utility Patent Application Transmittal sheet indicates that the entire disclosure of the parent application (09/830,054) is incorporated by reference.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. It is noted that the application transmittal letter identifies this application as a division of prior application No. 09/830,054, and specifically incorporated by reference the disclosure of the prior application. Section 201.06(c) of the MPEP sets forth, in part:

1 This is properly treated as a petition under 37 CFR 1.53(e).

> an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

If petitioner desires for the examiner to consider the missing page which was not submitted as part of the original disclosure, then petitioner may submit that page via an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[2]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

For these reasons, the petition under 37 CFR 1.53(b) is dismissed.

Page seven (7) of the specification, submitted with the instant petition, will not be entered. Should petitioner wish for the page to be entered, an amendment must be filed.

The original application papers will include only those application papers present on the date of deposit.

The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

Petitioners request, in the alternative, that a filing date of September 2, 2003 (the date on which the missing page was actually received in the Office) to be accorded. This request will not be acted on at this time, so as to afford Petitioners another opportunity to secure the earlier filing date. If Petitioners wish to have this request granted, they are encouraged to file a renewed petition[3].

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2 See MPEP 608.02(a).

3 The reply to this letter may be submitted by mail (Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450), hand-delivery (Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202), or facsimile (703-872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned). The reply should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. If a renewed petition is filed, Petitioners may wish to consider telephoning the undersigned at the number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process can take as much as three weeks.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of June 19, 2003, using only the application papers filed on that date.

Telephone inquiries specific to this matter should be directed to Attorney Paul Shanoski at (703) 305-0011.

for Jay Lucas
Interim Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-30-07

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction on Patent No.: 7144147 B2

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

The changes with respect to the "References Cited" INID Code (56) do not apply. The IDS and PTO-1449 do not appear in the application file.

SPE

1723
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

November 14, 2006

Patent No. : 7,104,997 B2
Ser. No. : 10/465515
Inventor(s) : Lionberger, et al.
Issued : September 12, 2006
Title : **CUTTING GUIDE APPARATUS AND SURGICAL METHOD FOR USE IN KNEE ARTHROPLASTY**
Docket No. :

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 Rules 1.322 and 1.323.

A petition under C.F.R. 1.182 is required to correct errors in spelling or order of inventors names or addresses, since inventor's names or addresses are printed solely in accordance with the type-written names and address and in the order of the type- written names and address on the Declaration, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct names and addresses in correct order be indicated on the Declaration of Oath, no correction is in order here under the provisions of Rules 1.323, unless a petition is granted.

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

However, a 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
P.O. Box 1450
Alexandria, VA 22313-1450

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

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Elisha Evans
Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
703 308- 9390 EXT. 110

LAURA G. BARROW
P.O. BOX 215
ESTERO FL 33928

CBN/eme

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

LAURA G. BARROW
P.O. BOX 215
ESTERO FL 33928

COPY MAILED

MAY 04 2007

OFFICE OF PETITIONS

In re Patent No. 7,104,997	:	
Issued: September 12, 2006	:	
Application No. 10/465,515	:	DECISION ON PETITION
Filed: June 19, 2003	:	
Attorney Docket No. 117288.00001	:	

This is a decision on the petition under 37 CFR 1.182, filed, December 11, 2006 (certificate of mailing date December 7, 2006), to correct the spelling of the name of inventor "Rand Lionberger" to – David R. Lionberger, Jr.--.

The petition is **GRANTED**.

It is noted that the original declaration lists the second named inventor as "Rand Lionberger" with Rand being a truncated version of his middle name. 37 CFR 1.63(a) (2) requires that each inventor be identified by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial in the oath or declaration.

Office records have been corrected to reflect the correct name of the above-named inventor.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

The matter is being referred to Certificate of Correction Branch for issuance of a Certificate of Correction that lists the second listed joint inventor's correct name – David R. Lionberger, Jr..

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOLLINGSWORTH & FUNK, LLC
8009 34TH AVE S.
SUITE 125
MINNEAPOLIS MN 55425

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MAY 2 3 2008

OFFICE OF PETITIONS

In re Application of
Lindstrom, et al.
Application No. 10/465,520
Filed: June 19, 2003
Attorney Docket No. GUID.615PA
For: METHODS AND SYSTEMS INVOLVING SUBCUTANEOUS ELECTRODE POSITIONING RELATIVE TO A HEART

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 28. 2008 (certificate of mailing date January 23, 2008), 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 October 25, 2006, which set forth an extendable three (3) month period for reply. Applicants submitted an amendment after final on January 30, 2007 (certificate of mailing date January 25, 2007). The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the May 3, 2007 Advisory action. The Office contended that this application became abandoned on January 26, 2007 for failure to properly reply to the October 25, 2006 final Office action. A Notice of Abandonment was mailed on December 28, 2007.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a RCE, an amendment, a request for three month extension of time, and required fees were timely mailed on certificate of mailing date April 25, 2007 and received in the Office on April 30, 2007. The undersigned has located the original documents in the application file and Office financial records shows that the required three month extension of time fee and RCE fee were charged on May 1, 2007. Therefore, a proper reply was timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the December 28, 2007 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application will be forwarded to Technology Center A.U. 3762 for consideration of the RCE filed on certificate of mailing date April 25, 2007 and received in the Office on April 30, 2007.

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

DAC

OIPE IAP17 JAN 28 2008 PATENT & TRADEMARK OFFICE

SERIAL NO. 10/465,520 PATENT APPLICATION

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant:	LINDSTROM et al.	Examiner:	Alter, A.
Serial No.:	10/465,520	Group Art Unit:	3762
Filed:	June 19, 2003	Docket No.:	GUID.615PA
Title:	METHODS AND SYSTEMS INVOLVING SUBCUTANEOUS ELECTRODE POSITIONING RELATIVE TO A HEART		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 23, 2008.

By: Rennae Johnson
Rennae Johnson

Petition Under 37 C.F.R. § 1.181 (MPEP § 711.03(c))
To Withdraw Holding Of Abandonment

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

Dear Sir:

Applicant respectfully request withdrawal of the holding of abandonment in patent application Serial No. 10/465,520. No fees by the Applicant should be required or otherwise incurred in view of the following evidence and facts which support this request. However, to the extent that other fees are necessary for entry of this Petition, and/or charges/overpayments apply, authorization is given to charge/credit Deposit Account 50-3581 (GUID.615PA). This Petition is being timely presented, as the Petition is being filed within two months becoming aware that the case had been characterized as abandoned.

A Notice of Abandonment dated December 28, 2007 (Exhibit A) was recently received by Applicant's representative. The attorney of record has reviewed the aforementioned Notice of Abandonment, and respectfully submits that it was issued in error based on the points of contention noted in the following paragraphs.

05/27/2008 CKHLOK 00000001 503581 10465520
01 FC:1801 790.00 DA
02 FC:1253 1020.00 DA

Adjustment Date: 05/23/2008 CKHLOK
05/01/2007 CNEGA1 00000015 503581 10465520
01 FC:1801 790.00 CR
02 FC:1253 1020.00 CR

OIPE IAP17
JAN 28 2008
PATENT & TRADEMARK OFFICE

STATEMENT BY RENNAE JOHNSON

UNDER 37 C.F.R. § 1.8(b)(3)

I, Rennae Johnson, certify that I personally signed the certificate of mailing under 37 C.F.R. § 1.8(a) for the Request for Continued Examination at issue, and accordingly had personal knowledge of the expectation that the Request for Continued Examination was deposited in the United States Postal Service as first class mail on April 25, 2007. I duly attest to the true and accurate copy of the Request for Continued Examination enclosed with this present communication (Exhibit B), on behalf of Patent Application Serial No. 10/465,520.

Dated: January 23, 2008

Signature: Rennae Johnson
Rennae Johnson

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

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

COPY MAILED

NOV 03 2005

OFFICE OF PETITIONS

In re Patent No. 6,836,384	:	
Issue Date: December 28, 2004	:	
Application No. 10/465,526	:	ON PETITION
Filed: June 18, 2003	:	
Attorney Docket Number: 20174C-3.10US	:	

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 29, 2005.

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.33d 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 and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

This file is being forwarded to the Files Repository.

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

JJGJR.: 07-06

Paper No: __

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

COPY MAILED

JUL 2 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Nimura, et al.	:	
Application No. 10/465,576	:	DECISION
Filing Date: 20 June, 2003	:	
Attorney Docket No.: 001458.00361	:	

This is a decision on the petition filed on 23 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 22 December, 2005, with reply due absent extension of time on or before 22 March, 2006;

- on 21 April, 2006, Petitioner submitted an amendment after final (previously having authorized requests and fees for extensions of time on all replies), which is not of

right–the Examiner found that it was not a proper reply,[1] and mailed an Advisory action on 4 May, 2006;

- the application went abandoned after midnight 22 April, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- on 23 June, 2006, Petitioner filed the instant petition (with fee) and pointed to the reply in the form of a continuing application (Office records now reflect Application No. 11/471,545 filed on 21 June, 2006), and Petitioner made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that:

- the practice of using the former one- (1-) year deadline following abandonment as an unpaid extension of time is an unacceptable practice and gives the appearance of intentional delay; and
- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

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increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt,[8] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to the Examiner in Technology Center 1700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

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[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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.

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-9889

MAR 11 2005

In re Application of:
Keiji Kuroda, et al
Serial No.: 10/465604
Filed: June 20, 2003
Attorney Docket No.: **514.42816X00**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed August 30, 2004, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to Paula Bradley at (571) 272-2800 ext 33.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard K. Seidel, Director
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
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www.uspto.gov

PILLSBURY WINTHROP LLP
P.O. BOX 10500
MCLEAN VA 22102

COPY MAILED

DEC 16 2004

OFFICE OF PETITIONS

In re Application of:	:	
Nishioka et al.	:	
Application No. 10/465,682	:	DECISION GRANTING PETITION
Filed: 20 June, 2003	:	
Attorney Docket No. 009523-0304044	:	

This is a decision on the petition filed on 16 November, 2004, to expunge a Request for Continued Application from the application file. This petition is properly treated as a petition under 37 CFR 1.182 requesting withdrawal of the abovementioned RCE.

The petition is **granted**.

The RCE filed on 23 September, 2004, will be retained in the application file, but will not be processed or examined. The fee for the RCE will be credited to counsel's deposit account, No. 03-3975.

The application is being forwarded to Technology Center Art Unit 2873 for treatment of the Information Disclosure Statement filed on 23 September, 2004.

Telephone inquiries pertaining to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LACASSE & ASSOCIATES, LLC
1725 DUKE STREET
SUITE 650
ALEXANDRIA VA 22314

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Amari :
Application No. 10/465,685 : ON PETITION
Filed: June 20, 2003 :
For: LASER DIODE MODULE AND ITS MANUFACTURE METHOD :

This is a decision on the petition filed January 24, 2005, under 37 CFR 1.137(a) to revive the above-identified abandoned 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 (and fee) under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a), or as explained below, 1.137(b)."

This application became abandoned for failure to pay the issue and publication fees on or before September 28, 2004, as required by the Notice of Allowance and Issue Fee Due mailed June 28, 2004, which set a non extendable period of three months for reply. A Notice of Abandonment was mailed November 3, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, the publication fee, or any portion of each fee, the required reply must be the payment of the issue fee, publication fee or any outstanding balance of each fee; (2) the petition fee set forth in § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and (4) in some instances, a terminal disclaimer and fee (not applicable to this application). This petition lacks item (3) noted above.

As to item (3), applicant asserts that the delay was unavoidable due to a docketing error by the Assistant Manager of Administrative Services (AMAS) at counsel's firm.

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 of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a 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).

As noted in MPEP 711.03(c) §(II)(2), a delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

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

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

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

See In re Egbers, 6 USPQ2d 1869, 1872 (Comm'r Pat. 1988), *rev'd on other grounds sub nom.*, Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, 10 USPQ2d 1787 (D.D.C. 1988); In re Katrapat, 6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988).Currently the record fails to corroborate items (B) and (C). Petitioner must supply a thorough explanation of the docketing and calendar system in use and must identify the type of records kept and the person responsible for the maintenance of the system. Petitioner must submit copies of the docket entries, and the office calendar which would substantiate the AMAS's error in docketing was that of an otherwise reliable employee. To this end, petitioner must also include documented showings and statements by all persons having firsthand knowledge of the circumstances surrounding the failure to properly docket the issue fee payment setting forth the facts as they know them. Petitioner must supply information regarding the training provided to the personnel responsible for the delay, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

If petitioner is not able, or does not wish, to provide the documented showings required above, he may present a petition under the unintentional standard, which does not normally require documented showing in support of the allegations made in the petition. A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. 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 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 unavoidable, and (4) in some instances, a terminal disclaimer and fee (not applicable here).

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 related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn
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

LACASSE & ASSOCIATES, LLC
1725 DUKE STREET
SUITE 650
ALEXANDRIA VA 22314

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DEC 28 2005

OFFICE OF PETITIONS

In re Application of
Amari
Application No. 10/465,685
Filed: June 20, 2003
For: LASER DIODE MODULE AND ITS MANUFACTURE METHOD

: ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a) filed by facsimile transmission October 27, 2005, to revive the above-identified abandoned application.

The petition is **granted.**

This application became abandoned for failure to pay the issue and publication fees on or before September 28, 2004, as required by the Notice of Allowance and Issue Fee Due mailed June 28, 2004, which set a non extendable period of three months for reply. A Notice of Abandonment was mailed November 3, 2004.

A first petition under 37 CFR 1.,137(a) was filed January 24, 2005, and was dismissed in the decision of August 31, 2005. The instant petition reasonably establishes that the error in docketing was clerical in nature and that petitioner exercised the due care and diligence of a prudent and careful person with respect to his most important business in relying on the agency and instrumentality of the responsible person.

This application is returned to pending status and is being referenced to the Office of Patent Publication for issuance as a patent in due course.

There is no indication that petitioner has submitted Part B - Fee(s) Transmittal form PTOL-85. Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form for this application should be completed and returned to Mail Stop Issue Fee, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450, within ONE MONTH from the mail date of this decision.

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

Enclosure: Blank PTOL85B

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FROM DIRECTORS OFFICE

JAN 2 1 2005

TECHNOLOGY CENTER 3600

JAMES E. BRADLEY
Bracewell & Patterson, L.L.P.
P.O. Box 61389
Houston, TX 77208

In re application of	:	**DECISION ON PETITION**
John H. Maulden et al	:	**TO MAKE SPECIAL**
Application No. 10/465,692	:	**(APPLICANT'S AGE)**
Filed: June 19, 2003	:	
For: CRUTCH WITH HANDS-FREE ATTACHMENT		

This is a decision on the petition submitted on December 20, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED.**

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a signed statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Maulden indicating that he is at least 65 years of age

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

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

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

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

SNM/pav: 01/13/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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SEP 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Ellen Stein, et al.	:	
Application No. 10/465,694	:	ON PETITION
Filed: June 19, 2003	:	
Attorney Docket No. RNDY 19.414	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 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 June 1, 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 September 2, 2004.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed July 21, 2005 is accepted as having been unintentionally delayed.

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

The application matter is being referred to Technology Center 3700, Art Unit 3765 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHERIDAN ROSS PC
1560 BROADWAY, SUITE 1200
DENVER CO 80202

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JUL 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
SIDELNIK, et al.	:	
Application No. 10/465,704	:	DECISION ON PETITION
Filed: June 18, 2003	:	TO WITHDRAW
Attorney Docket No. **5024-5**	:	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 30, 2006.

The request is **NOT APPROVED.**

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request "representation of applicants by different counsel" does not meet any of the conditions set forth in 37 CFR 10.40.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MATTHEW WAHLRAB**
TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY, SUITE 311
MALIBU, CA 90265

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SCHWEITZER CORNMAN GROSS &
BONDELL LLP
292 MADISON AVENUE – 19TH FLOOR
NEW YORK, NY 10017

In re Application of
Thomas Whymark
Application No. 10/465,722
Filed: June 19, 2003
For: MULTI-MARKET BROADCAST TRACKING, MANAGEMENT AND REPORTING METHOD AND SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed September 7, 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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Price Heneveld Cooper Dewitt & Litton, LLP
695 Kenmoor, S.E.
P.O. Box 2567
Grand Rapids, MI 49501

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OFFICE OF PETITIONS

In re Application of
Kimberly Irene Tremiti
Application No. 10/465,732
Filed: June 19, 2003
Attorney Docket No. TRE09 P-300

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 December 6, 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 Terry S. Callaghan on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is an outstanding Office action mailed May 17, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kimberly Irene Tremiti**
1055 Tamarack
Grand Rapids, MI 49504

cc: **3529 Springbrook Drive**
Walker, MI 49544

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/465,732	06/19/2003	Kimberly Irene Tremiti	TRE09 P-300

CONFIRMATION NO. 4529

OC000000024217048

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

Date Mailed: 06/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/06/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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695 Kenmoor, S.E.
P.O. Box 2567
Grand Rapids, MI 49501

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OFFICE OF PETITIONS

In re Application of
Kimberly Irene Tremiti
Application No. 10/465,732
Filed: June 19, 2003
Attorney Docket No. TRE09 P-300

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 December 6, 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 Terry S. Callaghan on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is an outstanding Office action mailed May 17, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kimberly Irene Tremiti**
1055 Tamarack
Grand Rapids, MI 49504

cc: **3529 Springbrook Drive**
Walker, MI 49544

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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R. KEITH HARRISON
2139 E. BERT KOUNS
SHREVEPORT, LA 71105

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DEC 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Spikes, Larry W.	:	
Application No. 10/465,734	:	ON PETITION
Filed: June 19, 2003	:	
Attorney Docket No. 1064	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 23, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the non-final Office action mailed September 22, 2005. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 23, 2005.

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

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

---

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

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

The instant petition lacks none of the above listed items. However, the petition was not signed. A signed petition is required for revival.

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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R. KEITH HARRISON
2139 E. BERT KOUNS
SHREVEPORT, LA 71105

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Spikes, Larry	:	
Application No. 10/465,734	:	ON PETITION
Filed: June 19, 2003	:	
Attorney Docket No. 1064	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed January 4, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Eugene R. Montalvo
Shell Oil Company
Legal - Intellectual Property
P. O. Box 2463
Houston, TX 77252-2463

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In re Application of :
Matthias Appel, et al. :
Application No. 10/465,760 : ON PETITION
Filed: June 19, 2003 :
Atty Docket No. TH-2364 (US) :

This is a decision on the petition, filed November 5, 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 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 2859 for further processing of the request for continued examination under 37 CFR 1.114 filed November 5, 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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BARNES & THORNBURG LLP
750-17TH STREET NW
SUITE 900
WASHINGTON DC 20006-4675

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AUG 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Myllymaki et al.	:	
Application No. 10/465785	:	DECISION
Filing or 371(c) Date: 06/20/2003	:	ON PETITION
Patent No.: 7228136	:	
Issue Date: 06/05/2007	:	
Attorney Docket Number:	:	
44655/304056	:	

This is a decision on the Combined Petition Under 37 CFR § 3.81(b) and Request for Certificate of Correction Under 37 CFR § 1.323, filed June 5, 2009, 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 petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect Ekahau Oy, and Ekahau inc., are the assignees of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,432,903	:	
Westphal et al.	:	DECISION DISMISSING
Application No. 10/465792	:	REQUEST FOR
Issue Date: November 18, 2008	:	RECONSIDERATION OF
Filed: June 20, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
088245-0106	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705, filed (Tuesday) January 20, 2009. Applicant requests that the determination of patent term adjustment be corrected from one thousand sixty six (1066) days to one thousand five hundred fifty-one (1551) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On November 18, 2008, the above-identified application matured into U.S. Patent No. 7,432,903 with a patent term adjustment of 1066 days. This request for reconsideration of patent term adjustment 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 the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), of 882 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 1066 days overlap for a period of 397 days only.

examination delay, pursuant to 37 CFR 1.702(a), of 1066 days overlap for a period of 397 days only.

The 882-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on June 30, 2003, and the patent having been issued on November 18, 2008, three years and 882 days later. Patentees assert that in addition to this 882-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) totalling 1066 days. This 1066-day period is the sum of: (1) a period of delay of 1024 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 application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1), and (2) a period of delay of 24 days for the failure by the Office to respond to a reply under 35 U.S.C 132 not later than four months after the date on which the reply was filed, pursuant to 37 CFR 1.702(a)(2). A non-final Office action was mailed on June 28, 2007, 14 months and 1042 days after the application was filed on June 30, 2003, and a Restriction Requirement was mailed on January 29, 2008, 4 months and 24 days after a response under 35 U.S.C. 132 was filed.

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, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees aggree that there is no period of reduction for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (882 days) and the period of Examination Delay (1066 days) to the extent that these periods of delay are not overlapping. Patentees acknowledge that a period of 397 days of the Three Year Delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1551 days, which is the sum of the period of Three Year Delay (882 days) and the period of Examination Delay (1066 days), reduced by the period of overlap (397 days). As such, patentees assert entitlement to a patent term adjustment of 1551 days (882 + 1066 reduced by 397 overlap - 0 (applicant delay)).

The Office agrees that as of the issuance of the patent on November 18, 2008, the application was pending three years and 882 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 1066 days is correct. At issue is whether patentees should accrue 485 days (882 - 397) of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 1066 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that all 882 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, 35 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[1]

As such, the period for over three-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 20, 2003, to the date the patent issued on November 18, 2008. Prior to the issuance of the patent, 1066 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 882 days for Office delay in issuing the patent overlap with the 1066 days of Office delay. During that time, the issuance of the patent was delayed by 1066 days, not 1066 + 882 days. The

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[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).

Office took 14 months and 1042 days to issue a first Office action. The Office took 4 months and 24 days to issue responses to replies under 35 U.S.C. 132. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 1066 days of Office delay and the time allowed within the time frames for processing and examination, the application issued three years and 1066 days after its filing date. The Office did not delay 1066 days and then an additional 882 (or 485) days. Accordingly, 1066 days of patent term adjustment ((not 1066 and 882 (or 485) days)) was properly entered because the period of delay of 882 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1066 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 1066 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 882 days for the Office taking in excess of three years to issue the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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MAR 30 2010
OFFICE OF PETITIONS

In re Application of	:	DECISION ON RENEWED
Westphal et al.	:	REQUEST FOR RECONSIDERATION
Patent Number: 7,453,851	:	OF PATENT TERM ADJUSTMENT
Issue Date: 11/18/2008	:	and
Application No. 10/465792	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 06/20/2003	:	CERTIFICATE OF CORRECTION
Attorney Docket Number: 088245-0106	:	

This is a decision on the renewed petition filed on August 14, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred fifty-one (1551) 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 fifty-one (1551) days is **GRANTED**.

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

The application is being forwarded to the Certificates of 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 fifty-one (1551) days**.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,453,851 B2

DATED : **November 18, 2008**

INVENTOR(S) : Westphal et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1066 days.

Delete the phrase "by 1066 days" and insert – by 1551 days--

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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.
10/465,804	06/20/2003	Jobst U. Gellert	2107.0570003/TUM	3451

54334 7590 08/16/2006

MOLD-MASTERS LIMITED
233 ARMSTRONG AVENUE
INTELLECTUAL PROPERTY DEPARTMENT
GEORGETOWN, ON L7G-4X5
CANADA

EXAMINER
HEITBRINK, TIMOTHY W

ART UNIT	PAPER NUMBER
1722	

DATE MAILED: 08/16/2006

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

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. 6,761,557 B2	:	
Issue Date: February 18, 2003	:	DECISION GRANTING
Appl No.: 10/465,804	:	PETITION
Filed: JUNE 20, 2003	:	*37 CFR 1.324*
For: COMPACT CARTRIDGE HOT NOZZLE	:	
	:	
	:	
	:	

This is a decision on the petition filed 03/23/05 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Yogendra N Gupta
Supervisory Patent Examiner
Art Unit 1722
Technology Center 1700

MOLD-MASTERS LIMITED
233 ARMSTRONG AVENUE
INTELLECTUAL PROPERTY DEPARTMENT
GEORGETOWN ON L7G-4X5 CA CANADA

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Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, N.W., Suite 1200
Washington, DC 20006

Mail Date: 04/21/2010

Applicant	: Elisa Gavieiro-Villatte	: DECISION ON REQUEST FOR
Patent Number	: 7584091	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/465,844	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1099** 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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AKIN GUMP STRAUSS HAUER & FELD LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Henry Wei-Ming Chung et al	:	
Application No. 10/465,850	:	ON PETITION
Filed: June 20, 2003	:	
Attorney Docket No. 681939-34U4	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 22, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 23, 2004.

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

This matter is being referred to Technology Center AU 2814 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Henry Wei-Ming Chung et al	:
Application No. 10/465,852	:
Filed: June 20, 2003	:
Attorney Docket No. 681939-34U2	:

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 4, 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 August 5, 2006.

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

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

This matter is being referred to Technology Center AU 1765 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Ronald W. Burns
Akin Gump Strauss Hauer & Feld LLP
P.O. Box 688
Dallas, TX 75313-0688

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Paper No. 11 #11

BANK ROME LLP
600 NEW HAMPSHIRE AVENUE NW
WASHINGTON DC 20037

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FEB 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Kenneth L. Beattie	:	
Application No. 10/465,863	:	DECISION GRANTING PETITION
Filed: June 20, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 114122-00155	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice of September 4, 2003, which set a period for reply of two months. No timely reply having been received, the application became abandoned on November 5, 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 Notice of September 4, 2003 is accepted as having been unintentionally delayed.

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

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

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

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ALEXANDRIA, VA 22320

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JUL 25 2005
OFFICE OF PETITIONS

In re Application of :
Keisha Kimura, et al. :
Application No. 10/465,879 : ON PETITION
Filed: June 20, 2003 :
Attorney Docket No. 114155.01 :

This is a decision on the petition, filed July 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 12, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2851 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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DLA PIPER RUDNICK GRAY CARY US LLP
ATTN: PATENT GROUP
1200 NINETEENTH STREET, NW
WASHINGTON DC 20036

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AUG 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Sanders et al.	:	
Application No. 10/465,882	:	ON PETITION
Filed: June 20, 2003	:	
Attorney Docket No. 2243-171-27	:	

This is a decision on the petition under 37 CFR 1.182, filed June 9, 2006, to change the order of the names of the inventors.

The petition is granted.

The order of the names of the inventors will be changed as follows:

1. Michael G. Sanders
2. Terry L. Amburgey
3. H. Michael Barnes

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

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BAKER BOTTS LLP
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

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FEB 28 2007

OFFICE OF PETITIONS

In re Application of :
Sanford J. Morganstein :
Application No. 10/465,896 :
Filed: June 19, 2003 :
Attorney Docket No. 074432.0104 :

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 28, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A 3-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 30, 2006.

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

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

This application is being referred to Technology Center AU 2876 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
Petitions Examiner
Office of Petitions

08 SEP 2005

#9

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SUGHRUE MION, PLLC
2100 Pennsylvania Ave, NW
Suite 800
Washington, DC 20037

In re Application of	:	
OHE, Norihisa	:	
U.S. Application No.: 10/465,914	:	DECISION ON PETITION TO
PCT No.: PCT/JP01/11062	:	WITHDRAW HOLDING OF
International Filing Date: 17 December 2001	:	ABANDONMENT
Priority Date: 27 December 2000	:	(37 CFR 1.181)
Attorney's Docket No.: Q76331	:	
For: TRANSCRIPTION ACTIVATION COMPLEX	:	
AND UTILIZATION THEREOF	:	

This decision is issued in response to the "Petition For Withdrawal Of Holding Of Abandonment Under 37 CFR § 1.181 and MPEP § 711.03(c)(I)" filed on 16 December 2004 and resubmitted on 13 July 2005. No petition fee is required.

BACKGROUND

On 17 December 2001, applicant filed international application PCT/JP01/11062 which claimed a priority date of 27 December 2000 and which designated the United States. On 11 July 2002, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was 30 months from the priority date, i.e., 27 June 2003.

On 27 June 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and an executed declaration.

On 27 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) indicating that additional sequence listing materials were required, including a computer readable form (CRF) of the sequence listing. The Notification also informed applicant that the failure to submit these materials within two months of the date of the Notification would result in abandonment of the application.

On 28 October 2004, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to

the Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures.

On 16 December 2004, applicant filed the petition considered herein. The petition asserts that applicants never received the Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures mailed 27 October 2003, and that the holding of abandonment should therefore be withdrawn.

DISCUSSION

Section 711.03(c)(II) of the MPEP sets forth the requirements for a grantable petition to confirm the failure to receive an Office communication:

> 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.

Here, the petition contains the required statements from the practitioner that the Notification Of Missing Requirements was not received and that "a search of the file jacket and docket records in our office indicates that the Office communication was not received." As for the docket records requirement, applicants have attached a copy of what appears to be the firm's mail log listing Office communications received from 22 October 2003 to 03 November 2003. However, this mail log is not sufficient to satisfy the docket records requirement. Rather, applicants must provide a copy of their office docket for the date on which a response to the Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures would have been required had the Notification been received.[1]

Applicants have failed to satisfy all the requirements for a grantable petition. Accordingly, at the present time it cannot be concluded that applicants failed to receive the Notification mailed 27 October 2003.

It is noted that the sequence listing materials accompanying the petition assert that a CRF of the sequence listing is included; however, the application file does not contain the CRF, and USPTO records do not indicate that a CRF has been received and processed. Thus, any subsequent submission herein should include a copy of this CRF and the necessary statement

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[1] The date on which a response to the Notification was due, 27 December 2003, was a Saturday. Accordingly, the last date to timely submit a response was Monday, 29 December 2003.

that such CRF includes no new matter and is identical to the paper version of the sequence listing.

CONCLUSION

Applicant's petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision, and must include the additional docket materials discussed above that are necessary for a grantable petition to demonstrate the failure to receive an Office communication.

As also noted above, any subsequent submission herein should include a copy of the CRF of the sequence listing and the necessary statement that such CRF includes no new matter and is identical to the paper version of the sequence listing.

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

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

#11

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

23 JAN 2006

SUGHRUE MION, PLLC
2100 Pennsylvania Ave, NW
Suite 800
Washington, DC 20037

In re Application of	:	
OHE, Norihisa	:	
U.S. Application No.: 10/465,914	:	DECISION ON RENEWED
PCT No.: PCT/JP01/11062	:	PETITION TO WITHDRAW
International Filing Date: 17 December 2001	:	HOLDING OF ABANDONMENT
Priority Date: 27 December 2000	:	(37 CFR 1.181)
Attorney's Docket No.: Q76331	:	
For: TRANSCRIPTION ACTIVATION COMPLEX	:	
AND UTILIZATION THEREOF	:	

In a decision mailed by this Office on 08 September 2005, applicant's petition to withdraw the holding of abandonment was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, applicant had not provided the docket records required for a grantable petition to confirm that applicant did not receive the Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) mailed herein on 27 October 2003.

On 13 December 2005, applicant filed the "Third Petition For Withdrawal Of Holding Of Abandonment" considered herein as a renewed petition. The renewed petition was accompanied by supplemental docket records that satisfy the remaining requirement for a grantable petition.

Applicant has now satisfied all the requirements for a grantable petition. Accordingly, applicants' petition to confirm that the Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures mailed 27 October 2003 was not received is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 28 October 2004, based as it was on applicant's failure to respond to the Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures, is therefore appropriately **VACATED**.

It is noted that applicant's 13 December 2005 submission included sequence listing materials in response to the Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures. However, the Computer Readable Form (CRF) of the sequence listing filed on 13 December 2005 was defective due to technical errors on the disc (see attached "Raw Sequence Listing Error Report"). Accordingly, the application is being forwarded to the National Stage Processing Branch of the

Office Of PCT Operations for issuance of a new Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) requiring submission of the necessary sequence listing materials, including an acceptable CRF of the sequence listing.

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

Enclosure: "Raw Sequence Listing Error Report" dated 20 January 2006

UNITED STATES PATENT and TRADEMARK OFFICE

#3

08 SEP 2003

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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Robert P. Raymond
Boehringer Ingelheim Corporation
900 Ridgebury Road, P.O. Box 368
Ridgefield, CT 06877-0368

In re Application of	DECISION ON
PAIRET, Michael et al	
Application No.: 10/465,921	
PCT No.: PCT/EP01/14579	PETITION UNDER
Int. Filing Date: 12 December 2001	
Priority Date: 15 December 2000	37 CFR 1.137(b)
Attorney's Docket No.: 1/1273	
For: New Pharmaceutical Compositions on Anticholinergics and Ciclesonide	

This decision is in response to applicants' "Petition To Revive International Application As Unintentionally Abandoned Under 37 CFR 1.137(b)," filed on 27 June 2003. Applicants have been charged $1,300 the petition fee to Deposit Account No.: 02-2955 as requested in the petition.

BACKGROUND

On 12 December 2001, this international application was filed, claiming an earliest priority date of 15 December 2000. A copy of the intentional application was transmitted on 20 June 2002 to the USPTO from the International Bureau.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 15 June 2003. This international application became abandoned with respect to the United States at midnight on 15 June 2003 for failure to pay the required basic national fee.

On 27 June 2003, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the petition fee, and basic national fee. No executed declaration or oath was submitted at such time.

DISCUSSION

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

grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

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

DECISION

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

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

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

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WOLF BLOCK SCHORR AND SOLISCOHEN LLP
250 PARK AVENUE
NEW YORK NY 10177

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APR 11 2008

OFFICE OF PETITIONS

In re Application of :
Fernando Gordun Burillo :
Application No. 10/465,941 : DECISION ON PETITION
Filed: June 26, 2003 :
Attorney Docket No. 932.1241 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Final Rejection mailed January 29, 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 RCE and an amendment, (2) the petition fee of $1,500, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received August 7, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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WOLF BLOCK SCHORR AND SOLIS-COHEN LLP
250 PARK AVENUE
NEW YORK NY 10177

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JAN 08 2009

In re Application of	:	
Fernando Gordun Burillo	:	
Application No. 10/465,941	:	DECISION ON PETITION
Filed: June 26, 2003	:	
Attorney Docket No. OFI001.823262	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 24, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1620.00, 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 1794 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

12 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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John P. Iwanicki
Banner & Witcoff, Ltd.
28 State Street, 28th Floor
Boston, MA 02109

In re Application of	:	
DE VRIES, et al.	:	
Application No.: 10/465,947	:	
PCT No.: PCT/NL01/00944	:	COMMUNICATION
Int. Filing Date: 27 December 2001	:	
Priority Date: 28 December 2000	:	
Attorney Docket No.: 9424.189USWO	:	
For: INK JET RECORDING MEDIUM	:	

This Communication is in response to applicant's "Second Request For Corrected Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 11 April 2006.

BACKGROUND

On 27 December 2001, applicant filed international application PCT/NL01/00944 which claimed priority to a previous application filed 28 December 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 July 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 June 2003.

On 26 June 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an application data sheet; an unsigned declaration of the inventors and a first preliminary amendment.

On 04 September 2003, applicant filed an executed combined declaration and power of attorney.

On 14 October 2004, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903).

On 11 April 2006, applicant filed the present second request for corrected filing receipt accompanied by a copy of a revocation and new power of attorney filed 09 February 2005.

DISCUSSION

Applicant presently seeks a corrected filing receipt as to the first name of inventor de Vries; specifically the official filing receipt identifies the inventor's first name as "Leke" whereas applicant states that the inventor's first name is "Ieke." A review of the published international application shows the inventor's first name as "Leke."

Section 201.03 of the Manual of Patent Examining Procedure (MPEP) provides the procedures where a typographical or transliteration error in the spelling of an inventor's name is discovered. As discussed in that section, in such an instance a petition is not required: "Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration." Applicant's present filing contains such a statement identifying the correct name of the first inventor as Ieke de Vries. This is the name which appears on the filed declaration. Based on counsel's statement, as well as the filed declaration and application data sheet it is clear that there was a typographical error in the published international application. As such, the declaration filed 04 September 2003 is acceptable and it is proper to act on applicant's request for a corrected filing receipt.

CONCLUSION

This application is being returned to the DO/EO/US for processing in accordance with this decision; specifically 1) the changing of inventor de Vries' first name to Ieke and the preparation and mailing of a corrected filing receipt and 2) the processing of applicant's revocation and new power of attorney including the changing of the correspondence address.

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

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ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1182

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MAR 28 2007

OFFICE OF PETITIONS

In re Application of
Jim-Woo Kim
Application No. 10/465,950
Filed: June 26, 2003
Attorney Docket No. DE1486

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed February 22, 2007 under 37 CFR 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed April 10, 2006. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on July 11, 2006. A Notice of Abandonment was mailed on February 2, 2007.

Petitioner asserts that the Office Action mailed on April 10, 2006 was never received. Petitioner attest that the Office Action was never received. Petitioner states a search of the file jacket and docket records confirms the Office Action was not received. In support of petitioner's contention, a copy of the file jacket and docket records has been provided.

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

This application is being forwarded to Art Unit 1633 for re-mailing of the non-final Office Action to the correspondence address of record. The extendable three month time period for reply will be set to run from the mailing date of the new Office Communication.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

27 OCT 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Linda A. Kubena
P. O. Box 2149
Bavtown, Texas 77522-2149:

In re Application of: Sandeep S. Dhingra et al. Application No.: 10/465,960 PCT No.: PCT/US01/43849 Int. Filing Date: 14 November 2001 Priority Date: 27 November 2000 Docket No.: 10238/2	DECISION ON PETITION UNDER 37 CFR 1.137(b)

For: CRYSTALLINE MOLECULAR SIEVE COMPOSITION MCM-65, ITS SYNTHESIS AND USE :

This is in response to the petition filed 27 June 2003 under 37 CFR 1.137 (b) to revive the above-identified abandoned application for "unintentional" delay.

BACKGROUND

On 14 November 2001, applicants filed international application PCT/US01/43849, which claimed priority to an earlier application, filed 27 November 2000. A Demand for international preliminary examination, in which the United States of America was elected, was timely filed. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 27 May 2003.

On 27 June 2003, the present petition was submitted. This petition further includes an authorization to charge to Deposit Account No. 05-1712 the amount of basic national fee of $900.00, and Declaration executed by the inventors as required by 35 U.S.C. 371 (c)(4).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition fee required by 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, and (4) a terminal disclaimer with disclaimer fee (only for utility and plant applications filed before 08 June 1995).

Regarding items (1) and (2), applicants furnished the U.S. Basic National Fee of $900.00 and petition fee of $1300.00 payable via counsel's Deposit Account 05-1712.

Regarding item (3), the petition includes a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Regarding item (4), because applicants' filing date of 31 July 2000 is after 08 June 1995, the requirement of a terminal disclaimer with disclaimer fee is not applicable in this case.

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

A surcharge of $130.00 for submitting the Declaration later than the 30 months of the priority date will be charged to the counsel's Deposit Account No. 05-1712 .

Application No.: 10/465,960

CONCLUSION

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

Applicant's claim for priority is acknowledged. The application has an international filing date of 14 November 2001 under 35 U.S.C. 363 and a date of **27 June 2003** under 35 U.S.C. 371.

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

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

28 JUL 2004

#11

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Sandra P. Thompson
Bingham McCutchen, LLP
Three Embarcadero Center
San Francisco, CA 94111-4067

In re Application of NGUYEN et al	:	
U.S. Application No.: 10/465,968	:	
PCT Application No.: PCT/US02/17331	:	
Int. Filing Date: 30 May 2002	:	DECISION
Priority Date Claimed: 30 May 2001	:	
Attorney Docket No.: 52-017-013 (H26784-4962)	:	
For: INTERFACE MATERIALS AND METHODS	:	
OF PRODUCTION AND USE THEREOF	:	

This is in response to applicant's "Petition to Vacate Notice of Abandonment and to Reinstate Application" filed 19 July 2004.

BACKGROUND

On 30 May 2002, applicant filed international application PCT/US02/17331, which claimed priority of an earlier United States application filed 30 May 2001. The thirty-month period for paying the basic national fee in the United States expired on 30 November 2003.

On 26 June 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 31 October 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 23 February 2004, applicant filed an executed declaration.

On 26 March 2004, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration listed two inventors who did not appear in the published international application.

On 05 April 2004, applicant purportedly filed a copy of a Notification of the Recording of a Change (Form PCT/IB/306) indicating the addition of two inventors.

On 12 July 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Defective Response mailed 26 March 2004.

On 19 July 2004, applicant filed the present petition.

DISCUSSION

The evidence of record is sufficient to establish that the copy of Form PCT/IB/306 was originally filed on 05 April 2004. Specifically, the copy of the return postcard, which includes Form PCT/IB/306 in its itemized contents and which bears a USPTO date stamp of 05 April 2004, serves as *prima facie* evidence that the copy of Form PCT/IB/306 was received by the USPTO on 05 April 2004.

CONCLUSION

For the reasons above, the petition is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 12 July 2004 is hereby VACATED.

Applicant is advised that the declaration filed 23 February 2004 is improper despite the presence of Form PCT/IB/306. Specifically, the declaration consists of one sheet of "Page 1", three sheets of "Page 2", and one sheet of "Page 3". It is not sufficient to submit only the signature page of a declaration. It cannot be determined whether "Page 2" was associated with "Page 1" and "Page 3" at the time of signature, which is necessary for a valid execution. Applicant is required to submit either: (1) a single complete declaration which is presented to and executed by all of the inventors or (2) multiple complete declarations, each of which is presented to and executed by at least one of the inventors.

A proper response to this decision must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are NOT available under 37 CFR 1.136(a).

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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	: My N. Nguyen	: DECISION ON REQUEST FOR
Patent Number	: 7608324	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/465,968	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1386** 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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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Paulo Cesar Rodrigues Palma	: DECISION ON REQUEST FOR
Patent Number	: 7666858	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/465,977	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **768** 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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 05/18/2010

Applicant : Paulo Cesar Rodrigues Palma
Patent Number : 7666858
Issue Date : 02/23/2010
Application No : 10/465,977
Filed : 10/31/2003

: 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 **824** 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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Melanie McCollum
Oliff & Berridge, PLC
Alexandria, VA 22314

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Jean-Robert Rapin et al.	:	
Application No. 10/465,994	:	DECISION ON PETITION
Filed: October 3, 2003	:	TO WITHDRAW
Attorney Docket No. 116423	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie L. McCollum: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Melanie L. McCollum has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The address of record remains unchanged.

The attorneys/agents of record remains unchanged.

There is an outstanding Office action mailed May 30, 2006 that requires a reply from the attorneys/agents of record.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20051205

DATE : December 1, 2005

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction on Patent No.: 6929975

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Wael Fahmy **Art Unit** 2814

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P O BOX 828
BLOOMFIELD HILLS, MI 48303

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MAY 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Alain Lemieux et al	:	
Application No. 10/466,040	:	DECISION ON PETITION
Filed: November 21, 2003	:	TO WITHDRAW
Attorney Docket No. 7218-004/USB	:	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 12, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). Finally, a proper reason for the withdrawal as enumerated in 37 C.F.R. § 10.40(b) or subsection (1)-(6) of 37 C.F.R. § 10.40(c) must be provided.

The request was signed by Garrett C. Donley on behalf of all the attorneys or agents associated with Customer Number 27572. As the request satisfies the above requirements, all of the attorneys or agents of record have been withdrawn. Applicants are reminded that there is no attorney of record at this time. All future communications from the Office will be directed to the first-named applicant at the address noted below.

It is noted that a revocation of power of attorney with new power of attorney was filed on March 16, 2006. This paper was not accepted in a communication mailed April 4, 2006 because the revocation and power of attorney was not signed by all the applicants of record. It appears that this communication may have been mailed to the wrong address. A copy of the communication mailed on April 4, 2006 accompanies this decision. The revocation and power of attorney is signed by the first named applicant, Alain Lemieux as president. If Mr. Lemieux is signing as an officer on behalf of a company, then compliance with 37 CFR 3.73(b) must be satisfied. Otherwise, all the applicants must sign the revocation and power of attorney. A courtesy copy of this communication is being mailed to the attorneys/agents associated with the customer number appearing on the

nonacceptable revocation and power of attorney. However, until such time as an acceptable power of attorney is received, all future communications will be directed to the first-named applicant at the address indicated below.

This application is awaiting action by the Technology Center to the April 7, 2006, reply to the non-final Office action of December 8, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Power of Attorney mailed April 4, 2006

cc:

Mr. Alain Lemieux
c/o Marie Laure Leclercq, Esq.
De Grandpre Chait
1000, rue De La Gauchetiere Ouest
bureau 2900
Montreal, Quebec H3B 4W5
Canada

North Oaks Patent Agency
45 Island Road
North Oaks, MN 55127

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HUNTON & WILLIAMS LLP
INTELECTUAL PROPERTY DEPARTMENT
1900 K STREET NW, SUITE 1200
WASHINGTON, DC 20006-1109

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OFFICE OF PETITIONS

In re Application of	:
Kim Il-Gyu et al	:
Application No. 10/466,053	: DECISION GRANTING PETITION
Filed: July 9, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 68268.000002	:

This is a decision on the petition, filed July 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 June 19, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), 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).*

24 MAR 2004

#5

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Birch Stewart Kolasch & Birch
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of	:	
Nicolosi et al.	:	
Application No. 10/466,056	:	
PCT No.: PCT/EP02/00182	:	
Int. Filing Date: 10 January 2002	:	DECISION
Priority Date: 12 January 2001	:	
Atty. Docket No.: 0471-0282P	:	
For: A Process For The Preparation Of 1-	:	
(3-Trifluoromethylphenyl) - Propan -	:	
2 - Olenantiomers	:	

This is in response to the "Letter" filed on 22 December 2003, which is being treated as a petition.

BACKGROUND

This international application was filed on 10 January 2002, claimed an earlier priority date of 12 January 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 18 July 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 14 July 2003 (since 12 July 2003 was a Saturday).

On 10 July 2003, applicants filed *inter alia* the basic national fee.

On 22 October 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an executed oath or declaration of the inventors.

DISCUSSION

Applicant indicates that a declaration of the inventors was filed on 07 August 2003 and in effect requests that a declaration accompanying the instant "letter" be accepted as a copy of the declaration allegedly filed on 07 August 2003. MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." The instant petition is accompanied by a copy of a return postcard receipt itemizing a declaration. However, said return postcard receipt does not appear to have been stamped as received by the USPTO; instead, it merely lists a "due date." Moreover, the petition does not explicitly state that the declaration filed therewith is a true

copy of the declaration allegedly filed on 07 August 2003. For these reasons, it would not be appropriate to grant the requested relief on the basis of the present record.

DECISION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

06 AUG 2004

#7

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Birch Stewart Kolasch & Birch
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of	:	
Nicolosi et al.	:	
Application No. 10/466,056	:	
PCT No.: PCT/EP02/00182	:	
Int. Filing Date: 10 January 2002	:	DECISION
Priority Date: 12 January 2001	:	
Atty. Docket No.: 0471-0282P	:	
For: A Process For The Preparation Of 1-(3-Trifluoromethylphenyl) - Propan - 2 - Olenantiomers	:	

This is in response to the "Response To Decision On 'Petition'" filed on 02 June 2004.

DISCUSSION

Applicant indicates that a declaration of the inventors was filed on 07 August 2003 and in effect requests that a declaration accompanying the instant "letter" be accepted as a copy of the declaration allegedly filed on 07 August 2003. MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." The instant petition is accompanied by a copy of a return postcard receipt itemizing a declaration and stamped as received by the USPTO on "AUG 07 2003." The petition includes an explicit statement that the declaration filed therewith is a true copy of the declaration allegedly filed on 07 August 2003. Pursuant to the policy described at MPEP 503, the declaration of the inventors filed on 02 June 2004 is being treated as a copy of the declaration filed on 07 August 2003.

DECISION

The petition is **GRANTED**.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

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OFFICE OF PETITIONS

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

In re Patent No. 7,547,292	:	DECISION ON REQUEST FOR
SHELDRAKE et al.	:	RECONSIDERATION OF
Issue Date: June 16, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/466,076	:	NOTICE OF INTENT TO ISSUE
Filed: December 23, 2003	:	CERTIFICATE OF CORRECTION
Docket No. 092633-0118	:	

This is a decision on the petition filed on June 26, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred forty-one (541) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **five hundred seventy-six (576) days**.

In the present petition, patentee indicates that the total non-overlapping period between A delay and B delay is 730 days. Further, patentee state that applicant delay is 189 days.[1]

[1] Patentee does not state a basis for patentee's calculation of applicant delay as 189 day. A review of the record supports a conclusion that the number of days of applicant delay is 153 days. The Office reminds patentee that patentee continues to be under a duty to advise the Office of any error in according too much patent term adjustment.

The Office has determined that the A delay is 298 (240 + 40 + 15 + 3) days. The B delay is 446 days, beginning on July 12, 2006 and ending on September 30, 2007, the day before the filing of the Request for Continued Examination. See 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.703(b). The A delay and B delay overlap by 15 days, counting the number of days beginning on April 16, 2007 and ending on April 30, 2007. Applicant delay is 153 days.

Accordingly, the patent term adjustment is 576 days (298 days of A delay + 446 days of B delay - 15 days of overlap - 153 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, 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 § 1.136.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred seventy-six (576) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,547,292 B2

DATED: Jun. 16, 2009 **DRAFT**

INVENTOR(S): SHELDRAKE et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 145 days

Delete the phrase "by 145 days" and insert – by 576 days--

Day : Tuesday
Date: 4/20/2010

PALM INTRANET

Time: 14:42:35

PTA Calculations for Application: 10/466076			
Application Filing Date:	12/23/2003	PTO Delay (PTO):	298
Issue Date of Patent:	06/16/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	153
Post-Issue Petitions:	0	Total PTA (days):	576
PTO Delay Adjustment:	431		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
88	04/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	431		
83.5	05/27/2009	PTA 36 MONTHS			
83	06/16/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
82	05/12/2009	EXPORT TO FINAL DATA CAPTURE			
81	05/11/2009	DISPATCH TO FDC			
80	05/11/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
79	05/08/2009	ISSUE FEE PAYMENT VERIFIED			
78	05/08/2009	ISSUE FEE PAYMENT RECEIVED			
77	03/19/2009	FINISHED INITIAL DATA CAPTURE			
76	02/16/2009	EXPORT TO INITIAL DATA CAPTURE			
74	02/11/2009	MAIL NOTICE OF ALLOWANCE			
73	02/10/2009	ISSUE REVISION COMPLETED			
72	02/10/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
71	02/03/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
70	02/03/2009	DOCUMENT VERIFICATION			
69	02/02/2009	EXAMINER'S AMENDMENT COMMUNICATION			
68	02/02/2009	NOTICE OF ALLOWABILITY			
67	01/26/2009	DATE FORWARDED TO EXAMINER			
66	01/15/2009	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
65	01/15/2009	NOTICE OF APPEAL FILED		90	63
64	01/15/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
63	07/17/2008	MAIL FINAL REJECTION (PTOL - 326)	3		57

62	07/16/2008	FINAL REJECTION			
61	03/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	03/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	57
59	03/14/2008	MISCELLANEOUS INCOMING LETTER			
58	05/07/2008	DATE FORWARDED TO EXAMINER			
57	03/14/2008	RESPONSE AFTER NON-FINAL ACTION			
56	03/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	12/14/2007	MAIL NON-FINAL REJECTION			
54	12/12/2007	NON-FINAL REJECTION			
53	08/30/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	10/11/2007	DATE FORWARDED TO EXAMINER			
51	10/01/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		63	38
50	10/11/2007	DISPOSAL FOR A RCE / CPA / R129			
49	10/01/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
48	10/01/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
47	09/11/2007	MAIL ADVISORY ACTION (PTOL - 303)			
46	09/10/2007	ADVISORY ACTION (PTOL-303)			
45	08/30/2007	NEW OR ADDITIONAL DRAWING FILED			
44	09/05/2007	DATE FORWARDED TO EXAMINER			
43	08/30/2007	AMENDMENT AFTER FINAL REJECTION			
42	08/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	08/30/2007	REFERENCE CAPTURE ON IDS			
40	08/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	08/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	04/30/2007	MAIL FINAL REJECTION (PTOL - 326)	15		35
37	02/23/2007	FINAL REJECTION			
36	12/30/2006	DATE FORWARDED TO EXAMINER			
35	12/15/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
34	12/15/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	10/18/2006	MAIL RESTRICTION REQUIREMENT			

32	10/16/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
31	08/30/2006	DATE FORWARDED TO EXAMINER			
30	08/14/2006	RESPONSE AFTER NON-FINAL ACTION			
29	05/15/2006	MAIL NON-FINAL REJECTION	40		24
28	05/12/2006	NON-FINAL REJECTION			
27	03/26/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	05/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
25	12/09/2005	DATE FORWARDED TO EXAMINER			
24	12/05/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
23	11/08/2005	MAIL SUPPLEMENTAL RESTRICTION / ELECTION REQUIREMENT			
22	11/08/2005	SUPPLEMENTAL RESTRICTION			
21	10/21/2005	MAIL RESTRICTION REQUIREMENT	240		-1
20	10/20/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
19	10/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	10/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	11/18/2004	CORRESPONDENCE ADDRESS CHANGE			
16	05/25/2004	REFERENCE CAPTURE ON IDS			
15.7	03/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	03/26/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	07/11/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
13	08/24/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	07/11/2004	PRELIMINARY AMENDMENT			
11	08/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	07/19/2004	CLEARED BY OIPE CSR			
9	12/23/2003	371 COMPLETION DATE			
8	07/01/2004	APPLICATION DISPATCHED FROM OIPE			
7	07/01/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
6	12/23/2003	ADDITIONAL APPLICATION FILING FEES			
5	12/23/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	06/28/2004	CORRESPONDENCE ADDRESS CHANGE			

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Nixon & Vanderhye
1100 N Glebe Road
8th Floor
Arlington, VA 22201-4714

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OFFICE OF PETITIONS

In re Application of :
Bjorn Thorvaldsson, et al. :
Application No. 10/466,080 : DECISION ON PETITION
Filed: December 17, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 4395-2

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 25, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application(s) set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMSSED AS MOOT** for the reasons stated below.

In the instant case, the Office recognized the claim for benefit of prior-filed application number, 60/260,888, filed January 12, 2001, said claim appearing in the Oath/Declaration, filed with the instant application on December 17, 2003. In view thereof, a petition under 37 CFR 1.78(a)(6) is unnecessary.[1]

In view of the above, the $1370 petition submitted is unnecessary. Petitioner may request a refund of the petition fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

Any questions concerning this decision on petition may be directed to Marianne Jenkins at (571) 272-3223. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being returned to the Publishing Division to be processed into a patent.

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

[1] *Note* MPEP 201.11(III)(D), pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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MAR 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Nagayuki Takao et al	:	
Application No. 10/466,091	:	ON PETITION
Filed: July 11, 2003	:	
Attorney Docket No. 0020-5155P	:	

This is a decision on the petition, filed March 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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 2853 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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WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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JUN 0 5 2006
OFFICE OF PETITIONS

In re Application of	:	
HOLZER et al.	:	
Application No. 10/466,099	:	DECISION ON PETITION
Filed: July 11, 2003	:	TO WITHDRAW
Attorney Docket No. 1103326-0719	:	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).

The request was signed by Thomas Liniak. Mr. Thomas Liniak has been withdrawn as an attorney or agent; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed February 8, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

Cc: Liniak Berenato Longacre and White
6550 Rock Spring Dr Ste 240
Bethesda, MD 20817

1 6 DEC 2004

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Squire Sanders & Dempsey LLP
8000 Towers Crescent Drive, 14th Floor
Tysons Corner, VA 22182-2700

In re Application of HIIRONEN, Olli-Pekka et al. Application No.: 10/466,100 PCT No.: PCT/EP01/00373 Int. Filing Date: 13 January 2001 Priority Date: None Attorney's Docket No.: 61253.00008 For: METHOD FOR OPTICAL CODING, OPTICAL CODER AND OCDMA NETWORK ARCHITECTURE	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on applicants' "Petition Under 37 CFR §1.182," filed 09 November 2004. The petition fee will be charged to deposit account no. 50-2222, as authorized.

BACKGROUND

On 13 January 2001, applicants filed international application PCT/EP01/00373. On 11 June 2002, applicants filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. On 18 July 2002, a copy of the international application was transmitted to the Office by the International Bureau. The deadline for entry into the national stage in the United States was midnight 13 July 2003.

On 11 July 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 29 October 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 25 November 2003, applicants filed a declaration in response to the Notification of Missing Requirements. The declaration was executed by Olli-Pekka Pohjola and Markku Oksanen.

On 16 March 2004, the Office mailed Notification indicating that the inventors on the declaration did not match the inventors on the international application

On 11 May 2004, applicants submitted a second executed declaration.

On 10 September 2004, the Office mailed Notification, requesting an explanation of the discrepancy between the executed declarations.

On 09 November 2004, applicants submitted the instant petition under 37 CFR 1.182.

DISCUSSION

The statement of Olli-Pekka Pohjola states that he is one and the same person as Olli-Pekka Hiironen and indicates that he legally changed his name. The statement complies with MPEP 605.04(c).

The declaration submitted 25 November 2003 complies with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the Petition Under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 25 November 2003.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 23, 2006

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/466110 Patent No.: 7,045,330 B2

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

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

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

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

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

Comments: _____

SPE

1652
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARTIN D. MOYNIHAN
d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

COPY MAILED

JUL 15 2009

OFFICE OF PETITIONS

In re Application of :
Ran Siman-Tov :
Application No. 10/466,112 :
Filed: November 19, 2003 :
Attorney Docket No. 26397 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 11, 2009, 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 $810; 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 3656 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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JAN 0 5 2010

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

In re Application of: Ran Siman-Tov	: DECISION ON PETITION
Serial No.: 10/466,112	: TO WITHDRAW THE NOTICE
Filed: November 19, 2003	: OF NON-COMPLIANT
For: NON-SLIP TRANSMISSIONS	: APPEAL BRIEF
PARTICULARLY USEFUL AS	: UNDER 37 CFR §1.181
CONTINUOUSLY-VARIABLE	:
TRANSMISSIONS AND	:
TRANSMISSION MEMBERS THEREOF	:

This is a decision on applicant's petition under 37 CFR § 1.181 filed on May 15, 2008 and applicant's Supplemental Petition filed on March 10, 2009, to withdraw the Notice of Non-Compliance Appeal Brief issued by the examiner on November 13, 2007, then on March 17, 2008, and finally on April 16, 2008 with respect to applicant's (Thrice Amended) Brief on Appeal filed September 24, 2007.

The petition is DISMISSED as MOOT.

The record shows that responding to the appeal brief filed on June 15, 2007, and amended briefs filed on September 24, 2007, November 26, 2007 and April 4, 2008, Notices of Non-Compliant Appeal Brief were issued on August 24, 2007, November 13, 2007, March 17, 2008 and April 16, 2008 holding that the brief is defective in each instance for presenting a newly introduced definition of the term "continuously-variable transmission" as defined in the Webster's Encyclopedic Unabridged Dictionary without listing this evidence in the Evidence relied upon section of the brief. Applicant argues in the petition that such definition should not be viewed as evidence but merely a "judicial notice" which does not require a formal evidence. On June 11, 2009, applicant filed a Request for Continued Examination

The issues raised by the Notice of Non-Compliance Appeal Brief are no longer pending and the appeal has been withdrawn in view of prosecution having been reopened by the applicant in a Request for Continued Examination.

For the reasons above, the petition is Dismissed as moot.

Any questions regarding this decision should be directed to Richard Ridley at 571-272-6917.

Frederick Schmidt, Director
Patent Technology Center 3600

rr/lm: 12/17/09

LM

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

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In re Application of	:	
HASHIMOTO, Tomomichi et al.	:	
Application No. 10/466,130	:	DECISION ON PETITION
Filed: September 27, 2004	:	TO WITHDRAW
Attorney Docket No. **5404/48**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because there is no indication that all of the acts noted in the above-identified certifications have been performed.

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

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**
1250 CONNECTICUT AVENUE, N.W.
SUITE 700
WASHINGTON, D.C. 20036

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YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

Mail Date: 04/21/2010

Applicant	: Justin Paul Madison	: DECISION ON REQUEST FOR
Patent Number	: 7640320	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/466,132	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/09/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1937** 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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PORTLAND OR 97204-2988

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APR 1 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey S. Rubin, et al.	:	
Application No. 10/466,136	:	DECISION GRANTING PETITION
Filed: July 10, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No.4239-66045	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 14, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 16, 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 1649 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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.*

12 DEC 2003

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Timothy M. Kelley
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee, WI 53202-4108

In re Application of LANDVIK, Dag Application No.: 10/466,150 PCT No.: PCT/US02/00792 Int. Filing Date: 10 January 2002 Priority Date: 10 January 2001 Docket No.: 070163/9055 For: PRODUCT DEMONSTRATION SYSTEM AND METHOD FOR USING THE SAME	DECISION ON PETITION UNDER 37 CFR 1.10(d)

This decision is in response to applicant's "Petition Under 37 CFR 1.10(d)," filed on 15 August 2003. No petition fee is required.

BACKGROUND

On 10 January 2002, applicant filed international application PCT/US02/00792. On 09 August 2002, a Demand for international preliminary examination in which the United States was elected was filed prior to nineteen months from the priority date. The deadline for paying the basic national fee in the United States was 10 July 2003.

Applicant filed, via Express Mail, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee. The origin information on the envelope lists the "date in" as 11 July 2003.

On 15 August 2003, applicant filed the instant petition which was accompanied by, *inter alia*, a pickup service statement from USPS.

DISCUSSION

In the instant petition, applicant requests that the receipt date be amended to 10 July 2003. The Express Mail mailing label lists the "date in" as 11 July 2003.

Applicant argues that the application was actually submitted to the USPS on 10 July 2003. 37 CFR § 1.10(d) allows an applicant to petition to correct an incorrectly entered "Date In" of an Express Mail receipt and states that:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the"date-in" on the "Express Mail" mailing label or other official notation entered by the USPS

was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

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

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

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

Applicant has satisfied items (1), (2) and (3). The petition was filed promptly and the papers in the file reflect the mailing label number EV324638816US. As to the mailing date, applicant has provided USPS pickup service statement, dated 10 July 2003 listing an Express Mail package and according to applicant's Express Mail log, only one package was mailed on 10 July 2003.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(d) to correct the date of receipt of the papers for entry into the national stage in the United States to 10 July 2003 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, in accordance with this decision, including issuance of a Notification of Acceptance (Form PCT/DO/EO/903) indicating that the requirements under 35 U.S.C. §371 were satisfied on **10 July 2003**.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:0805

DATE : August 10, 2005

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6,822,355

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The claims as presented by applicant are in accordance with the preliminary amendment. The issued notice of allowability addresses this set of claims and not the one printed in the patent.

SPE: Darren E. Schuberg **Art Unit** 2834

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT No. : 6,822,355

DATED : November 23, 2004

INVENTOR(S): Roland KARRELMEYER et al.

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

Approved 8-10-05

Delete column 8, lines 11 to 38 and in its place, column 11, insert

--1. An electronically commutated motor, comprising:

a stator;

rotor poles;

a motor-position determining arrangement to sense a surface where the stator and the rotor poles diametrically oppose one another, wherein a total surface is considered in determining the position determination, and pole angles of the stator and the rotor poles are each set to values at which a rotor rotation results in a surface change.

2. The electronically commutated motor of claim 1, wherein the stator pole angle is equal to a rotor pole angle.

3. The electronically commutated motor of claim 1, wherein the stator is divided into at least two stator segments and the motor-position determining arrangement includes a capacitive arrangement.

4. The electronically commutated motor of claim 1, wherein the stator poles include sensor windings and the motor-position determining arrangement includes an inductive arrangement.

5. The electronically commutated motor of claim 1, further comprising: an oscillating circuit to provide a resonance frequency, the position being determined by determining the resonance frequency.

6. The electronically commutated motor of claim 1, wherein the electronically commutated motor includes a switched reluctance motor.--

MAILING ADDRESS OF SENDER

Kenyon & Kenyon
One Broadway
New York, NY 10004

Patent No. **6,822,355 B2**

No. of add'l. copies
@ 30 ¢ per page
Ψ_____

FORM PTO 1050 (REV 3.82) **MODIFIED**

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Smith, Gambrell & Russell, LLP
1850 M Street, NW
Suite 800
Washington, DC 20036

In re Application of BOUSSAND, Beatrice et al. Application No.: 10/466,170 PCT No.: PCT/FR01/03703 Int. Filing Date: 23 November 2001 Priority Date: 21 December 2000 Docket No.: 33808F190 For: PROCESS FOR THE HYDROGENATION OF UNSATURATED BLOCK COPOLYMERS AND HYDROGENATED BLOCK COPOLYMERS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 14 July 2003 is **GRANTED**.

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

A signed oath or declaration has not yet been submitted.

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

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Kobayashi :
Application No. 10/466,223 : DECISION ON PETITION
Filed: November 6, 2003 :
Docket No.: SO1459.70029.US :

This is a decision on the petition under 37 CFR 1.181, filed January 25, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the final Office action mailed May 3, 2005. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed December 6, 2005.

Petitioner attributes the holding of abandonment to the Office's failure to mail the Office action to the correct correspondence address.

Petitioner's arguments have been carefully considered and found convincing. The change of correspondence address for the instant application was in error changed. This error has since been corrected.

Accordingly, Notice of Abandonment is **WITHDRAWN** and the holding of abandonment is hereby **VACATED**.

This application is being forwarded to Technology Center 2600 for re-mailing of the final Office action. The time period for reply will be set in the final Office action.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

SP

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060411

DATE : April 11, 2006

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction on Patent No.: 6985060

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Elvin G. Enad **Art Unit** 2832

DOC Code: COCIN

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
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CERTIFICATE OF CORRECTION

PATENT NO. : 6,985,060 B2

Page 1 of 1

APPLICATION NO. : 10/468,226

ISSUE DATE : January 10, 2006

INVENTOR(S) : Dion S. Parker, et al.

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

Column 12, Claim 13, Line 12, delete "and" and insert –with said resilient member urging said flux casing–.
Column 12, Claim 16, Line 30, after the "ing" insert an –a–.

MAILING ADDRESS OF SENDER (Please do not use customer number

John B. Molnar
MacMillan, Sobanski & Todd, LLC
One Maritime Plaza, 4th Floor, 720 Water Street
Toledo, Ohio 43604-1853

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 the 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.

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JAN 30 2006

19 NOV 2003

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Clifford Kraft
320 Robin Hill Dr.
Naperville, IL 60540

In re Application of KELLER et al	:	
U.S. Application No.: 10/466,238	:	
PCT Application No.: PCT/BR02/00011	:	
Int. Filing Date: 18 January 2002	:	
Priority Date Claimed: 26 January 2001	:	DECISION
Attorney Docket No.: (none)	:	
For: PROCESS FOR THE PREPARATION OF	:	
RICE HULLS IMPREGNATED WITH OIL,	:	
FAT OR GREASE USEFUL AS FILLERS	:	
FOR RESINS	:	

This is in response to applicant's "Petition for Non-Signing Inventor" filed 14 July 2003, which is being treated under 37 CFR 1.47(a).

BACKGROUND

On 18 January 2002, applicant filed international application PCT/BR02/00011, which claimed priority of an earlier Brazil application filed 26 January 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 01 August 2002. The thirty-month period for paying the basic national fee in the United States expired on 26 July 2003.

On 14 July 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, the declaration filed 14 July 2003 is improper because it does not list Paul Rudolf Kunning as an inventor and also because it lists João Nadir Franco De Lima as an inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In the present case, petitioner has not provided any evidence that a bona fide attempt was made to present a copy of the application papers (including specification, claims, drawings, and oath/declaration) to the nonsigning inventor Kunning for signature. Such evidence should include an affidavit signed by a person with firsthand knowledge. Furthermore, petitioner has not submitted an affidavit signed by the person with firsthand knowledge of Kunning's purported refusal to sign. Thus, it would be unreasonable to conclude at the present time that Kunning refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

Because petitioner has failed to satisfy items (1) and (2) above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

20 FEB 2004

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Clifford Kraft
320 Robin Hill Dr.
Naperville, IL 60540

In re Application of KELLER et al	:	
U.S. Application No.: 10/466,238	:	
PCT Application No.: PCT/BR02/00011	:	
Int. Filing Date: 18 January 2002	:	
Priority Date Claimed: 26 January 2001	:	COMMUNICATION
Attorney Docket No.: (none)	:	
For: PROCESS FOR THE PREPARATION OF RICE HULLS IMPREGNATED WITH OIL, FAT OR GREASE USEFUL AS FILLERS FOR RESINS	:	

This is in response to the correspondence filed 08 January 2004, including a declaration executed by all of the inventors.

The 08 January 2004 response is a proper reply to the decision mailed 19 November 2003.

The application has an International Filing Date under 35 U.S.C. 363 of 18 January 2002 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 January 2004.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this communication.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

19 NOV 2003

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Clifford Kraft
320 Robin Hill Dr.
Naperville, IL 60540

In re Application of KELLER et al	:	
U.S. Application No.: 10/466,238	:	
PCT Application No.: PCT/BR02/00011	:	
Int. Filing Date: 18 January 2002	:	
Priority Date Claimed: 26 January 2001	:	DECISION
Attorney Docket No.: (none)	:	
For: PROCESS FOR THE PREPARATION OF RICE HULLS IMPREGNATED WITH OIL, FAT OR GREASE USEFUL AS FILLERS FOR RESINS	:	

This is in response to applicant's "Petition for Non-Signing Inventor" filed 14 July 2003, which is being treated under 37 CFR 1.47(a).

BACKGROUND

On 18 January 2002, applicant filed international application PCT/BR02/00011, which claimed priority of an earlier Brazil application filed 26 January 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 01 August 2002. The thirty-month period for paying the basic national fee in the United States expired on 26 July 2003.

On 14 July 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, the declaration filed 14 July 2003 is improper because it does not list Paul Rudolf Kunning as an inventor and also because it lists João Nadir Franco De Lima as an inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In the present case, petitioner has not provided any evidence that a bona fide attempt was made to present a copy of the application papers (including specification, claims, drawings, and oath/declaration) to the nonsigning inventor Kunning for signature. Such evidence should include an affidavit signed by a person with firsthand knowledge. Furthermore, petitioner has not submitted an affidavit signed by the person with firsthand knowledge of Kunning's purported refusal to sign. Thus, it would be unreasonable to conclude at the present time that Kunning refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

Because petitioner has failed to satisfy items (1) and (2) above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

07 NOV 2003

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#3

Oliff & Berridge
P. O. Box 19928
Alexandria, VA 22320

In re Application of FUJIMOTO et al. Application No.: 10/466,243 PCT No.: PCT/JP02/00940 Int. Filing Date: 05 February 2002 Priority Date: 09 February 2001 Attorney Docket No.: 116513 For: EVAPORATIVE FUEL PROCESSING APPARATUS	DECISION ON SUBMISSION

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

BACKGROUND

On 15 July 2003, applicants filed a transmittal letter concerning a filing under 35 U.S.C. 371 accompanied by, *inter alia*, the basic national fee and an executed declaration. The declaration was executed by three of the four named inventors identified in the published international application. The declaration did not identify the second inventor named on the publication, *Takashi* Kosugi, but identified a *Ryuji* Kosugi.

DISCUSSION

A review of the application file reveals that the given name of the applicant is listed in the international application as "Takashi Kosugi" while the given name is listed in the declaration as " Ryuji Kosugi". No explanation is offered as to how the error in the second named inventor's name occurred, e.g. is this a correction of a transliteration or typographical error or has the inventor's name been legally changed, etc. The declaration as filed is not in compliance with 37 CFR 1.66 or 1.68 as it identifies a legal entity not identified on the international application and is unacceptable as filed.

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. However, the Office should be notified of the error accompanied by a petition under 37 CFR 1.182 to correct the name of the inventor. In the instant application, if appropriate, applicant should submit a petition under 37 CFR 1.182 and provide an explanation as to why the second named inventor did not note a correction of his first name in the published international application.

CONCLUSION

The declaration of inventors submitted by applicants on 15 July 2003 cannot be accepted at this time.

Applicants are required to submit a petition under 37 CFR 1.182 to correct the first name of inventor Kosugi along with an explanation of the correction within **TWO (2) MONTHS** from the mail date of this decision.

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

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

18 DEC 2003

#5

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Alexandria, VA 22320

In re Application of FUJIMOTO et al. Application No.: 10/466,243 PCT No.: PCT/JP02/00940 Int. Filing Date: 05 February 2002 Priority Date: 09 February 2001 Attorney Docket No.: 116513 For: EVAPORATIVE FUEL PROCESSING APPARATUS	DECISION ON SUBMISSION

This is a decision on "Petition under 37 CFR 1.182 and Response to Decision on Submission" filed in the United States Patent and Trademark Office (USPTO) on 14 November 2003.

On 15 July 2003, applicants filed a transmittal letter concerning a filing under 35 U.S.C. 371 accompanied by, *inter alia*, the basic national fee and an executed declaration. The declaration was executed by three of the four named inventors identified in the published international application. The declaration did not identify the second inventor named on the publication, *Takashi* Kosugi, but identified a *Ryuji* Kosugi.

On 07 November 2003, a decision was mailed to applicants advising that the declaration of inventors submitted by applicants on 15 July 2003 was not acceptable . A review of the application file revealed that the given name of the applicant listed in the international application was "Takashi Kosugi" while the given name listed in the declaration was " Ryuji Kosugi". An explanation was required.

On 14 November 2003, application filed the instant petition and a copy of the Notification of the Recording of a Change (Form PCT/IB/306). The Notification, mailed on 21 July 2003, indicated that in PCT/JP02/00940, Takashi Kosugi's name was changed to Ryuji Kosugi. Thus, applicant's petition under 37 CFR 1.182 to correct inventor Kosugi's name is considered **MOOT**.

The declaration submitted on 15 July 2003 is acceptable and meets the requirements of 37 CFR 1.497(a) and (b). The application will be forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

1 0 NOV 2003

#3

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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

In re Application of FAURIEN DES PLACES Serial No.: 10/466,293 PCT No.: PCT/EP01/15167 Int. Filing Date: 20 December 2001 Priority Date: 10 January 2001 Attorney's Docket No.: 331.1046 For: ARRANGEMENT FOR THE GAS-TIGHT FIXING OF AN INLET MANIFOLD WITH A CONNECTOR FLANGE TO THE CYLINDER HEAD OF AN INTERNAL COMBUSTION ENGINE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 14 July 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $900 has been paid. The required petition fee of $1300 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventors and the $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

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

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OFFICE OF PETITIONS

In re Application of
Ryo Fujita et al.
Application No. 10/466,300
Filed: July 15, 2003
Attorney Docket No. Hita.0409

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 23, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to prior-filed international application designating the United States of America (Application No. PCT/JP01/00326, filed January 19, 2001).

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

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

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

The instant petition seeks acceptance of a late claim for priority to a prior-filed PCT national stage application by way of an amendment to the specification, which reads: "This application is continuation of PCT Application Number PCT/JP01/00326 filed on January 19, 2001, which designates the United States, and claims priority therefrom under 35 U.S.C. § 120."

As set forth in MPEP 1893.03(c), page 1800-199, a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international

application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

In view of the above, the petition under 37 CFR 1.78(a)(3) is dismissed as involving a moot issue.

In view of the dismissal of the instant petition as moot, the $1,370 and $130 fees submitted are unnecessary and will be credited to petitioner's deposit account in due course.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2825.

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

Frances Hicks

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

16 SEP 2004

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Bruce E. Peacock
WEGMAN HESSLER & VANDERBURG
6055 Rockside Woods Blvd
Suite 200
Cleveland, OH 44131

In re Application of:	:	
CHUPKA, David, E., et al.	:	
U.S. Application No.: 10/466308	:	DECISION ON PETITION
PCT No.: PCT/US02/22872	:	
International Filing Date: 18 July 2002	:	
Priority Date: 18 October 2001	:	
Attorney's Docket No.: 020358 386P2	:	
For: EXTRACTION BEDPLATE WITH LASER OR	:	
WATER JET CUT APERTURES	:	

This decision is issued in response to applicants' 14 September 2004 facsimile transmission, treated herein as a petition under 37 CFR 1.181 to confirm the filing of a declaration on 15 December 2003. No petition fee is required.

BACKGROUND

On 18 July 2002, applicant filed international application PCT/US02/22872 which claimed a priority date of 18 October 2001 and which designated the United States. The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 18 April 2004.

On 11 July 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee.

On 23 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 14 September 2004, applicants filed the correspondence considered herein as a petition under 37 CFR 1.181. The petition asserts that on 15 December 2003, applicants filed a response to the Notification Of Missing Requirements, including an executed declaration. Attached to the petition is a copy of the declaration, as well as a copy of a return postcard itemizing the materials filed by applicant to initiate this national stage application. The postcard bears a USPTO receipt stamp dated 18 December 2003.

DISCUSSION

Based on applicants' statements in the present petition and the attached return postcard, it is concluded that the declaration attached to the present petition was originally filed on 18 December 2003 as a timely response to the Notification Of Missing Requirements mailed 23 October 2003.

The declaration, however, fails to comply with the requirements of 37 CFR 1.497. Specifically, the declaration fails to set forth the citizenship of the first inventor, David E. CHUPKA (this requirement is not alleviated by identifying such citizenship on an Application Data Sheet; see 37 CFR 1.63(a)(3) and (c)).

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The declaration attached to the present petition is considered to have been filed on 18 December 2003. However, as discussed above, the declaration is defective for failure to identify the citizenship of the first named inventor.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision, including the mailing of a Notification Of A Defective Response (Form PCT/DO/EO/916) requiring submission of a revised declaration in compliance with 37 CFR 1.497.

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

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WEGMAN, HESSLER & VANDERBURG
6055 ROCKSIDE WOODS BOULEVARD
SUITE 200
CLEVELAND, OH 44131

Mail Date: 06/14/2010

Applicant	: David E Chupka	: DECISION ON REQUEST FOR
Patent Number	: 7628890	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/466,308	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **784** 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

JUN 20 2007

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NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

In re Application of	:
Arne Ptock et al	:
Serial No.: 10/466,331	: PETITION DECISION
Filed: July 14, 2003	:
Attorney Docket No.: 52107	:

This is in response to the petition under 37 CFR 1.181, filed May 8, 2007, requesting withdrawal of the Finality of the Office action mailed March 8, 2007.

BACKGROUND

A review of the file history shows that the examiner mailed a first Office action in this National Stage application to applicants on September 21, 2006, setting forth a rejection of claim 8 under 35 U.S.C. 112, second paragraph, as indefinite with regard to the term "composition". Claims 1-8 were rejected under 35 U.S.C. 103(a) as unpatentable over Curtze et al and Stenzel et al.

Applicants replied on December 21, 2006, amending claims 1-4 and 8 and adding new claims 9-18. Applicants replied to all of the grounds of rejection asserted in an appropriate manner.

The examiner mailed a Final Office action to applicants on March 8, 2007. The examiner indicated that applicants' amendments and arguments were persuasive in overcoming the rejection under 35 U.S.C. 112, second paragraph, and under 35 U.S.C. 103(a) (of claims 1-8). The examiner then set forth a new rejection of claims 1-18 under 35 U.S.C. 112, first paragraph, for lack of enablement and of claims 13-17 under 35 U.S.C. 103(a) as unpatentable over Curtze et al and Stenzel et al. The examiner made the action Final in view of applicants' amendment necessitating the new rejections.

Applicants replied on March 13, 2007, asking that the Finality be withdrawn in view of the new grounds of rejection. The examiner mailed an Advisory Action to applicants on May 3, 2007, declining to withdraw the Finality and commenting that it was unclear where the table at pages 10-13 of the specification was located as it do not appear in the priority document.
Applicants filed this petition on May 8, 2007, requesting that the finality of the Office action be withdrawn. Applicants also filed a reply to the Final Office action on May 17, 2007, which has not been considered by the examiner pending this petition decision.

DISCUSSION

Applicants request withdrawal of the finality of the Office action of March 8, 2007, on the basis that the examiner's making of the above identified new rejections under 35 U.S.C. 112, first paragraph, was not necessitated by applicants' amendments. A review of applicants' amendments shows that claims 1-4 and 8 were amended to change the word "mixture" to "composition" in view of the examiner's rejection under 35 U.S.C. 112, second paragraph. Some values of R^1 were deleted to avoid the rejection under 35 U.S.C. 103(a). New claims 9-12 and 18 were dependent on claim 1 and claims 14-17 were dependent on independent claim 13 which was similar, but narrower than, claim 1.

The examiner then made a new rejection under 35 U.S.C. 112, first paragraph, for lack of enablement which was not present in the previous Office action. This rejection was not necessitated by applicants' amendments. The examiner's explanation of the rejection states that he could not find the data in the specification to which applicants referred to support synergistic results. As explained by applicants in the petition there are two copies of the specification in the electronic file, an original one and a corrected copy submitted October 29, 2003 (previously miscoded as a foreign priority document). The original International Stage application filed July 14, 2003, in German, with the application papers shows the table referred to by applicants. The translation of the German application was filed October 29, 2003, and also contains the table referred to. The document filed July 14, 2007, and coded as a specification, is the translation of the German foreign priority document and should not be used as the specification as it does not contain the table referred to. Thus the priority date for the table is the filing date of the PCT application filed in the EP whereas other parts of the specification have an earlier priority date.

The document codes have now been corrected. In view of the examiner confusion with regard to the correct specification to review and subsequent error in making the last Office action Final, the Finality is withdrawn.

DECISION

The petition is **GRANTED.** The Finality of the Office action mailed March 8, 2007, is withdrawn.

The application will be forwarded to the examiner for consideration of applicants' reply to the Office action, received May 17, 2007, which will be considered as a reply to a non-Final Office action and further consideration not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

14 JUN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Todd T. Taylor
TAYLOR & AUST
142 S. Main Street
PO Box 560
Avilla, IN 46710

In re Application of: BUBIK, Alfred, et al. U.S. Application No.: 10/466,354 PCT No.: PCT/EP02/00415 International Filing Date: 17 January 2002 Priority Date: 18 January 2001 Attorney's Docket No.: None For: FORMER AND HEADBOX FOR SAID FORMER	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition For Filing Declaration And Power Of Attorney Under 37 CFR 1.47(b)" filed 23 April 2004 and treated herein under 37 CFR 1.47(a). Applicants have paid the required petition fee.

BACKGROUND

On 17 January 2002, applicants filed international application PCT/EP02/00415 which claimed a priority date of 18 January 2001 and which designated the United States. On 15 August 2002, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 18 July 2003.

On 16 July 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 29 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed declaration acceptable under 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 23 April 2004, applicants filed a response to the Notification Of Missing Requirements accompanied by the fee for a four-month extension of time to respond and the required surcharge payment. The response included a declaration executed by four of the five

named inventors, and the petition considered herein. The petition seeks acceptance of the application without the signature of the remaining inventor, Petra RESCH.[1]

DISCUSSION

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

Applicants here have submitted the petition fee. Accordingly, item (1) is satisfied.

The petition expressly states the last known address of the nonsigning inventor. Item (2) is satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by four of the five inventors and on behalf of the nonsigning inventor Petra RESCH by an officer of Voith Paper Holding Gmbh ("Voith"), the nonsigning inventor's purported former employer. However, except in circumstances where 37 CFR 1.47(b) applies (i.e., where none of the inventors has signed the declaration), an assignee cannot properly execute a declaration on behalf of the inventor. Accordingly, the signature by Voith on behalf of Petra RESCH is not acceptable. Moreover, because the declaration was executed for Petra RESCH by Voith, the presumption that the other inventors executed the declaration on their own behalf and on behalf of the nonsigning inventor cannot be applied to the present declaration. Applicants must submit a declaration executed by the cooperating inventors with an unsigned signature block for Petra RESCH. Such a declaration can be treated as having been executed by the available inventors on their own behalf and on behalf of the nonsigning inventor. Until such declaration is submitted, item (3) is not satisfied.

Regarding item (4), the petition is unclear as to whether applicants are arguing that the nonsigning inventor has refused to execute the declaration or whether she cannot be reached after diligent effort. Regardless of which argument applies, the present record is insufficient. With respect to a claim that the inventor cannot be located after diligent effort, section 409.03(d) of the MPEP requires firsthand statements and supporting documentation with respect to the efforts made to locate the nonsigning inventor. The petition here refers to efforts made to obtain the

[1] The petition references 37 CFR 1.47(b). However, by its express terms, 37 CFR 1.47(b) applies only to the situation where none of the named inventors have signed the declaration. Where, as here, at least one of the named inventors has signed the declaration, the operative regulation is 37 CFR 1.47(a).

signature of the nonsigning inventor, and specifically, to the mailing of a copy of the declaration to the inventor's address and attempts to reach the inventor by phone. However, the petition does not include the required firsthand statements confirming the details of these efforts (i.e, a statement from the person(s) who actually mailed the materials to the nonsigning inventor and who attempted to contact her subsequently). In addition, it is not clear whether the materials or phone messages were received by the nonsigning inventor. On the present record, it appears that applicants' mailing and phone calls went to the inventor's last known location. However, there is no evidence that applicants have confirmed that this is still the inventor's address and, if not, what efforts have been made to find the inventor's current address. Absent additional firsthand evidence regarding diligent efforts made to confirm or identify the inventor's current address and telephone number, it cannot be concluded that applicants have been unable to locate the nonsigning inventor after diligent effort.

In the alternative, if applicants are asserting that Petra RESCH has refused to execute the application, then the MPEP requires that she first be provided with a copy of the complete application papers, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." No firsthand evidence has been presented to show that the nonsigning inventor has been provided with a copy of the complete application papers (rather than simply the declaration), as required before a refusal to sign can be claimed. Moreover, no firsthand statement has been provided demonstrating an express refusal to sign by the inventor. On the present record, where no evidence has been presented demonstrating that the inventor has actually received the application materials or the request for her signature, the inventor's failure to respond to applicants cannot be interpreted as a constructive refusal to sign the application.

Based on the above, applicants have not, on the present record, satisfied item (4) of a grantable petition. Applicants must clarify whether they are asserting that the inventor cannot be located after diligent effort or whether the inventor has refused to sign the application materials and provide the proper firsthand statements and documentary evidence required to support the applicable argument.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the materials required to satisfy items (3) and (4) of a grantable petition, as discussed in detail above.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

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

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

03 NOV 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Todd T. Taylor
TAYLOR & AUST
142 S. Main Street
PO Box 560
Avilla, IN 46710

In re Application of	:	
BUBIK, Alfred, et al.	:	
U.S. Application No.: 10/466,354	:	
PCT No.: PCT/EP02/00415	:	DECISION
International Filing Date: 17 January 2002	:	
Priority Date: 18 January 2001	:	
Attorney's Docket No.: None	:	
For: FORMER AND HEADBOX FOR SAID	:	
FORMER	:	

This decision is issued in response to the "Submission Of Executed Declaration" filed 18 October 2004. No additional petition fee is required.

BACKGROUND

The procedural background for this petition is set forth in detail in the decision mailed by this Office on 14 June 2004. In that decision, applicant's petition under 37 CFR 1.47(a) for acceptance of a declaration without the signature of inventor Petra RESCH was dismissed without prejudice.

On 18 October 2004, applicants filed the "Submission Of Executed Declaration" considered herein. This submission included a declaration executed by all the inventors, including the previously non-signing inventor. The submission was accompanied by payment of the fee for a two-month extension of time to respond.

DISCUSSION

As noted above, the renewed petition was accompanied by a copy of the declaration executed by all the inventors, including Petra RESCH, the previously non-signing inventor who was the subject of the earlier petition under 37 CFR 1.47(a). Accordingly, applicants' petition under 37 CFR 1.47(a) is now moot. Applicants have now submitted a fully executed declaration in compliance with 37 CFR 1.497.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **MOOT.**

The fully executed declaration filed 18 October 2004 satisfies the requirements of 37 CFR 1.497

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date is 18 October 2004.

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

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

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JUL 13 2009

OFFICE OF PETITIONS

In re Application
Jose Tomas Murguia
Application No. 10/466,358
Filed: July 16, 2003
Attorney Docket No. **029856-0103**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705" filed May 21, 2009. Applicant requests that the determination of patent term adjustment be corrected from three hundred three (310) days to one thousand three hundred fifty-three (1353) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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

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

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

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

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

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

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

Kery A. Fries

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

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Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 04/21/2010

Applicant	: Jose Tomas Murguia	: DECISION ON REQUEST FOR
Patent Number	: 7582985	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/466,358	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **935** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

In re Application of	:	
KEIZER	:	
Application No. 10/466,367	:	DECISION ON PETITION
Filed: July 15, 2003	:	TO WITHDRAW
Attorney Docket No. 4662-241	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 30, 2006.

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

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on September 18, 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 571-272-6825.

PVolpe

Patricia Volpe
Petitions Examiner
Office of Petitions

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

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

MANDEL & ADRIANO
55 SOUTH LAKE AVENUE
SUITE 710
PASADENA, CA 91101

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Schmidt, et al.	:	
Application No. 10/466,368	:	ON PETITION
Filed: August 13, 2003	:	
Attorney Docket No.: 30854.1USWO	:	

This is a decision on the petition under 37 CFR 1.182, filed September 6, 2006, requesting that the names of two of the joint inventors for the above-cited application be changed.

The petition is **dismissed**.

The fee for the instant petition is $400.00, but did not accompany the petition. In order for the renewed petition to be considered grantable, the petition fee must be present or an authorization to charge a deposit account for the fee.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MANDEL & ADRIANO
55 SOUTH LAKE AVENUE
SUITE 710
PASADENA, CA 91101

In re Application of	:	
Schmidt, et al.	:	
Application No. 10/466,368	:	ON PETITION
Filed: August 13, 2003	:	
Attorney Docket No. 30854-1USWO	:	

This is a decision on the petition under 37 CFR 1.182(a), filed September 24, 2003, to change the names of two the joint inventors.

The decision mailed April 30, 2007, is **vacated.**

The petition is **GRANTED.**

Petitioner requested that the names of joint inventors Tamara Turbanski and Andrea Klaes be changed to **Tamara Grabeck and Andrea Muller-Hartmann, respectively.** Petitioner provided affidavits from both named inventors attesting to the fact that the name changes were as a result of marriage. The request is granted.

Deposit account 50-0306 will be charged $400.00 for the instant petition fee.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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
10/466,368	08/13/2003	1636	1480	30854.1USWO	25	2

CONFIRMATION NO. 9766

CORRECTED FILING RECEIPT

OC000000024248194

26941
MANDEL & ADRIANO
55 SOUTH LAKE AVENUE
SUITE 710
PASADENA, CA 91101

Date Mailed: 06/06/2007

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

Applicant(s)

Hanns-Martin Schmidt, Koln, GERMANY;
Ludger Altrogge, Pulheim, GERMANY;
Dietmar Lenz, Koln, GERMANY;
Gudula Riemen, Langenfeld, GERMANY;
Helmut Brosterhus, Kirchhunden, GERMANY;
Elke Lorbach, Koln, GERMANY;
Juliana Helfrich, Koln, GERMANY;
Katharina Hein, Koln, GERMANY;
Marion Gremse, Koln, GERMANY;
Tarjana Males, Hilden, GERMANY;
Rainer Christine, Koln, GERMANY;
Gregor Siebenkotten, Freehen-Konigsdorf, GERMANY;
Bodo Ortmann, Koln, GERMANY;
Tamara Grabeck, Residence Not Provided;
Andrea Muller-Hartmann, Koln, GERMANY;

Power of Attorney:

Sarah Adriano--34470

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/DE02/00060 01/10/2002

Foreign Applications

GERMANY 101 00 996.8 01/10/2001

If Required, Foreign Filing License Granted: 06/06/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/466,368

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Modular transfection systems

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

20 OCT 2003
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#4

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HENRY M. FEIEREISEN
350 Fifth Avenue
Suite 3220
New York, N.Y. 10118

In re Application of:	:	
BERNDT, Erik, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/466,374	:	REVIVE ABANDONED
PCT No.: PCT/DE02/00008	:	APPLICATION UNDER 37
International Filing Date: 07 January 2002	:	CFR 1.137(b)
Priority Date: 07 January 2001	:	
Attorney's Docket No.: BERNDT-2	:	
For: WOUND DRESSING, GLOVE AND METHOD	:	
FOR PRODUCTION OF A WOUND DRESSING	:	

The petition to revive under 37 CFR 1.137(b) filed 11 July 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required documents from the due date for the documents, at the latest July 7, 2003, until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the small entity basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497, the surcharge for filing the declaration later than thirty months after the priority date, an English translation of the international application, and the processing fee for submitting the translation later than thirty months after the priority date.

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

18 MAR 2005

#6

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

HENRY M. FEIEREISEN
350 Fifth Avenue
Suite 3220
New York, N.Y. 10118

In re Application of:	:	
BERNDT, Erik, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/466,374	:	UNDER 37 CFR 1.181
PCT No.: PCT/DE02/00008	:	
International Filing Date: 07 January 2002	:	
Priority Date: 07 January 2001	:	
Attorney's Docket No.: BERNDT-2	:	
For: WOUND DRESSING, GLOVE AND METHOD	:	
FOR PRODUCTION OF A WOUND DRESSING	:	

This decision is issued in response to applicant's "Declaration Under 37 CFR 1.10(e)" filed 04 March 2005, treated herein as a petition under 37 CFR 1.181.

BACKGROUND

On 21 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of a translation of the international application into English, an oath or declaration acceptable under 37 CFR 1.497, and the related surcharge and processing fee.

On 04 March 2005, applicants filed the present petition. The petition includes copies of materials purportedly filed on 18 November 2004 and a return postcard that itemizes the earlier submission and bears a USPTO receipt stamp dated 18 November 2004. The petition seeks confirmation of the 18 November 2004 filing.

DISCUSSION

Based on applicants' statements in the present petition, the attached return postcard, and USPTO records confirming the 18 November 2004 payment of the required surcharge and processing fee, it is concluded that the materials itemized on the return postcard and attached to the present petition (i.e, the declaration, English translation, Preliminary Amendment, and Information Disclosure Statement) were originally filed in the USPTO on 18 November 2004.

The Notification Of Missing Requirements mailed 21 January 2004, based as it was on applicants' purported failure to file these materials, is appropriately vacated.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The materials attached to the present petition (including the executed declaration and English translation), are considered to have been filed on 18 November 2004.

The Notification Of Missing Requirements mailed 21 January 2005 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 18 November 2004.

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

03 MAR 2006

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HENRY M. FEIEREISEN
350 Fifth Avenue
Suite 4714
New York, N.Y. 10118

In re Application of:	:	
BERNDT, Erik, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/466,374	:	UNDER 37 CFR 1.181
PCT No.: PCT/DE02/00008	:	
International Filing Date: 07 January 2002	:	
Priority Date: 07 January 2001	:	
Attorney's Docket No.: BERNDT-2	:	
For: WOUND DRESSING, GLOVE AND METHOD	:	
FOR PRODUCTION OF A WOUND DRESSING	:	

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 27 April 2005, treated herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date.

BACKGROUND

On 18 March 2005, this Office mailed a decision granting applicants' previous petition under 37 CFR 1.181. The decision confirmed that applicants had filed the materials required to complete the requirements of 35 U.S.C. 371(c). The decision stated that such materials had been filed on 18 November 2004.

Based on the 18 March 2005 decision, on 14 April 2005, the USPTO mailed a filing receipt and a Notification Of Acceptance (Form PCT/DO/EO/903) that identified the 371(c) date as 18 November 2004.

On 27 April 2005, applicants filed the "Request For Corrected Filing Receipt" considered herein. The submission asserts that the materials completing the 35 U.S.C. 371(c) requirements were filed on 18 November 2003. Accordingly, applicants request that a corrected filing receipt be issued that identifies 18 November 2003 as the date under 35 U.S.C. 371(c).

DISCUSSION

A review of applicants' present submission and the application file confirms that the materials completing the 35 U.S.C. 371(c) requirements were filed on 18 November 2003. The 18 November 2004 date set forth in this Office's 18 March 2005 decision (which served as the basis for the filing receipt and Notification Of Acceptance) was incorrect. Accordingly, applicants' request for correction of the 35 U.S.C. 371(c) date to 18 November 2003 is appropriately granted.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The Notification Of Acceptance and filing receipt mailed 14 April 2005, both of which identified the 35 U.S.C. 371(c) date as 18 November 2004, are hereby **VACATED**.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision, including the mailing of a corrected filing receipt and Notification Of Acceptance that identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 18 November 2003.

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

21 JUN 2005

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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41st Street, Suite A-1
Gainesville, FL 32606-6669

In re Application of	:	
ERICKSON, Mary Ruth *et al*	:	
Application No.: 10/466,375	:	
PCT No.: PCT/IB02/01461	:	
Int. Filing Date: 15 January 2002	:	
Priority Date: 16 January 2001	:	**DECISION**
Attorney Docket No.: G-129US02REG	:	
For: GMG-3, GMG-4 AND GMG-6	:	
POLYNUCLEOTIDES AND	:	
POLYPEPTIDES AND USES	:	
THEREOF	:	

This decision is in response to applicants' "Petition Under 37 C.F.R. § 1.182" filed 13 May 2004.

BACKGROUND

On 30 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 02 January 2004, applicants filed a response which included a declaration signed by all four inventors. The second joint inventor signed her name as Barbara Chicca. However, the international publication lists her name as Barbara Bour.

On 15 April 2004, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 02 January 2004 does not comply with 37 CFR 1.497(a) and (b) because the second inventor's name was changed without supporting documentation. Applicants were given one month, or any time remaining in the Form PCT/DO/EO/905 to respond, whichever is longer.

On 13 May 2004, applicants filed the subject petition which was accompanied by, *inter alia*, a "Declaration of Barbara Chicca" ("Decl.") and authorization to charge any required fees to Deposit Account No. 19-0065.

DISCUSSION

MPEP § 605.04(c) lists the procedures required to petition to change the name of an inventor and states, in part:

> The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicants provided a declaration recording the change of name of Barbara Bour to Barbara Chicca and signed by the co-inventor using both names. Ms. Chicca declares that the name change was as a result of marriage." Decl. at ¶ 2. The petition fee of $130.00 has been charged to Deposit Account No. 19-0065 as authorized.

This is sufficient for a grantable petition.

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.182 to change the name of the inventor is hereby **GRANTED**.

The declaration filed 02 January 2004 now complies with the requirements of 37 CFR 1.497(a) and (b). The application has an international filing date of 15 January 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 January 2004.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 271-3302

17 SEP 200[illegible]
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Saliwanchik Lloyd & Saliwanchik
A Professional Association
2421 N.W. 41st Street
Suite A-1
Gainesville, FL 32606-6669

In re Application of	:	
Erickson et al.	:	
Application No. 10/466,376	:	
PCT No.: PCT/IB02/01215	:	
Int. Filing Date: 15 January 2002	:	DECISION
Priority Date: 16 January 2001	:	
Atty. Docket No.: G-096US02REG	:	
For: Metabolic Gene Polynucleotides And	:	
Polypeptides And Uses Thereof	:	

This is in response to the "Transmittal Letter" and attached declarations filed on 05 February 2004.

BACKGROUND

This international application was filed on 15 January 2002, designated the United States, and claimed an earlier priority date of 16 January 2001. The International Bureau communicated a copy of the published international application to the USPTO on 18 July 2002. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 16 July 2003. Applicants filed *inter alia* the basic national fee on 15 July 2003.

On 02 December 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an executed declaration of the inventors, a surcharge under 37 CFR 1.492(e), an initial or substitute CRF of the sequence listing, and a statement that the contents of the paper or compact disk and the CRF are the same and, where applicable, include no new matter. It was further noted that the declaration was not in compliance with 37 CFR 1.63 because it "does not identify the mailing address of each inventor. If the residence is different from the mailing address, then the city and state or city and foreign country of residence of each inventor must also be given."

DISCUSSION

Inspection of the declarations filed on 05 February 2004 reveals that two of the documents listed a joint inventor, Barbara Chicca, whose name does not appear on the published international application, and inspection of the published international application reveals that it lists a joint inventor, Barbara Bour, whose name does not appear in two of the declaration documents filed on 05 February 2004. In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition under 37

CFR 1.182 is required to resolve this matter. Such a petition must be accompanied by the $130.00 petition fee and by verified statements by the inventor and any other individuals having first-hand knowledge of the error. These statements must set forth in detail the specific circumstances as to how and when the error was made and discovered, and must also state (if appropriate) that the mistake was an inadvertent error made without deceptive intent. Moreover, insofar as the individual declaration documents are inconsistent, counsel is required to file newly executed declaration documents consistently naming the correct inventive entity (i.e., all inventors must sign declarations naming Ms. Chicca, or else all inventors must sign declarations naming Ms. Bour).

CONCLUSION

Acceptance of the declaration is **REFUSED**, without prejudice.

Applicants have a period of **ONE (1) MONTH** from the mailing date of this decision to file a response (extendable under 37 CFR 1.136(a)). Failure to timely reply will result in **ABANDONMENT**.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
(571) 272-3283
Fax: (703) 308-6459
(571) 273-0459

13 JAN 2005

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Saliwanchik Lloyd & Saliwanchik
A Professional Association
2421 N.W. 41st Street
Suite A-1
Gainesville, FL 32606-6669

In re Application of	:	
Erickson et al.	:	
Application No. 10/466,376	:	
PCT No.: PCT/IB02/01215	:	
Int. Filing Date: 15 January 2002	:	DECISION
Priority Date: 16 January 2001	:	
Atty. Docket No.: G-096US02REG	:	
For: Metabolic Gene Polynucleotides And	:	
Polypeptides And Uses Thereof	:	

This is in response to the "Transmittal Letter" and attached petition under 37 CFR 1.182 filed on 18 October 2004.

DISCUSSION

In a decision mailed on 17 September 2004, it was stated that

> Inspection of the declarations filed on 05 February 2004 reveals that two of the documents listed a joint inventor, Barbara Chicca, whose name does not appear on the published international application, and inspection of the published international application reveals that it lists a joint inventor, Barbara Bour, whose name does not appear in two of the declaration documents filed on 05 February 2004. In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition under 37 CFR 1.182 is required to resolve this matter. Such a petition must be accompanied by the $130.00 petition fee and by verified statements by the inventor and any other individuals having first-hand knowledge of the error. These statements must set forth in detail the specific circumstances as to how and when the error was made and discovered, and must also state (if appropriate) that the mistake was an inadvertent error made without deceptive intent. Moreover, insofar as the individual declaration documents are inconsistent, counsel is required to file newly executed declaration documents consistently naming the correct inventive entity (i.e., all inventors must sign declarations naming Ms. Chicca, or else all inventors must sign declarations naming Ms. Bour).

The instant response includes an executed declaration signed by all of the inventors named in the published international application, and consistently naming Barbara A. Bour (rather than Barbara Chicca) as one of the inventors. Accompanying the response is a petition

under 37 CFR 1.182 requesting that "all records regarding the subject application be revised to indicate the second inventor as 'Barbara Chicca' and not 'Barbara A. Bour,'" on the basis that "the second inventor has subsequently adopted her married name of Barbara Chicca." This petition is accompanied by a statement signed by Barbara Chicca (also signed as Barbara A. Bour), attesting to her name change due to marriage. The petition also includes authorization to charge the petition fee to counsel's deposit account. In view of all of the evidence currently of record, it would be appropriate to grant the requested relief.

CONCLUSION

The declaration filed on 05 February 2004 is **ACCEPTED**, and the petition under 37 CFR 1.182 is **GRANTED**.

The $130.00 petition fee is being charged to counsel's Deposit Account No. 19-0065, as authorized by the petition.

This application is being forwarded to the National Stage Processing Branch for further processing, including the correction of the USPTO's electronic records to reflect the correct name of the second inventor, -- Barbara Chicca --. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **05 February 2004**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

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PEARNE & GORDON LLP
1801 EAST 9TH STREET, SUITE 1200
CLEVELAND, OH 44114-3108

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JAN 21 2005

OFFICE OF PETITIONS

In re Application of :
Mark S. Haberbusch :
Application No. 10/466,379 :
Filed: July 15, 2003 :
Attorney Docket No. 32415US1

ON PETITION

This is a decision on the petition, filed January 19, 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 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/466,396	07/16/2003	Arno Lange	52113	4035

26474 7590 04/19/2005

NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 400 EAST
WASHINGTON, DC 20005

EXAMINER
TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
1714	

DATE MAILED: 04/19/2005

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER
	0419

DATE MAILED:

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

Commissioner for Patents

In response to the Petition requesting a restart in a period for reply to an Office Action, it is agreed that since the Office Action mailed 11/29/04 was sent to an address different from the one set forth in the Transmittal Letter of 7/16/03, the Petition is granted. The undersigned has asked his LIE to correct the address in Palm so that future communications are directed to the proper address.

Vasu Jagannathan
Vasu Jagannathan
SPE
Art Unit: 1714

23 DEC 2003

#3

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ALEXANDRIA, VA 22313-1450
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Paul Teng
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, New York 10036

In re Application of:	:	
WANG ET AL.	:	DECISION ON
Application No.: 10/466,443	:	PETITION
PCT No.: PCT/US01/43226	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 20 November 2001	:	
Priority Date: 24 November 2000		
Docket No. 2692/63683-PCT-US	:	

For: DIAGNOSIS METHOD AND ULTRASOUND INFORMATION DESPLAY SYSTEM THEREFOR :

This is in response to the petition filed 16 July 2003 under 37 CFR 1.137 (b) to revive the above-identified abandoned application for "unintentional" delay.

BACKGROUND

On 20 November 2001, applicants filed international application PCT/US01/43226, which claimed priority to an earlier application, filed 24 November 2000. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 24 May 2003.

On 16 July 2003, the present petition was submitted. This petition further includes an authorization to charge Deposit Account No. 03-3125 the amount of basic national fee of $375.00, and petition fee of $650.00 based on the applicants' claimed small entity, and a Declaration executed by the inventor as required by 35 U.S.C.371 (c)(4).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition fee required by 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, and (4) a terminal disclaimer with disclaimer fee (only for utility and plant applications filed before 08 June 1995).

Regarding items (1) and (2), applicants furnished the U.S. Basic National Fee of $375.00 and petition fee of $650.00 payable via counsel's Deposit Account No. 03-3125.

Regarding item (3), the petition includes a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Regarding item (4), because applicants' filing date of 20 November 2000 is after 08 June 1995, the requirement of a terminal disclaimer with disclaimer fee is not applicable in this case.

Accordingly, applicants have satisfied each of the requirements of 37CFR1.137(b).

A surcharge of $65.00 for submitting the Declaration later than the 30 months of the priority date will be charged to the counsel's Deposit Account No. 03-3125.

CONCLUSION

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

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

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

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200 S. WACKER DR
25TH FLOOR
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Patent No. 6,985,763 :
Issued January 10, 2006 :
Application No. 10/466,447 : ON PETITION
Filed: February 20, 2004 :
Attorney Docket Number: 2025.65899 :

This is a decision on the petition, filed March 16, 2006, under 37 CFR 1.322, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the front of the Patent.

The petition is **DISMISSED**.

The petition, claims that it was USPTO error that assignment data regarding a second inventor was not included on the face of the patent and thus requests that a certificate of correction be issued to include, The General Hospital Corporation.

Assignment data printed on the patent is based solely on the information so supplied on the Issue Fee Transmittal Form (PTOL-85B). A review of the record indicates that the Issue Fee Transmittal Form (PTOL-85B) submitted September 22, 2005 only included Tufts University as an 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.

---

[1] *See* Official Gazette of June 22, 2004

Although the copy of the recorded assignment reflects that The General Hospital Corporation is an assignee of an undivided one half interest in the patent identified above it is not the responsibility of the USPTO to include assignee information on the face of the patent that is not included on the PTOL-85B. The petition therefore is not in compliance with 37 CFR §§ 1.323 and 3.81(b) and thus is not grantable.

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. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision.

At the time a proper request with the proper fees complies with the provisions of 37 CFR 3.81(b) and 37 CFR 1.323, it would be appropriate for a certificate of correction to issue.

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
Office of Petitions

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

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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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25TH FLOOR
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Patent No. 6,985,763 :
Issued January 10, 2006 :
Application No. 10/466,447 : ON PETITION
Filed: February 20, 2004 :
Attorney Docket Number: 2025.65899 :

CORRECTED DECISION[1]

This is a decision on the petition, filed March 16, 2006, under 37 CFR 1.322, which is being treated as a request under 37 CFR 3.81(b)[2] to correct the assignee's name on the front of the Patent.

The petition is **DISMISSED**.

The petition, claims that it was USPTO error that assignment data regarding a second inventor was not included on the face of the patent and thus requests that a certificate of correction be issued to include, The General Hospital Corporation.

Assignment data printed on the patent is based solely on the information so supplied on the Issue Fee Transmittal Form (PTOL-85B). A review of the record indicates that the Issue Fee Transmittal Form (PTOL-85B) submitted September 22, 2005 only included Tufts University as an 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]Decision erroneously mailed September 6, 2006 to an incorrect address which was returned undeliverable.

[2]See Official Gazette of June 22, 2004

§ 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.

Although the copy of the recorded assignment reflects that The General Hospital Corporation is an assignee of an undivided one half interest in the patent identified above it is not the responsibility of the USPTO to include assignee information on the face of the patent that is not included on the PTOL-85B. The petition therefore is not in compliance with 37 CFR §§ 1.323 and 3.81(b) and thus is not grantable.

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. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision.

At the time a proper request with the proper fees complies with the provisions of 37 CFR 3.81(b) and 37 CFR 1.323, it would be appropriate for a certificate of correction to issue.

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
Office of Petitions

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

27 MAY 2004

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

EXXONMOBIL CHEMICAL COMPANY
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149

In re Application of:	:	
DOMINE, Joseph, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/466,454	:	(37 CFR 1.181)
PCT No.: PCT/US02/01281	:	
International Filing Date: 18 January 2002	:	
Priority Date: 19 January 2001	:	
Atty Docket No.: 2001B004A/2	:	
For: HOT MELT ADHESIVES	:	

This decision is issued in response to the facsimile submission filed by applicants on 11 May 2004, treated herein as a petition under 37 CFR 1.181 to confirm the 03 February 2004 submission of an executed declaration and surcharge payment. No petition fee is required.

BACKGROUND

On 18 January 2002, applicants filed international application PCT/US02/01281 which claimed a priority date of 19 January 2001 and which designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 19 July 2003.

On 16 July 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 21 April 2004, the DO/EO/US mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 was required.

On 11 May 2004, applicants filed by facsimile the petition considered herein. The petition asserts that applicants filed, via facsimile on 03 February 2004, an executed declaration, accompanied by the $130 surcharge for filing the declaration later than thirty months after the priority date. The petition includes a copy of the seven page submission filed 03 February 2004 (including the executed declaration), a copy of applicants' facsimile confirmation report confirming a seven page transmission on 03 February 2004, and a copy of the "Auto-Reply Facsimile Transmission" confirming receipt by the USPTO of a seven page transmission on 03 February 2004.

DISCUSSION

Based on applicants' statements in the present petition, the attached facsimile confirmation report and "Auto-Reply Facsimile Transmission" (both of which confirm a seven page transmission to the USPTO on 03 February 2004, and both of which include a condensed version of applicants' cover sheet, which itemizes the submission, including the declaration), and internal USPTO records which indicate receipt of the $130 surcharge payment on 03 February 2004, it is concluded that the seven page submission attached to the present petition was originally filed by applicants on 03 February 2004. A review of these materials confirms that the submission included an executed declaration in compliance with 37 CFR 1.497.

The Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 21 April 2004, based as it was on applicants' purported failure to file a declaration acceptable under 37 CFR 1.497, is appropriately vacated.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The seven page submission attached to the present petition, including the executed declaration, is treated as having been filed on 03 February 2004.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 21 April 2004 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 03 February 2004.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050725

DATE : July 25, 2005

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 6,842,599

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Arthur T. Grimley **Art Unit** 2852

21 SEP 2004

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ALEXANDRIA, VA 22313-1450
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David J. French
P.O. Box 2486, Stn. "D"
Ottawa, ON K1P 5W6
CANADA

In re Application of	:	
Sakno	:	
Application No. 10/466,476	:	DECISION ON
PCT No.: PCT/CA02/00062	:	
Int. Filing Date: 16 January 2002	:	PETITION UNDER
Priority Date: 16 January 2001	:	
Atty. Docket No.: SAKNO-05.PCT/US	:	37 CFR 1.137(b)
For: Firestop Coupling For Penetration	:	
Of Building Separations	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 27 June 2004.

BACKGROUND

This international application was filed on 16 January 2002, claimed an earliest priority date of 16 January 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 25 July 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 16 July 2003. On 16 July 2003, applicant filed *inter alia* the basic national fee.

On 06 October 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors, a surcharge under 37 CFR 1.492(e), and additional claims fees.

On 04 May 2004, applicant filed a response to the Notification of Missing Requirements.

DISCUSSION

Review of the record reveals that the response filed on 04 May 2004 included an executed declaration of the inventor, a surcharge under 37 CFR 1.492(e), and the $45.00 in claims fees required by the Notification of Missing Requirements mailed on 06 October 2003. As such, all of the requirements of the Notification of Missing Requirements were satisfied by the response filed on 04 May 2004. Further review of the record reveals no other outstanding Office requirement.

DECISION

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

The $1005.00 small entity fee for a five-month extension of time is being charged to counsel's Deposit Account No. 50-1669, as authorized by the petition.

A Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed on 30 June 2004.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

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OFFICE OF PETITIONS

David J French
Station D
P.O. Box 2486
Ottawa, Canada K1P 5W6

In re Application of	:	
Michael SAKNO	:	
Application No. 10/466,476	:	DECISION ON PETITION
Filed: January 16, 2002	:	TO WITHDRAW
Attorney Docket No. SAKNO-05.PCT/US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 19, 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 David J. French, the sole attorney of record.

David J. French has been withdrawn as attorney or agent of record.

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

All future correspondence will be directed to the first named inventor Michael P. Sakno at the address indicated below.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Michael P. Sakno
2 Muriel Avenue
Ontario, CA M4J 2X8

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Charles Guttman
Proskauer Rose
1585 Broadway
Patent Department Room 17-25
New York NY 10036-8299

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OFFICE OF PETITIONS

In re Application of
SPRAKEL
Application No.: 10/466,480
Attorney Docket No.: 20496-392

: DECISION on PETITION
:
: UNDER 37 CFR 1.137(b)
:

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the drawings in a timely manner in reply to the Notice of Allowance mailed December 27, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on March 27, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the required reply in the form of revised drawings responsive to the Notice of Allow ability, (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the drawings are accepted as having been unintentionally delayed.

The application is being referred to Publishing Division.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3286.

Cynthia M. Kratz
Attorney Advisor

02 MAR 2004

#6

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Paul K. Legaard
COZEN O'CONNER, P.C.
1900 Market Street
Philadelphia, PA 19103-3508

In re Application of	:	
RAMAN, Amala *et al*	:	
Application No.: 10/466,495	:	
PCT No.: PCT/GB02/00158	:	
Int. Filing Date: 15 January 2002	:	**COMMUNICATION**
Priority Date: 16 January 2001	:	
Attorney Docket No.: BTG0009-100	:	
For: TREATMENT OF SKIN DISORDERS	:	

This communication is in response to the declaration submitted on 30 January 2004.

BACKGROUND

On 06 November 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a signed oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 30 January 2004, applicants filed response to the Form PCT/DO/EO/905 which included, *inter alia*, an executed declaration, the $130.00 surcharge fee, a one-month extension and fee and authorization to charge any additional fees to Deposit Account No. 50-1275.

DISCUSSION

A review of the declaration filed 30 January 2004, shows that it was signed by all three inventors listed on the international publication. However, the first named inventor listed her name as Amala Soumyanath on the declaration, rather than the way it appears on the international publication, *i.e.*, Amala Raman.

Counsel has not provided an explanation regarding the name change and there is no record of a name change pursuant to PCT Rule 92*bis* in the record. A check with the International Bureau verifies that the name of the applicant has not changed but remains Amala Raman.

If the inventor changed her name legally, a petition under 37 CFR 1.182 is

required. Section 605.04(c) of the MPEP explains this procedure and states, in part:

> The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

If, on the other hand, the inventor has not legally changed her name, a new declaration signed using the name listed on the international publication for each inventor is needed, or counsel must provide an adequate explanation regarding the change such as a transliteration error. *See* § 201.03 MPEP.

CONCLUSION

Applicants must provide a proper response within **ONE (1) MONTH** from the mail date of this communication, or any time remaining in the Form PCT/DO/EO/905, whichever is longer.

Failure to submit the required reply in the time allotted will result in the **ABANDONMENT** of this application.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

09 AUG 2004

#8

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Paul K. Legaard
COZEN O'CONNER, P.C.
1900 Market Street
Philadelphia, PA 19103-3508

In re Application of	:	
SOUMYANATH, Amala *et al*	:	
Application No.: 10/466,495	:	
PCT No.: PCT/GB02/00158	:	
Int. Filing Date: 15 January 2002	:	**DECISION**
Priority Date: 16 January 2001	:	
Attorney Docket No.: BTG0009-100	:	
For: TREATMENT OF SKIN DISORDERS	:	

This decision is in response to the "Petition Under 37 CFR §1.182" submitted on 31 March 2004.

BACKGROUND

On 02 March 2004, a communication was mailed concerning the declaration filed 30 January 2004. The first-named joint inventor listed her name differently than is recorded on the international publication. Applicants were given one month, or any time remaining in the Form PCT/DO/EO/905, whichever is longer to reply.

On 31 March 2004, applicants filed the instant petition which was accompanied by, *inter alia*, an "Affidavit of Amala Soumyanath," a copy of a marriage license and authorization to charge the $130.00 petition fee to Deposit Account No. 50-1275.

DISCUSSION

MPEP § 605.04(c) lists the procedures required to petition to change the name of an inventor and states, in part:

> The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Here, applicants provided an affidavit recording the change of name of Amala Raman to Amala Soumyanath and signed by the co-inventor using both names. Ms. Soumyanath declares that the name change was as a result of marriage. A copy of a marriage license from the Oregon Department of Human Services was provided. The petition fee of $130.00 has been charged to counsel's Deposit Account as authorized.

This is sufficient for a grantable petition.

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.182 to change the name of the joint inventor is hereby **GRANTED**.

The declaration filed 30 January 2004 now complies with the requirements of 37 CFR 1.497(a) and (b).

The application has an international filing date of 15 January 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 30 January 2004.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

17 MAY 2004

#3

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FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

In re Application of	: DECISION ON
Gillet et al	:
Application No.: 10/446,501	:
PCT No.: PCT/GB01/05347	: PETITION
Int. Filing Date: 03 December 2001	:
Priority Date: 01 December 2000	:
Attorney's Docket No.: 09347-013US1	: UNDER 37 CFR 1.137(b)
For: LIBRARY DESIGN SYSTEM AND	:
METHOD	:

This decision is in response to applicants' "Petition To Revive Application Abandoned Under 37 CFR §1.137(b)," filed on 17 July 2003.

BACKGROUND

On 03 December 2001, this international application was filed, claiming an earliest priority date of 01 December 2000.

A Demand electing the United States was filed in this international application on 23 May 2002. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 was 01 June 2003.

On 17 July 2003, applicants filed the instant petition under 37 CFR 1.137(b) and a Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee, and executed declaration.

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01 FC:2617 65.00 DA

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Applicants' statement that "the entire period of delay was unintentional" is being construed as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

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

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

DECISION

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

The required fee of $65.00 (the surcharge under 1.492(e) for late filing of the declaration) has been charged to Deposit Account No.: 06-1050 as authorized in the petition.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **17 July 2003**.

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

23 SEP 03

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Greigg & Greigg PLLC
1423 Powhatan Street
Unit One
Alexandria, VA 22314

In re Application of	:	
Baumann et al.	:	
US Application No.: 10/466,509	:	
PCT Application No.: PCT/DE01/03597	:	**DECISION ON PETITION**
International Filing Date: 19 September 2001	:	**UNDER 37 CFR 1.181**
Priority Date: 19 September 2000	:	
Attorney's Docket No.: R.38772	:	
For: DISK BRAKE	:	

This decision concerns the communication filed on 20 June 2003, forwarding copies of national stage papers purportedly filed on 19 March 2003. The communication is being properly treated as a petition under 37 CFR 1.181 to accept the national stage submission as filed on 19 March 2003.

BACKGROUND

On 19 September 2001, Applicants filed international application PCT/DE01/03597, which claimed priority of an earlier application filed on 19 September 2000. A copy of the international application, in German, was communicated from the International Bureau to the USPTO on 28 March 2002. The period for paying the basic national fee is 30 months and ended at midnight on 19 March 2003.

The USPTO has no record of receipt of the 19 March 2003 national stage submission.

DISCUSSION

The petition is accompanied by a postcard receipt date-stamped by the USPTO. The postcard indicates that on 19 March 2003, for this application, the USPTO received, *inter alia*, a Transmittal Letter (Form PTO-1390) including deposit account authorization; an English translation of the international application; an unexecuted declaration; and a preliminary amendment. The petition further indicates that a copy of each of the documents previously filed on 19 March 2003 is enclosed with the petition.

The petition is sufficient to establish that the national stage documents submitted therewith were filed in the USPTO on 19 March 2003. In addition, the Form PTO-1390 authorizes the

USPTO to charge the $900 basic national fee required by 35 U.S.C. 371 (c)(1) and 37 CFR 1.492(a)(5) to Deposit Account No. 07-2100.

CONCLUSION

For reasons above, the petition is thus **GRANTED**.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including 1) treating the copy of the national stage papers accompanying the instant petition as filed on 19 March 2003; and 2) mailing of a Notification of Missing Requirements under 35 U.S.C. 371, requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b), and the surcharge under 37 CFR 1.492(e).

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

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HONIGMAN MILLER SCHWARTZ & COHN LLP
38500 WOODWARD AVENUE
SUITE 100
BLOOMFIELD HILLS MI 48304-5048

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OFFICE OF PETITIONS

In re Application of	:	
Twardawski, et al.	:	
Application No. 10/466,515	:	DECISION DISMISSING
Filed: November 24, 2003	:	PETITION
Attorney Docket No. 209593-81542	:	
FOR: LOCKING PLUG-IN CONNECTION DEVICE		

This is a decision on the petition entitled, "PETITION TO THE COMMISSIONER UNDER 37 CFR 1.183," filed November 7, 2005 (certificate of mailing date November 3, 2005), requesting refund of fees paid on August 11, 2005 in connection with the above-identified application. The petition will be treated under 37 CFR 1.181 and 1.183.

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

The petition under 37 CFR 1.183 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. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A final Office action was mailed on February 8, 2005. On April 21, 2005 applicants filed an amendment after final that failed to place the application in prima facie condition for allowance, as was indicated in the April 27, 2005 Advisory Action. On May 4, 2005 applicants filed an amendment after final that failed to place the application in prima facie condition for allowance, as was indicated in the May 16, 2005 Advisory Action. On May 24, 2005, applicants filed an amendment after final and a one month extension of time.

When applicants did not receive any communication from the Office regarding whether or not the May 24, 2005 amendment after final placed the application in prima facie condition for allowance, applicants filed a $500.00 Notice of Appeal and a $900.00 three month extension of time on August 11, 2005.

Petitioners request a refund of the fees paid on August 11, 2005 and the petition fee because they contend that the fees were paid due to error on the part of the USPTO. Petitioners contend that the examiner should have promptly informed petitioners that the application was allowed. In this manner, the additional filings and expenditures would not have been necessary.

Petitioners are reminded that the applicable statute, 35 U.S.C. 42(d), authorizes the Commissioner to refund "any fee paid by mistake or any amount paid in excess of that required." Thus the USPTO may refund: (1) a fee paid when no fee is required (*i.e.*, a fee paid by mistake), or (2) any fee paid in excess of the amount of the fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943) (the statutory authorization for the refund of fees is applicable only to a mistake relating to the fee payment, and not the underlying action). 37 CFR 1.26(a)

The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. Petitioners purchased a three month extension of time and paid the Notice of Appeal fee as an insurance policy in case consideration of the May 24, 2005 Amendment did not result in the case being allowed. 37 CFR 1.116 and 1.135(b) are clear that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal. Petitioners were acting as prudent practitioners when they purchased a three month extension of time and paid the Notice of Appeal fee. Such conscientious patent practice is not a mistake within the meaning of the aforementioned statute and regulation that warrants a refund.

Petitioner is reminded that the word "shall" appears in 35 U.S.C. § 41(a)(6)(A) pertaining to collection of a fee upon the filing of a Notice of Appeal with the PTO and in 35 U.S.C. § 41(a)(8)(C) pertaining to three month extensions of time. It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, then strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991). That is, it is mandatory that the Commissioner charge, and the applicant pay, the fees specified by statute upon presentation of a request for a service by the PTO. See BEC Pressure Controls Corp. v. Dwyer Instruments, Inc., 380 F.Supp. 1397, 1399, 182 USPQ 190, 192 (N.D. Ind. 1974). The language of the statute does not permit the Commissioner any discretion with respect to charging the fees set forth therein. Id.

The fees were properly charged and will not be refunded. The petition fee of $400.00 will be retained.

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

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

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

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

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

E. Shirene Willis

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

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

JACKSON WALKER LLP
901 MAIN STREET
SUITE 6000
DALLAS TX 75202-3797

COPY MAILED

JUN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Jackson, Nicholas	:	
Application No. 10/466,533	:	ON PETITION
Filed: December 18, 2003	:	
Attorney Docket No. 58496.US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 7, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

Petitioner requested a refund of the 3-month extension of time fee submitted on January 8, 2007. However, petitioner was inadvertently charged an additional 3-month extension of time fee on May 7, 2007. The second extension of time fee will be credited to petitioner's deposit account. The Technology Center will determine if the first extension of time fee should be refunded in due course.

This matter is being referred to Technology Center 1700 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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: 04/23/08

Patent No. : 7294257 B2
Ser. No. : 10/466,533
Inventor(s) : JACKSON, NICHOLAS
Issued : 11/13/07
Title : **WATER FILTER**
Docket No. : **58496.US**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-305-5358 or (703) 308-9390 #112

JACKSON WALKER LLP
901 MAIN STREET
SUITE 6000
DALLAS TX 75202-3797

LMN

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LAW OFFICE OF ROBERT C. KLINGER
2591 DALLAS PARKWAY, SUITE 300
FRISCO, TX 75034

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. **7,294,257**	:	
Issue Date: November 13, 2007	:	
Application No. 10/466,533	:	DECISION ON PETITION
Filed: December 18, 2003	:	UNDER 37 CFR 3.81(b)
Attorney Docket No. **58496.US**	:	

This is a decision on the petition filed May 20, 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**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7253. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

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NOV 18 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

In re Application of
Zhong Xue et al.
Application No. 10/466,549
Filed: July 24, 2003
For: CODING DISTORTION REMOVAL METHOD, VIDEO ENCODING METHOD, VIDEO DECODING METHOD, AND APPARATUS AND PROGRAM FOR THE SAME

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 8, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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

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JUN 23 2004
OFFICE OF PETITIONS

Applicant: Wastijn et al.
Appl. No.: 10/466,550
Filing Date: September 4, 2003
Title: DIESEL EXHAUST FILTER SYSTEM WITH ELECTRICAL REGENERATION
Attorney Docket No.: 016782-0287
Pub. No.: US 2004/0040268 A1
Pub. Date: March 4, 2004

This is a decision on the request for correction of patent application publication under 37 CFR 1.221(b), which was received on March 17, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the assignee information (N.V. BEKAERT S.A.) is missing from the front page of the patent application publication.

Applicant argues that the assignee information was provided on an application data sheet and on the assignment papers filed with the application. Applicant argues that the listing of an assignee in a patent publication is highly material information because it puts the public on notice as to who is seeking exclusive rights in certain subject matter.

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 noted by requestor is an Office error, but it is not a material mistake as required under 37 CFR 1.221(b). The failure to provide the assignment information on the front page of the patent application publications does 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

[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).

enforce upon issuance of a patent. Furthermore, the assignment of a particular patent or published patent application publication frequently changes and thus the current assignees are not always listed on the document.

On October 15, 2003, a Filing Receipt was mailed by the Office, which failed to list the assignment information provided by applicant. To avoid this type of problem in the future, applicant's representative should make a request for a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

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

Any request for republication under 37 CFR 1.221(a), should 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

The application will be examined in due course.

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

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

09 MAR 2005

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Alston & Bird, LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re Application of	:	
Fakhfakh et al.	:	
Application No.: 10/466,566	:	
PCT No.: PCT/FR02/00140	:	
Int. Filing Date: 15 January 2002	:	DECISION
Priority Date: 17 January 2001	:	
Attorney Docket No.: 033339/266980	:	
For: Substituted Quinolines For The Treatment Of	:	
Protozoan And Retrovirus Co-Infections	:	

This is a decision on the petition to withdraw the notification of abandonment filed on 29 November 2004.

BACKGROUND

This international application was filed on 15 January 2002 and claimed a priority date of 17 January 2001. The International Bureau transmitted a copy of the published international application to the USPTO on 25 July 2002. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 17 July 2003. On 16 July 2003, applicants filed *inter alia* the basic national fee.

On 29 October 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors.

On 24 November 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this application had become abandoned for failure to timely reply to the Form PCT/DO/EO/905 mailed on 29 October 2003.

DISCUSSION

Applicants request that the Notification of Abandonment be withdrawn because counsel allegedly "filed a Transmittal Letter, Declaration and Assignment on July 29, 2003." In support of this assertion, counsel has provided what are represented as copies of the Transmittal Letter and declaration as originally filed, and a copy of a return postcard receipt itemizing *inter alia* the transmittal letter and declaration, and stamped as "Rec'd PCT/PTO 29 JUL 2003." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the

PTO of all the items listed thereon on the date stamped thereon by the PTO." Pursuant to that practice, the copies of the transmittal letter and declaration accompanying the instant petition are being accepted as copies of the papers originally filed on 29 July 2003. As such, it would be appropriate to conclude that the mailing of the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 29 October 2003 and the subsequent mailing of the Notification of Abandonment (Form PCT/DO/EO/909) on 24 November 2004 were inappropriate. Accordingly, said Notification of Missing Requirements and said Notification of Abandonment are hereby **VACATED**.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **29 July 2003**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

22 JAN 2004

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Ivan S. Kavrukov, Esq.
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, New York 10036

In re Application of Wang et al.
US Application No.: 10/466,568
PCT Application No.: PCT/US01/43244
International Filing Date: 20 November 2001
Priority Date: 24 November 2000
Attorney's Docket No.: 2692/63684-PCT-US
For: METHOD AND SYSTEM FOR INSTANT BIOPSY SPECIMEN ANALYSIS

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

This decision is in response to the petition under 37 CFR 1.137(b), filed by express mail on 16 July 2003.

On 20 November 2001, Applicant filed international application PCT/US01/43244, which claimed priority of U.S. provisional application 60/252,942, filed on 24 November 2000. The period for paying the basic national fee is 30 months and ended at midnight on 24 May 2003.

The basic national fee was not paid on or before 24 May 2003. The international application became abandoned as to the United States on 25 May 2003.

The petition encloses:

(1) A transmittal letter for entry into the national stage in the United States;

(2) Authorization to charge Deposit Account No. 03-3125 the amount of the basic national fee ($426) and petition fee ($650);

(3) A statement to the effect that the entire delay in filing the required reply from the due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

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

The petition is thus **GRANTED**.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notification of Missing Requirements (PCT/DO/EO/905) indicating that an oath or declaration of the inventors and late surcharge are due.

Boris Milef
PCT Legal Examiner
PCT Legal Office

David O. Reip
PCT Legal Detailee
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

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30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Semyon A. Shimanovich, et. al. :
Application No. 10/466,584 :
Filed: February 2, 2004 :
Attorney Docket No. A-34172-PCT-USA :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed April 13, 2004, to change the order of the inventors.

The petition is **GRANTED**.

The order of inventors will be changed as follows:

1. Semyon A. Shimanovich
2. Christian Meyer

The above-identified application is being referred to Technology Center Art Unit 1755, to await the response to the non-final Office action mailed August 18, 2004.

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

Enclosure: Corrected Filing Receipt

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SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P.O. BOX 1539
KING OF PRUSSIA, PA 19406-0939

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OFFICE OF PETITIONS

In re Application of	:	
Marcus A. Semones	:	
Application No. 10/466,585	:	ON PETITION
Filed: July 18, 2003	:	
Attorney Docket No. P51222	:	

This is a decision on the petition, filed by facsimile transmission on November 1, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is "Smithkline Beecham Corporation" and that an incorrect assignee's name was unintentionally included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to "Smithkline Beecham Corporation".

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

[1] *See* Official Gazette of June 22, 2004

> under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

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

A review of Office database assignment records reflects that an assignment to "Smithkline Beecham Corporation" has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that "Smithkline Beecham Corporation" was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth "Sharp Kabushiki Kaisha", as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

05 DEC 2003

#3

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ALEXANDRIA, VA 22313-1450
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Crowell & Moring LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

In re Application of HANCOCK et al	:	
U.S. Application No.: 10/466,598	:	
PCT Application No.: PCT/EP01/14857	:	
Int. Filing Date: 12 December 2001	:	DECISION
Priority Date Claimed: 16 December 2000	:	
Attorney Docket No.: 038819.52571US	:	
For: METHOD OF ENHANCING THE	:	
EFFICIENCY OF DATA FLOW IN	:	
COMMUNICATION SYSTEMS	:	

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR §1.137(b)" filed 17 July 2003.

BACKGROUND

On 12 December 2001, applicant filed international application PCT/EP01/14857, which claimed priority of an earlier United Kingdom application filed 16 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 20 June 2002. The thirty-month period for paying the basic national fee in the United States expired on 16 June 2003.

International application PCT/EP01/14857 became abandoned as to the United States for failure to timely pay the basic national fee.

On 17 July 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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

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

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

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

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

25 MAY 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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

Henry Tang
Baker Botts, L.L.P.
30 Rockefeller Plaza
New York, NY 10112

In re Application of	:	
SHIMANOVICH et al.	:	
Application No.:10/466,613	:	
PCT Application No.: PCT/US01/28024	:	DECISION ON
International Filing Date: 07 September 2001	:	
Priority Date: 01 March 2001	:	PETITION
Attorney Docket No.: A34077-PCT-USA	:	
For: ADMIXTURE TO IMPROVE CONSOLIDATION OF CEMENT COMPOSITION WITH LOW MOISTURE CONTENT	:	UNDER 37 CFR 1.182

Applicants' "Petition To Change Inventor Order Under 37 CFR 1.182," filed in the United States Patent and Trademark Office (PTO) on 12 April 2004 is **DISMISSED** as moot.

BACKGROUND

On 07 September 2001, applicants filed international application PCT/US01/28024.

On 18 July 2003, applicants filed, *inter alia*, a transmittal letter to the United States Designated/Elected Office (Form PTO 1390), identifying as Inventors/Applicants, SIMANOVICH, SEMYON A and MEYER, CHRISTIAN (in that order).

On 12 April 2004, applicants filed the instant petition under 37 CFR 1.182 to have the order of the inventors' names changed to be MEYER, CHRISTIAN and SHIMANOVICH, SEMYON A.

DISCUSSION

The order of names of joint inventors is taken from the order in which the typewritten names of the inventors appear in the executed original oath or declaration. As yet, no oath or declaration has been received by the United States Patent and Trademark Office for this application. Therefore, inasmuch as an oath or declaration has apparently not been filed, a petition to change the order of inventor ship is moot. However, when Applicant does file an oath or declaration, if the order of inventor ship is determined by Applicant not to be as desired, Applicant may again want to submit a petition under 37 CFR 1.182.

CONCLUSION

The petition to change the order of inventor ship under 37 CFR 1.182 is **DISMISSED** as moot.

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

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Jim Foster
Detail
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

07 APR 2005

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Douglas H. Pauley
Pauley Petersen Kinne & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195

In re Application of KREILING, et al. U.S. Application No.: 10/466,617 PCT No.: PCT/EP02/04234 Int. Filing Date: 17 April 2002 Priority Date: 20 April 2001 Attorney Docket No.: VO-643 For: SWITCHGEAR CABINET MONITORING SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Request For Withdrawal of Notification of Abandonment And Conditional Petition to Revive an Unintentionally Abandoned Patent Application" filed 28 December 2004 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 17 April 2002, applicant filed international application PCT/EP02/04234, which claimed priority of an earlier application filed 20 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 31 October 2002. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 20 October 2003.

On 18 July 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application into English; an assignment document; a first preliminary amendment and an executed declaration of the inventors.

On 21 October 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 15 October 2004, applicant was mailed a NOTIFICATION OF ABANDONMENT

(Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 21 October 2003 within the time period set therein and that above-identified application was abandoned as to the United States.

On 28 December 2004, applicant filed the present petition to withdraw the holding of abandonment.

DISCUSSION

A review of the application file finds the originally filed declaration contained therein. It is stamped "DT14 Rec'd PCT/PTO 18 JUL 2003." Thus, it is clear that as applicant claims in the present filing, the executed declaration was filed with the original national stage papers on 18 July 2003. An examination of the declaration finds that it is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

The "Notification of Missing Requirements" (Form PCT/DO/EO/905) mailed 21 October 2003 is hereby **VACATED**.

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed on 15 October 2004 is hereby **VACATED**.

This application will be given an international application filing date of 17 April 2002 and a date of **18 July 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Jean et al.	:	
Application No. 10/466,619	:	ON PETITION
Filed: February 11, 2004	:	
Attorney Docket No. 14275.0002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 9, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office action mailed April 5, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 6, 2007. A Notice of Abandonment was mailed November 13, 2007.

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

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

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

The instant petition lacks item(s) (3).

The petition claims that Ms. Lucie Thomazo did not intend to abandon application 10/466,619. However, in Ms. Thomazo's declaration under item 3, Ms. Thomazo clearly states that she "mistakenly told my agent to abandon the above-mentioned application". It would appear that the action was intentional.

Where the applicant deliberately permits an application to become abandoned, the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b).

Further, the petition must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

If the instant petition is on the behalf of the assignee, petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed.

Petitioner may wish to pursue reinstatement of the patent under the unavoidable provisions of 37 CFR 1.137(a). A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); **(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR**

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

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

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 Joan Olszewski at (571) 272-7751.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/96 – Statement under 3.73(b)

PTO/SB/96 (01-08)
Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature	Date
Printed or Typed Name	Telephone Number
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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OFFICE OF PETITIONS

In re Application of	:	
Jean et al.	:	
Application No. 10/466,619	:	ON PETITION
Filed: February 11, 2004	:	
Attorney Docket No. 14275.0002	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed September 30, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office action mailed April 5, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 6, 2007. A Notice of Abandonment was mailed November 13, 2007.

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

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

The instant petition lacks item(s) (3).

The renewed petition claims that Ms. Lucie Thomazo did not intend to abandon application 10/466,619. However, in Ms. Thomazo's declaration under item 4, Ms. Thomazo clearly states

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

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

that she "mistakenly told my agent to abandon application docket number 345060". An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

Where the applicant deliberately permits an application to become abandoned, the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b).

Petitioner may wish to pursue reinstatement of the patent under the unavoidable provisions of 37 CFR 1.137(a). A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); **(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable**; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

Additionally, petitioner has now satisfied the assignment requirements under 37 CFR 3.73(b).

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

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Alexandria, VA 22314

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Jean et al.	:	
Application No. 10/466,619	:	ON PETITION
Filed: February 11, 2004	:	
Attorney Docket No. 14275.0002	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed December 22, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office action mailed April 5, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 6, 2007. A Notice of Abandonment was mailed November 13, 2007.

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

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

The instant petition lacks item(s) (3).

The current renewed petition includes a third declaration from Ms. Lucie Thomazo stating, "Thus the files which were necessary to reply to the letter from the US Patent Office dated April 5, 2007 were not available to me." Further, Ms. Thomazo states, "The company had then entered into advanced negotiations with the Ueni Medica company about this patent since September 2007. These negotiations resulted on December 18, 2007 in an Industrial Property right assignment."

In the second renewed petition claims that Ms. Lucie Thomazo did not intend to abandon application 10/466,619. However, in Ms. Thomazo's declaration under item 4, Ms. Thomazo clearly states

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

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

that she "mistakenly told my agent to abandon application docket number 345060". An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

Finally, in the first declaration Ms. Thomazo states "Mr. Rabhi instructed me not to abandon the above-mentioned patent application. As the President of LMD, I misunderstood the instruction I provided because I do not know a lot of things about patent prosecution, especially patent prosecution in the United States, and mistakenly told my agent to abandon the above-mentioned application."

Where the applicant deliberately permits an application to become abandoned, the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b).

Further, all three petitions fail to address the main issue as to the time the Final Rejection Office action was mailed on April 5, 2007 to it's abandonment October 6, 2007 and Notice of Abandonment mailed November 13, 2007 was indeed unintentional. The record raises questions as to whether the delay in responding to the Final Rejection Office action was, in fact, unintentional within the meaning of 35 USC 41 (a) (70 and 37 CFR 1.137 (b).

Petitioner has failed to provide copies of all notes, correspondence, and documents concerning this application and the steps taken surrounding the April 5, 2007 Final Rejection Office action. Petitioner has failed to provide an adequate explanation of why a petition to revive was not promptly filed upon learning of the abandonment. Statements are required from all persons involved with the application at the time it became abandoned. Petitioner must enumerate the steps taken to respond to the Office action and must state the dates and manner in which this was addressed. Statements from all persons who contributed to the delay are also required.

Petitioner may wish to pursue reinstatement of the patent under the unavoidable provisions of 37 CFR 1.137(a). A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); **(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable**; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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Alexandria, VA 22313-1450

By hand: Customer Window located at:

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401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
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Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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18400 Von Karman Ave.
Suite 800
Irvine, CA 92612

In re Application of LAU et al. U.S. Application No.: 10/466,651 PCT No.: PCT/US01/32569 Int. Filing Date: 18 October 2001 Priority Date: 06 April 2001 Attorney Docket No.: H26800 US-4780 For: LOW DIELECTRIC CONSTANT MATERIALS AND METHODS OF PREPARATION THEREOF	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 11 March 2004, which is being treated as a petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventor, Feng Quan Liu.

BACKGROUND

On 18 October 2001, applicants filed international application PCT/US01/32569 which claimed a priority date of 06 April 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 October 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 06 October 2003.

On 17 July 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 14 November 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 11 March 2004, applicants filed a petition under 37 CFR 1.47(a).

On 29 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 11 March 2004.

DISCUSSION

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

Regarding item (2) above, petitioner states that Feng Quan Liu has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition reveals that petitioner has not shown that a bona fide attempt was made to present the application papers (specification, claims, and drawings) to Feng Quan Liu. Petitioner states that "Feng Quan Liu is no longer employed by Honeywell and is refusing to sign the oath or declaration." However, petitioner fails to include evidence to demonstrate that the materials were actually received by the nonsigning inventor at his/her last known address. Where the Office is being asked to

accept the silence of the nonsigning inventor as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant. In cases where it is argued that the non-action of an inventor should be considered a refusal to cooperate it is especially important to provide proof of delivery of the papers, as well as, a firsthand statement of the preparation and mailing of the papers. Furthermore, it does not appear that the petitioner has first hand knowledge of all the facts.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, and drawings) were sent to Feng Quan Liu, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

Regarding item (3) above, a clear statement of the last known address of the nonsigning inventor has not been provided. In situations where an inventor does not execute the oath or declaration, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. (See MPEP §605.03)

As to Item (4), a review of the declaration filed on 11 March 2004 reveals that declaration is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes multiple duplicate sheets. It is unclear if the inventors were presented with only their signature page, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document filed 11 March 2004, which is improper. (See MPEP 201.03, Page 200-7)

For the reasons stated above, it would not be appropriate to accept the application without the signature of Feng Quan Liu under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

The Notification of Acceptance of Application mailed 29 March 2004 is hereby **VACATED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHALTER NEMER
18400 VON KARMAN AVENUE
SUITE 800
IRVINE, CA 92612

COPY MAILED

MAR 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Kreisler Lau et al	:	
Application No. 10/466,651	:	NOTICE OF WITHDRAWAL
Filed: March 11, 2004	:	FROM ISSUE
Attorney Docket No. H26800 US-4780	:	

The purpose of this communication is to inform you that the above-identified application, which has not received a patent number or an issue date, is being withdrawn from issue pursuant to 37 CFR 1.313(b)(1).

The application is being withdrawn from issue because the application has not met the requirements under 35 U.S.C. § 371. This withdrawal was requested by the Director of Office of PCT Legal Administration and Office of Petitions.

The issue fee is refundable upon written request. However, if 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.

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 Fee(s) Transmittal Form ***must*** *be completed and timely submitted to avoid abandonment.*

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

Frances Hicks
Petitions Examiner
Office of Petitions

MEMORANDUM

To: Office of Petitions

Fr: Charles Pearson
Director
Office of PCT Legal Administration
Office of Petitions

Da: March 05, 2007

Re: 10/466,651 (Withdrawal from Issue under 37 CFR 1.313(b))

It is requested that application number 10/466,651 be withdrawn from issue because the application has not met the requirements under 35 U.S.C. 371.

The issue fee has been submitted.

The withdrawal from issue is made at the request of the Director of the Office of PCT Legal Administration/Office of Petitions.

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

22 MAY 2007

Buchalter Nemer
18400 Von Karman Ave.
Suite 800
Irvine, CA 92612

In re Application of	:	
LAU et al.	:	
U.S. Application No.: 10/466,651	:	
PCT No.: PCT/US01/32569	:	
Int. Filing Date: 18 October 2001	:	DECISION ON PETITION
Priority Date: 06 April 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: H26800 US-4780	:	
For: LOW DIELECTRIC CONSTANT	:	
MATERIALS AND METHODS OF	:	
PREPARATION THEREOF		

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 01 May 2007, which is being treated as a renewed petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventor, Feng Quan Liu.

BACKGROUND

On 18 October 2001, applicants filed international application PCT/US01/32569 which claimed a priority date of 06 April 2001. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 06 October 2003.

On 17 July 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 14 November 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 11 March 2004, applicants filed a petition under 37 CFR 1.47(a).

On 29 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 11 March 2004.

In a decision dated 07 March 2007, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 08 March 2007, the United States Patent and Trademark Office withdrew the above-identified application from issue because the application had not met requirements under 35 U.S.C. 371.

On 01 May 2007, applicantsfiled the present renewed petition under 35 CFR 1.47(a).

DISCUSSION

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

Applicants here have submitted the appropriate petition fee. Item (1) is therefore satisfied.

Regarding item (2), the petition asserts that the nonsigning inventor has refused to execute the declaration. Before a refusal to execute the application can be claimed, section 409.03(d) of the MPEP requires that the nonsigning inventor be provided with a copy of the complete application, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Here, the evidence submitted to demonstrate Feng Quan Liu's refusal to execute the application papers is contained in the "Declaration of Facts (by Colleen Houston)" included in the petition, and the exhibits thereto. These materials provide the required firsthand statement regarding the delivery to the nonsigning inventor of a copy of the complete application, and the nonsigning inventor's refusal to execute the application, with documentary evidence supporting the statement. Item (2) is therefore satisfied.

Regarding item (3), applicants have provided the last known address of the nonsigning inventor. Accordingly, item (2) is therefore satisfied.

Regarding item (4), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

As stated in the previous "Decision on Petition," the declaration submitted on 11 March 2004 is not in compliance with 37 CFR 1.497. Specifically, the declaration appears to be a compilation; multiple copies of the same signature page (one executed by each of the seven inventors named thereon) has apparently been combined with a single copy of the first and last page of the declaration. Such compilation is impermissible (see MPEP § 201.03, page 200-7: "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration"). Accordingly, a declaration in compliance with 37 CFR 1.497 is still required. Item (4) is not satisfied.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Feng Quan Liu under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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P.O. Box 1450
Alexandria, VA 22313-1450
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06 JUL 2007

Buchalter Nemer
18400 Von Karman Ave.
Suite 800
Irvine, CA 92612

In re Application of		
LAU et al.	:	
U.S. Application No.: 10/466,651	:	
PCT No.: PCT/US01/32569	:	
Int. Filing Date: 18 October 2001	:	DECISION ON PETITION
Priority Date: 06 April 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: H26800 US-4780	:	
For: LOW DIELECTRIC CONSTANT	:	
MATERIALS AND METHODS OF	:	
PREPARATION THEREOF		

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 22 June 2007, which is being treated as a renewed petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventor, Feng Quan Liu.

BACKGROUND

On 18 October 2001, applicants filed international application PCT/US01/32569 which claimed a priority date of 06 April 2001. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 06 October 2003.

On 17 July 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 14 November 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 11 March 2004, applicants filed a petition under 37 CFR 1.47(a).

On 29 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 11 March 2004.

In a decision dated 07 March 2007, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 08 March 2007, the United States Patent and Trademark Office withdrew the above-identified application from issue because the application had not met requirements under 35 U.S.C. 371.

On 01 May 2007, applicants filed a renewed petition under 35 CFR 1.47(a). In a decision dated 22 May 2007, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 22 June 2007, applicants filed the present renewed petition under 35 CFR 1.47(a).

DISCUSSION

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

Applicants here have submitted the appropriate petition fee. Item (1) is therefore satisfied.

Regarding item (2), the petition asserts that the nonsigning inventor has refused to execute the declaration. Before a refusal to execute the application can be claimed, section 409.03(d) of the MPEP requires that the nonsigning inventor be provided with a copy of the complete application, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Here, the evidence submitted to demonstrate Feng Quan Liu's refusal to execute the application papers is contained in the "Declaration of Facts (by Colleen Houston)" included in the petition, and the exhibits thereto. These materials provide the required firsthand statement regarding the delivery to the nonsigning inventor of a copy of the complete application, and the nonsigning inventor's refusal to execute the application, with documentary evidence supporting the statement. Item (2) is therefore satisfied.

Regarding item (3), applicants have provided the last known address of the nonsigning inventor. Accordingly, item (3) is therefore satisfied.

Regarding item (4), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed declarations executed by seven of the eight inventors and including an unsigned signature box identifying the nonsigning inventor (Feng Quan Liu). This declaration is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (4) is therefore satisfied.

For the reasons stated above, it is appropriate to accept the application without the signature of Feng Quan Liu under 37 CFR 1.47(a) at this time.

CONCLUSION

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

The application will be given an international filing date of 18 October 2001 under 35 U.S.C. 363, and a date of 22 June 2007 under 35 U.S.C. 371(c).

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

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

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

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

31 MAR 2004

#6

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Robert L. Stearns
Howard and Howard Attorneys, P.C.
39400 Woodward Avenue, Suite 101
Bloomfield Hills, MI 48304

In re Application of KLAUS et al	:	
U.S. Application No.: 10/466,658	:	
PCT Application No.: PCT/DE02/00140	:	DECISION
Int. Filing Date: 18 January 2002	:	
Priority Date Claimed: 18 January 2001	:	
Attorney Docket No.: 71027-004	:	
For: SEAL FOR A CRANKSHAFT HOUSING	:	

This is in response to applicant's "Petition" filed 18 March 2004, which is being treated under 37 CFR 1.47(a).

BACKGROUND

On 18 January 2002, applicant filed international application PCT/DE02/00140, which claimed priority of an earlier Germany application filed 18 January 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 25 July 2002. The thirty-month period for paying the basic national fee in the United States expired on 18 July 2003.

On 18 July 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 16 October 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 18 March 2004, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by joint inventor Bernd Meixner on his own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Bendl Klaus refuses to sign the application papers. However, applicant has failed to adequately demonstrate that a bona fide attempt was made to present a copy of the application papers to Klaus for signature. Although the petition states that a copy of the application papers was delivered to Klaus on 20 January 2004, a copy of the cover letter has not been provided. Furthermore, an English language translation of the certified postal receipt has not been furnished. Applicant is advised that any document not in the English language will not be considered until an appropriate translation has been provided. In addition, applicant has not provided sufficient evidence of Klaus' purported refusal to sign. Applicant has apparently made only a single attempt by postal mail to secure Klaus' signature. Applicant has not furnished an affidavit by the person with firsthand knowledge of efforts to gain Klaus' cooperation, nor has applicant provided a copy of a letter to Klaus which requires a response by a specific date and which states that failure to respond will be deemed a refusal to sign. Moreover, applicant has not shown that any attempt was made to discuss the matter with Klaus via

telephone or electronic mail. Thus, it would be unreasonable to conclude at the present time that Klaus refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition fails to specifically state the last known of the nonsigning inventor.

CONCLUSION

Because applicant has failed to satisfy items (2) and (4) above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

10 AUG 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Robert L. Stearns
Howard and Howard Attorneys, P.C.
39400 Woodward Avenue, Suite 101
Bloomfield Hills, MI 48304

In re Application of KLAUS et al	:	
U.S. Application No.: 10/466,658	:	
PCT Application No.: PCT/DE02/00140	:	COMMUNICATION
Int. Filing Date: 18 January 2002	:	
Priority Date Claimed: 18 January 2001	:	
Attorney Docket No.: 71027-004	:	
For: SEAL FOR A CRANKSHAFT HOUSING	:	

This is in response to applicant's "Response to Petition Decision" filed 30 July 2004, including a declaration executed by Bendl Klaus.

The response is a proper reply to the decision mailed 31 March 2004.

The application has an International Filing Date under 35 U.S.C. 363 of 18 January 2002 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 30 July 2004.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this communication.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

08 MAR 2004

#5

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

William S Frommer Esq
Frommer Lawrence & Haug LLP
745 Fifth Avenue
New York NY 10151

In re Application of	:	
RICHTER et al.	:	DECISION ON
Application No.: 10/466,659	:	
PCT No.: PCT/IB02/00080	:	PAPERS
Int. Filing Date: 14 January 2002	:	
Priority Date: 19 January 2001	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 452010-2400	:	
For: IMPLANT	:	

This decision is in response to applicants' submission filed on 08 December 2003, which was accompanied by, *inter alia*, a declaration of inventors. A review of the Declaration reveals an indication that joint inventor Michael Edward Thomas is deceased. Applicants' submission with the indication that joint inventor Thomas is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 14 January 2002, applicant filed international application PCT/IB02/00080 which claimed a priority date of 19 January 2001 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 25 July 2002. The thirty-month period for paying the basic national fee in the United States expires at midnight on 21 July 2003 (19 July 2003 being a Saturday).

On 18 July 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of inventors.

On 08 December 2003, applicants filed the instant submission which included a declaration of inventors and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

DISCUSSION

The declaration filed 22 July 2003 fails to comply with 37 CFR 1.497(a)-(b). It is not clear whether the information below Gert Hendrik Jacobus Coetzee's name is his residence, mailing address, and citizenship, or if it is the residence, mailing address, and citizenship of

Michael Edward Thomas. In any event, the declaration does not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to the full name and citizenship of the deceased inventor (37 CFR 1.497(a)(3).

CONCLUSION

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

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

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

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

09 SEP 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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William S Frommer Esq
Frommer Lawrence & Haug LLP
745 Fifth Avenue
New York NY 10151

In re Application of	:	
RICHTER et al.	:	DECISION ON
Application No.: 10/466,659	:	
PCT No.: PCT/IB02/00080	:	PAPERS
Int. Filing Date: 14 January 2002	:	
Priority Date: 19 January 2001	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 452010-2400	:	
For: IMPLANT	:	

This decision is in response to applicants' "RESPONSE TO THE DECISION ON PAPERS UNDER 37 CFR 1.42" filed in the United States Patent and Trademark Office (USPTO) on 06 May 2004.

BACKGROUND

On 14 January 2002, applicant filed international application PCT/IB02/00080 which claimed a priority date of 19 January 2001 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 25 July 2002. The thirty-month period for paying the basic national fee in the United States expires at midnight on 21 July 2003 (19 July 2003 being a Saturday).

On 18 July 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of inventors.

On 08 December 2003, applicants filed a submission which included a declaration of inventors and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date. This submission with the indication that joint inventor Michael Edward Thomas is deceased was treated as a request for status under 37 CFR 1.42.

On 08 March 2004, a decision was mailed refusing applicants' request for status under 37 CFR 1.42. Specifically, it was noted that it was not clear whether the information below Gert Hendrik Jacobus Coetzee's name was his residence, mailing address, and citizenship, or if it was the residence, mailing address, and citizenship of Michael Edward Thomas and that the declaration did not include the residence, mailing address and citizenship of the person(s) signing

on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to the full name and citizenship of the deceased inventor (37 CFR 1.497(a)(3).

On 06 May 2004, applicants submitted the instant "RESPONSE TO DECISION ON PAPERS UNDER 37 CFR1.42" which was accompanied by a declaration of inventors.

DISCUSSION

The submissions filed 08 December 2003 and 06 May 2004 have been reviewed and have been found in compliance with 37 CFR 1.42. The declarations filed 08 December 2003 and 06 May 2004 taken together are in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **06 May 2004**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066 (until 30 September 2004)
Facsimile: (703) 308-6459 (until 30 September 2004)
Telephone: (571) 272-3301 (after 01 October 2004)
Facsimile: (571) 273-0459 (after 01 October 2004)

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Paper No.

MAILED

MAR 06 2009

OFFICE OF PETITIONS

PATENT CENTRAL LLC
Stephan A. Pendorf
1401 Hollywood Boulevard
Hollywood FL 33020

In re Application of	:	
Kurt Rau et al.	:	
Application No. 10/466,671	:	DECISION ON PETITION
Filed: July 21, 2003	:	PURSUANT TO
Attorney Docket No. 3827.117	:	37 C.F.R. § 1.181(A)
Title: DEVICE FOR ACTUATING A BENDING MAST IN A LARGE MANIPULATOR AND A LARGE MANIPULATOR COMPRISING SAID DEVICE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on December 18, 2008.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment, mailed March 27, 2008, which set an extendable period for reply of one month. A Change of Correspondence Address was received on June 14, 2008, and on September 30, 2008, both an Information Disclosure Statement (IDS) and copies of several foreign references were received. No further responses were received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on April 28, 2008. A notice of abandonment was mailed on December 15, 2008.

ANALYSIS

With this petition, Petitioner has alleged that a response was timely filed on April 22, 2008, and has included an Electronic Acknowledgement Receipt which evinces that a "Supplemental Response or Supplemental Amendment," "Claims," and "Applicant Arguments/Remarks Made in an Amendment" were received in the Office on "22-APR-2008."

The electronic file has been reviewed, and copies of both this response and the Electronic Acknowledgement Receipt have been located in the same.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

It is noted in passing that the notice of abandonment indicates:

> "[t]he applicant's reply was received on 06/14/08 (the Change of Correspondence Address) and the IDS filed on 9/30/2008, but they do not constitute a proper reply to the notice of non-compliant amendment mailed on 3/27/2008."

The notice of abandonment is silent as to the submission of April 22, 2008.

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

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the notice of non-compliant amendment of March 27, 2008 (the Amendment and Remarks filed on April 22, 2008) can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[1] All other inquiries

---

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

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

18 NOV 200

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Gordon & Jacobson, P.C.
65 Woods End Road
Stamford, CT 06905

In re Application of CLEMENT et al	:	
U.S. Application No.: 10/466,698	:	
PCT Application No.: PCT/GB01/05592	:	
Int. Filing Date: 18 December 2001	:	DECISION
Priority Date Claimed: 22 December 2000	:	
Attorney Docket No.: UDL-106	:	
For: LIGHT DELIVERY SYSTEM FOR	:	
IMPROVING THE APPEARANCE OF SKIN	:	

This is in response to applicant's "Petition to Revive National Stage Application Under 37 CFR 1.137(b)" filed 15 July 2003.

BACKGROUND

On 18 December 2001, applicant filed international application PCT/GB01/05592, which claimed priority of an earlier United Kingdom application filed 22 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 04 July 2002. The thirty-month period for paying the basic national fee in the United States expired on 22 June 2003.

International application PCT/GB01/05592 became abandoned as to the United States for failure to timely pay the basic national fee.

On 15 July 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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

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

With regard to item (3), the petition states, "The delay between the June 22, 2003 national stage deadline and the filing of this paper was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

23 SEP 2004

#6

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ALEXANDRIA, VA 22313-1450
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Greg F. Kaplun
Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, New York 10038

In re Application of
SINDERBY, Christer
Application No.: 10/466,699
PCT No.: PCT/CA02/00056
Int. Filing Date: 16 January 2002
Priority Date: 16 January 2001
Attorney Docket No.: 40128/00601
For: MYOELECTRICALLY ACTIVATED RESPIRATORY LEAK SEALING

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 30 July 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has submitted an executed declaration and power of attorney and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

Anthony Smith

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

27 MAY 2005

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Richard R. Michaud
McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford, CT 06103

In re Application of	:
HOLLAND-LETZ, Guenter	: DECISION ON
US Application No.: 10/466,701	:
PCT Application No.: PCT/DE01/04551	: PETITION TO
Int. Filing Date: 04 December 2001	:
Priority Date: 24 January 2001	: UNDER
Attorney Docket No.: 6400-36WOUS	:
For: DEVICE FOR TRANSPORTING	: 37 CFR § 1.10(e)
BANKNOTES IN A CASH DISPENSER	:

This decision is in response to applicant's "PETITION TO THE COMMISSIONER FOR EARLIER FILING DATE", filed 18 January 2005, which is being treated as a petition under 37 CFR § 1.10(e) to treat the copy of the application papers, accompanying applicant's petition, as having been filed on 18 July 2003.

BACKGROUND

On 04 December 2001, applicant filed international application number PCT/DE01/04551 designating the US and claiming priority to a prior German application filed 24 January 2001. Accordingly, the time period for entering the US national stage under 35 USC § 371 expired at midnight on 24 July 2003.

On 18 July 2003, the applicant filed a transmittal letter for entry into the US national stage under 35 USC § 371, which was accompanied by, inter alia, the basic national fee, an English translation of the application as filed, and a declaration of inventorship.

On 18 January 2005, applicant filed the present "PETITION TO THE COMMISSIONER FOR EARLIER FILING DATE" which is accompanied by, inter alia, a copy of the application papers filed under 35 USC § 371 on 18 July 2003. Applicant's petition is being treated as a petition under 37 CFR § 1.10(e) to treat the copy of the application papers, accompanying applicant's petition, as having been filed on 18 July 2003.

DISCUSSION

A review of the application file reveals that the original 35 USC § 371 papers filed by the applicant on 18 July 2003 were received by the Office have been placed in the application file. Accordingly, applicants petition under 37 CFR 1.10(e) is moot.

CONCLUSION

For the above reasons, the petition under 37 CFR § 1.10(e) is **DISMISSSED** as moot.

This application is being forwarded to the US Designated/Elected Office for further processing under 35 USC § 371.

Diana Oleksa
Special Programs Examiner
Office of PCT Legal Administration
Telephone: 571-272-3291

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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DIW Sep-05

WALTER H SCHNEIDER
21530 BEECHWOOD ROAD
CIRCLEVILLE OH 43113

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Patent No. 6,897,333	:	
Issued: 24 May, 2005	:	
Application No. 10/466,713	:	ON PETITION
Filed: 24 November, 2003	:	
For: A PROCESS FOR THE	:	
PREPARATION OF FIBRATES	:	

This is a decision on the petition under 37 CFR 1.182, filed on 23 June, 2005, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **DISMISSED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about 24 May, 2005, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

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

Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

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

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Carmen Patti Group , LLC
ONE NORTH LASALLE STREET
44TH FLOOR
CHICAGO IL 60602

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MAY 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Foo Tai wong	:	
Application No.10/466,714	:	DECISION ON PETITION
Filed: January 29, 2004	:	
Attorney Docket No. FGI-101	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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 August 22, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 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 Notice of Appeal; (2) the petition fee of 810.00; and (3) a proper 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 3721 for review of the appeal brief filed on April 28, 2009.

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/6/07

TO SPE OF : ART UNIT 3724

SUBJECT : Request for Certificate of Correction on Patent No.: 6923098

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

The last change indicated as Col. 16, line 22, claim 1, ~~[illegible]~~ can not be made as the line number and/or claim number is incorrect. Therefore, it is not clear ~~which~~ what change should made. Perhaps the applicant ment col 16, line 28, claim 9?

BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER

3724

SPE **Art Unit**

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D Brent Kenady
Wells St John
Suite 1300
601 West 1st Avenue
Spokane WA 99201-3828

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OFFICE OF PETITIONS

In re Patent No. 6,923,098 :
Issue Date: August 2, 2005 :
Application No. 10/466,718 :
Filed: July 18, 2003 :
Attorney Docket No. KE2-0179 :

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

In re Application of	:	
Andreas Hendrikus Maria De Vries et al.	:	
Application No. 10/466,723	:	DECISION ON PETITION
Filed: December 8, 2003	:	TO WITHDRAW
Attorney Docket No. 246152020300	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 30, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas Ciotti on behalf of all attorneys of record.

All attorneys/agents 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 October 13, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Andreas Hendrikus Maria De Vries**
Burg. Ceulenstraat 75
CR Maastricht, 6212
Netherlands

cc: **Mr. Bryan H. Davidson**
Nicon & Vanderhye P.C.
901 North Glebe Road
11th Floor
Arlington, VA 22203-1808

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/466,723	12/08/2003	Andreas Hendrikus Maria De Vries	246152020300

CONFIRMATION NO. 5976

OC000000021373615

OC000000021373615

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

Date Mailed: 11/27/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

15 FEB 2005

#6

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

In re Application of	:	
FLYNN et al.	:	
Application No.: 10/466,769	:	DECISION
PCT No.: PCT/AU02/00099	:	
Int. Filing Date: 01 February 2002	:	
Priority Date: 01 February 2001	:	
Attorney Docket No.: FLYN3001/REF	:	
For: SYNTHESIS FOR THE PREPARATION OF	:	
COMPOUNDS FOR SCREENING AS POTENTIAL	:	
TUBULIN BINDING AGENTS	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) via facsimile transmission on 18 October 2004, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 01 February 2002, applicant filed international application PCT/AU02/00099, which designated the United States and claimed a priority date of 01 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 August 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 August 2003.

On 01 August 2003, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 30 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The Notification set a two-month extendable period for reply.

On 07 October 2004, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DE/EO/909) indicating that the application was abandoned as to the United States of

America for failure to reply to the NOTIFICATION OF MISSING REQUIREMENTS mailed 30 October 2003.

On 18 October 2004, applicants filed the instant submission, which has been treated as a petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a date-stamped postcard receipt and a copy of a declaration of the inventors.

DISCUSSION

Applicant has provided sufficient evidence to establish that on 04 November 2003 applicant filed a declaration of the inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 04 November 2003 and which itemizes the declaration and identifies the above-captioned docket number and application number. Further, practitioner states that the copy of the declaration filed 18 October 2004 is a copy of the declaration originally filed 04 November 2003. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 18 October 2004 may properly be accepted as originally received in the USPTO on 04 November 2003. The NOTIFICATION OF ABANDONMENT mailed 07 October 2004 is hereby vacated.

The declaration filed 04 November 2003 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(e) has been charged to Deposit Account 02-0200.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF ABANDONMENT mailed 07 October 2004 is **VACATED**.

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

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

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Craig F. Taylor
FREDRIKSON & BYRON
4000 Pillsbury Center
200 South Sixth Street
Minneapolis, MN 55402-1425

In re Application of	:	
Kyu-Teck HAN et al.	:	
Application No. 10/466,790	:	DECISION ON PETITION
Filed: July 18, 2003	:	TO WITHDRAW
Attorney Docket No. 40581.16	:	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 20, 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 Natalie D. Kadievitch 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 May 18, 2006 that requires a reply from the applicant.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Kyu-Teck Han
113-702 Doosan, Apt# 10
Seokgwan-dong, Seongbook-gu
Seoul, Korea 136-150

cc: BioReplica Corporation
301 Seokyo Building
#395-166 Keokyo-dong, Mapo-gu
Seoul, Korea 121-740

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/466,790	11/24/2003	Kyu-Teck Han	40581.16

CONFIRMATION NO. 7314

OC000000019955175

Craig F Taylor
Fredrikson & Byron
4000 Pillsbury Center
200 South Sixth Street
Minneapolis, MN 55402-1425

Date Mailed: 08/09/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 07/02/2010

Applicant	: Gerald Voegele	: DECISION ON REQUEST FOR
Patent Number	: 7698818	: RECALCULATION of PATENT
Issue Date	: 04/20/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/466,792	: OF WYETH
Filed	: 08/04/2004	:
		:

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.

02 SEP 2004

#8

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P.O. BOX 1450
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Yoni Iger
113A Einstein Street
Haifa, 34601
Israel

In re Application of IGER, Yoni U.S. Application No.: 10/466,796 PCT No.: PCT/IL02/00056 Int. Filing Date: 22 January 2002 Priority Date: 26 January 2001 Attorney Docket No.: None For: METHOD AND APPARATUS FOR THE DELIVERY OF SUBSTANCES TO BIOLOGICAL COMPONENTS	**DECISION**

This is a decision on the documents filed via facsimile on 05 March 2004 and 08 March 2004 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 08 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that additional claim fees of $9,649.00 for 1109 total claims over 20 and $145.00 for a multiple dependent surcharge was required. Applicant was given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 05 March 2004, applicant submitted a request via facsimile questioning the number of claims calculated on the Form PCT/DO/EO/905 mailed 08 January 2004.

On 08 March 2004, applicant submitted a request via facsimile again requesting that the DO/EO/US check the number of claims listed on the the Form PCT/DO/EO/905 mailed 08 January 2004.

DISCUSSION

Applicant claims that the Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 08 January 2004 erroneously indicated that there was a total of 1129 claims in the above-captioned application. Applicants assert that the total number of claims is 73.

A review of the above-captioned application shows that the number of claims listed on the Form PCT/DO/EO/905 mailed 08 January 2004 was incorrect.

The correct number of claims is 3 independent claims and 70 dependent claims for a total of 73 claims.

CONCLUSION

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

The Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 08 January 2004 is hereby **VACATED**.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK, NY 10036

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Yoni Iger	:	
Application No. 10/466,796	:	DECISION ON PETITION
Filed: July 21, 2003	:	
Attorney Docket No. P-6940-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2008, to revive the above-identified application.

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. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Responsive Amendment (Notice), mailed June 4, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 3763 for appropriate action by the Examiner in the normal course of business on the reply received December 4, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK, NY 10036

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Yoni Iger	:	
Application No. 10/466,796	:	DECISION ON PETITION
Filed: July 21, 2003	:	TO WITHDRAW
Attorney Docket No. P-6940-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 6, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: YONI IGER
113A EINSTEIN STREET
HAIFA 34601 ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK, NY 10036

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APR 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Yoni Iger	:	
Application No. 10/466,796	:	DECISION ON PETITION
Filed: July 21, 2003	:	TO WITHDRAW
Attorney Docket No. P-6940-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 24, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: YONI IGER
113A EINSTEIN STREET
HAIFA 34601 ISRAEL

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1500 BROADWAY
12TH FLOOR
NEW YORK, NY 10036

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APR 30 2009

OFFICE OF PETITIONS

In re Application of	
Yoni Iger	
Application No. 10/466,796	DECISION ON PETITION
Filed: July 21, 2003	TO WITHDRAW
Attorney Docket No. P-6940-US	FROM RECORD

CORRECTED DECISION

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 6, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioner has not certified that he has given reasonable notice to the client, prior to the expiration of the response period that the practitioners intend to withdraw from employment.

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. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: YONI IGER
113A EINSTEIN STREET
HAIFA 34601 ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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1500 BROADWAY
12TH FLOOR
NEW YORK, NY 10036

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MAY 11 2009

OFFICE OF PETITIONS

In re Application of	
Yoni Iger	
Application No. 10/466,796	DECISION ON PETITION
Filed: July 21, 2003	TO WITHDRAW
Attorney Docket No. P-6940-US	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 27, 2009 and resubmitted May 4, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Guy Yonay on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed April 20, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination and status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: YONI IGER
113A EINSTEIN STREET
HAIFA 34601 ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/466,796	07/21/2003	Yoni Iger	P-6940-US

CONFIRMATION NO. 7667

POWER OF ATTORNEY NOTICE

49443
Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

OC000000035761614

Date Mailed: 04/30/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/27/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAY 10 2006

In re Application of	:	
Kaspar Burri et al	:	NOTICE OF WITHDRAWAL
Serial No. 10/466,810	:	FROM ISSUE
Filed: November 21, 2003	:	UNDER 37 CFR 1.313(b)
For: NOVEL HYDRAZONES	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

George C. Elliott

George C. Elliott, Director
Technology Center 1600

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41 ST FL.
NEW YORK NY 10036-2714

cc: Allowed Files
Drafting Branch

04 MAR 2005

#5

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Kening Li
Crowell & Moring, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

In re Application of	:	
GARCIA, et al.	:	
U.S. Application No.: 10/466,817	:	DECISION ON PETITION
Filing Date: 22 July 2003	:	
Attorney Docket No.: 010770.52537US	:	UNDER 37 CFR 1.181
For: USE OF THE SLUG GENE OR OF THE TRANSCRIPTION OR EXPRESSION PRODUCTS THEREOF IN THE DETECTION AND/OR TREATMENT OF CANCEROUS CELLS	:	

This decision is in response to applicant's "Petition For Revival of an Application For Patent Abandoned Unavoidably Under 37 CFR 1.137(a)" filed 18 January 2005 in the United States Patent and Trademark Office (USPTO). For the reasons discussed below, the petition is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. Applicant's petition fee payment of $500.00 will be refunded to Deposit Account No.: 05-1323.

BACKGROUND

On 23 January 2002, applicant filed international application PCT/ES02/00026, which claimed priority of an earlier application filed 23 January 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 August 2002. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 July 2003.

On 22 July 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application into English; an Application Data Sheet; an computer-readable form of the sequence listing and a First Preliminary Amendment.

On 10 November 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. Applicant was given two months to respond and advised that this time

period could be extended with a proper petition and payment of fees.

On 18 October 2004, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 10 November 2003 within the time period set therein and that above-identified application was abandoned as to the United States.

On 18 January 2005, applicant filed the petition considered herein.

DISCUSSION

As discussed below, when applicant claims that abandonment of the application was improper because applicant never received the form PCT/DO/EO/905 a petition under 37 CFR 1.137(a) or (b) is not required. Instead, a petition under 37 CFR 1.181 is proper. No petition fee is required.

The Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971). Applicant has satisfied items (1), (3) and (4) above.

As to item (2), applicant has not provided a statement that a search of the file jacket indicates that the Form PCT/DO/EO/905 mailed 10 November 2003 was not received.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

This application remains **ABANDONED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

OIPE JC
MAR 2 2 2005
PATENT & TRADEMARK

JC03 Rec'd PCT/PTO 22 MAR 2005

PCT #6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/466,817
Applicant	:	Isidro Sanchez GARCIA, *et al.*
Filed	:	July 22, 2003
Docket No.	:	010770.52537US
Customer No.	:	23911
Title	:	USE OF THE SLUG GENE, OR ITS PRODUCTS FOR THE DETECTION OR TREATMENT OF CANCER

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

RENEWED PETITION UNDER 37 C.F.R. § 1.181

Sir:

This renewed petition is filed in response to the Decision on Petition under 37 C.F.R. § 1.181, issued on March 4, 2005 ("the Decision").

Applicants' Petition was originally filed under 37 C.F.R. § 1.137(a). The Decision treated applicants' original petition as a petition under 37 C.F.R. § 1.181, because applicants never received the Office Action, and failure to timely respond thereof caused the holding of abandonment of the application. The Decision further stated that a petition under 37 C.F.R. § 1.181 must satisfy four requirements, i.e. (1) a statement by applicants that the Office Action was not received, (2) a practitioner attests that a search of the file jacket indicates that the Office Action was not received, (3) a practitioner attests that a search of the appropriate docket records indicates that the Office Action was not received, and (4) the Petition was accompanied by copies of appropriate docket records where the non-received Office Action would have been entered. The Decision held, which

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25 MAR 2005
Legal Staff
International Division

applicants gratefully acknowledge, that applicants satisfied items (1), (3) and (4), but not (2), and dismissed the Petition. *See* the Decision, at 2.

In response, applicants file this renewed Petition. The undersigned hereby attests that a search of the file jacket has been conducted and it is determined that the Office Action (Form PCT/DO/EOP/906, purportedly mailed on November 10, 2003), was never received.

Accordingly, it is respectfully submitted that all requirements for a petition under 37 C.F.R. § 1.181 have been satisfied and that the above identified application be revived and be examined on merits as soon as possible.

It would be appreciated if the undersigned were telephoned in the event there are any questions related to this Renewed Petition or the application in general.

Respectfully submitted,

March 22, 2005

James F. McKeown
Registration No. 25,406
Kening Li, Ph.D.
Registration No. 44,872

CROWELL & MORING LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844
JFM:KL
366763

29 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Kening Li
Crowell & Moring, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

In re Application of	:	
GARCIA, et al.	:	
U.S. Application No.: 10/466,817	:	DECISION ON RENEWED
Filing Date: 22 July 2003	:	
Attorney Docket No.: 010770.52537US	:	PETITION UNDER
For: USE OF THE SLUG GENE OR OF THE	:	
TRANSCRIPTION OR EXPRESSION	:	37 CFR 1.181
PRODUCTS THEREOF IN THE DETECTION	:	
AND/OR TREATMENT OF CANCEROUS	:	
CELLS	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.181" filed 22 March 2005.

BACKGROUND

On 04 March 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present application. Applicant was afforded two months to file any request for reconsideration.

On 22 March 2005, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 04 March 2005, the Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971). Applicant previously satisfied items (1), (3) and (4) above.

As to item (2), applicant has now provided a statement that a search of the file jacket

indicates that the Form PCT/DO/EO/905 mailed 10 November 2003 was not received.

CONCLUSION

Applicant's Renewed Petition Under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment mailed 15 October 2004 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision and the re-mailing of a Notification of Missing Requirements (PCT/DO/EO/905).

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

09 FEB 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of KOH et al	:	
U.S. Application No.: 10/466,818	:	
PCT Application No.: PCT/US02/01510	:	
Int. Filing Date: 22 January 2002	:	
Priority Date Claimed: 22 January 2001	:	DECISION
Attorney Docket No.: A8172	:	
For: A PACKAGING AND INTERCONNECT	:	
SYSTEM FOR FIBER AND	:	
OPTOELECTRONIC COMPONENTS	:	

This is in response to applicant's "Petition for Withdrawal of Holding of Abandonment Under MPEP Section 7.11.03(c)(I)" filed 03 December 2004, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 22 January 2002, applicant filed international application PCT/US02/01510, which claimed priority of an earlier United States application filed 22 January 2001. The thirty-month period for paying the basic national fee in the United States expired on 22 July 2003.

On 22 July 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 23 October 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 25 October 2004, the DO/EO/US mailed a Notification of (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 03 December 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that an executed declaration was filed on 05 November 2003. However, the purported copy of the declaration and stamped filing receipt referred to in the petition are not present in the application file.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

26 APR 2005

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

In re Application of KOH et al	:	
U.S. Application No.: 10/466,818	:	
PCT Application No.: PCT/US02/01510	:	
Int. Filing Date: 22 January 2002	:	
Priority Date Claimed: 22 January 2001	:	DECISION
Attorney Docket No.: A8172	:	
For: A PACKAGING AND INTERCONNECT	:	
SYSTEM FOR FIBER AND	:	
OPTOELECTRONIC COMPONENTS	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.181" filed 07 April 2005.

BACKGROUND

On 22 January 2002, applicant filed international application PCT/US02/01510, which claimed priority of an earlier United States application filed 22 January 2001. The thirty-month period for paying the basic national fee in the United States expired on 22 July 2003.

On 22 July 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 23 October 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 25 October 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 03 December 2004, applicant filed a petition under 37 CFR 1.181.

On 09 February 2005, this Office mailed a decision dismissing the 03 December 2004 petition.

On 07 April 2005, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 05 November 2003. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 05 November 2003, serves as *prima facie* evidence that the declaration was received by the USPTO on 05 November 2003.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 25 October 2004 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 22 January 2002 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 05 November 2003.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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

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SEP 05 2006

OFFICE OF PETITIONS

In re Patent No. 7,052,707	:
Issued: May 30, 2006	: DECISION REGARDING PTA and
Application No. 10/466,824	: NOTICE OF INTENT TO ISSUE
Filed: July 21, 2003	: CERTIFICATE OF CORRECTION
Atty. Dkt. No.: H-31706 A	:

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed June 12, 2006. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment (PTA).

The request for reconsideration of PTA is **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,052,707 on May 30, 2006. The instant request for reconsideration was timely filed June 12, 2006 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 197 days. Patentees argue that the patent is entitled to an adjustment of 317 days and that the adjustment was improperly reduced 120 days in connection with the submission of foreign priority document on December 14, 2005.

A review of the application history reveals that an adjustment of 317 days can be attributed can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

Further review of the application history reveals that the adjustment of 317 days was errantly reduced 120 days upon submission of foreign priority documents by WIPO. As these documents were submitted by WIPO and not the applicants, said submission is not deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10).

In view thereof, the patent is entitled to an adjustment of 317 days, as argued by patentees.

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 317 days.

The Office acknowledges receipt of the required $200.00 application fee.

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

CC: Draft Certificate of Correction

PALM INTRANET

Day : Friday
Date: 9/1/2006
Time: 12:52:05

PTA Calculations for Application: 10/466824			
Application Filing Date:	07/21/2003	PTO Delay (PTO):	317
Issue Date of Patent:	05/30/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	120
Post-Issue Petitions:	0	Total PTA (days):	317
PTO Delay Adjustment:	120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
41	09/01/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
37	05/30/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
36	05/02/2006	EXPORT TO FINAL DATA CAPTURE			
35	05/01/2006	DISPATCH TO FDC			
34	04/28/2006	MAIL ACKNOWLEDGEMENT OF PRIORITY PAPERS			
33	04/28/2006	ACKNOWLEDGEMENT OF PRIORITY PAPERS			
32	12/14/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)		120	34
31	03/03/2006	FINISHED INITIAL DATA CAPTURE			
30	02/24/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
29	02/09/2006	ISSUE FEE PAYMENT VERIFIED			
28	02/09/2006	ISSUE FEE PAYMENT RECEIVED			
27	11/28/2005	EXPORT TO INITIAL DATA CAPTURE			
26	11/18/2005	MAIL NOTICE OF ALLOWANCE			
25	11/18/2005	MAIL EXAMINER'S AMENDMENT			
24	11/16/2005	ISSUE REVISION COMPLETED			
23	11/16/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
22	11/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	11/16/2005	EXAMINER'S AMENDMENT COMMUNICATION			
20	11/16/2005	NOTICE OF ALLOWABILITY			
19	11/10/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
18	09/23/2005	DATE FORWARDED TO EXAMINER			
17	09/14/2005	RESPONSE AFTER NON-FINAL ACTION			

16	08/04/2005	MAIL NON-FINAL REJECTION	317		-1
15	08/02/2005	NON-FINAL REJECTION			
14	06/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	11/09/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	06/17/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	06/17/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	10/02/2003	PRELIMINARY AMENDMENT			
9	10/02/2003	CLAIMS PTO			
8	10/02/2003	PRELIMINARY AMENDMENT			
7	07/21/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	07/21/2003	PRELIMINARY AMENDMENT			
5	11/20/2003	CLEARED BY OIPE CSR			
4	07/22/2003	371 COMPLETION DATE			
3	10/22/2003	APPLICATION DISPATCHED FROM OIPE			
2	10/22/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	07/21/2003	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,052,707 B2

DATED : May 30, 2006

INVENTOR(S) : Bouvier, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 197 days

Delete the phrase "by 197 days" and insert – by 317 days--

27 APR 2004

#3

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Richard E. Kurtz, II
Greenberg Traurig, LLP
1750 Tysons Blvd., Suite 1200
McLean, VA 22102

In re Application of	:	
Jeffrey Mamorsky	:	
Application No.:10/466,831	:	
PCT Application No.: PCT/US01/42765	:	DECISION ON
International Filing Date: 12 October 2001	:	
Priority Date: 13 October 2000	:	PETITION
Attorney Docket No.: 45615.010700US	:	
For: AUDIT SYSTEM AND METHOD	:	UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival Of An International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," (petition for revival) filed in the United States Patent and Trademark Office (PTO) on 22 July 2003 is **GRANTED**.

BACKGROUND

On 12 October 2001, applicant filed international application PCT/US01/42765. The international application claims a priority date of 13 October 2000 and designates the United States. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 14 April 2003 (13 April 2003 fell on a Sunday). On 22 July 2003, applicant filed the petition for revival accompanied by, *inter alia*, the basic national fee and the petition fee.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) 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, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Payment of the basic national fee and submission of a copy of the international application constitute a proper reply for entry into the national stage. However, a copy of the international application is not required if the international application was originally filed in the PTO or the International Bureau previously communicated a copy.

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). The basic national fee and the petition fee have been paid. Because the PTO served as the Receiving Office for the international application,

applicant did not have to submit a copy of the international application. A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notice of Missing Requirements (PCT/DO/EO/905) indicating that an oath or declaration of the inventors is due. Applicants have already paid the surcharge for late filing of the oath or declaration.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Ankur Parekh
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

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OFFICE OF PETITIONS

GREENBERG-TRAURIG
1750 TYSONS BOULEVARD, 12TH FLOOR
MCLEAN, VA 22102

In re Patent No. 7,072,895	:	
Issued: July 4, 2006	:	
Application No. 10/466,831	:	NOTICE
Filed: February 22, 2005	:	
Attorney Docket No. 45615.010700.US	:	

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

08 JUL 2004

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Robin L. Teskin
Crowell & Moring, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

In re Application of GUBERNATOR, et al. U.S. Application No.: 10/466,867 PCT No.: PCT/US02/01927 Int. Filing Date: 25 January 2002 Priority Date: 25 January 2001 Attorney Docket No.:100337.54084US For: METHOD AND APPARATUS FOR SOLID OR SOLUTION PHASE REACTION UNDER AMBIENT OR INERT CONDITIONS	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 23 June 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 27 May 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration.

On 23 June 2004, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 27 May 2004, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1, 3 and 4.

As to item 2, applicant has presently provided a signed declaration from Ms. Sherry Dollins detailing her personally mailing of a complete set of the application papers to the non-signing inventor, Dr. Daniel Rogers. In addition, applicant has included a copy of the transmittal letter which accompanied the application papers and proof of their acceptance by Dr. Rogers. To date, applicant still has not received a response from the inventor. As such, it is appropriate to

grant applicant's renewed petition under 37 CFR 1.47(a) at this time.

CONCLUSION

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

The application has an international filing date of 25 January 2002 under 35 U.S.C. 363, and will be given a date of **05 January 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

08 JUL 2004

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Dr. Daniel H. Rogers
11411 Corley Court
San Diego, CA 92126

In re Application of
GUBERNATOR, et al.
U.S. Application No.: 10/466,867
PCT No.: PCT/US02/01927
Int. Filing Date: 25 January 2002
Priority Date: 25 January 2001
Attorney Docket No.: 100337.54084US
For: METHOD AND APPARATUS FOR SOLID OR SOLUTION PHASE REACTION UNDER AMBIENT OR INERT CONDITIONS

Dear Dr. Rogers:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

Robin L. Teskin
Crowell & Moring, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

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Date Mailed : 10/05/06

Patent No. :7071330 B2
Patent Issued : 07/04/06
Docket No. : **20674YP**

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
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-308-9390 #112 or (703) 305-8309

MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

LMN

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/466,901	12/29/2003	Yuichi Iwase	SON-2314	1694

7590 10/05/2009

Ronald P Kananen
Rader Fishman & Grauer
Suite 501
1233 20th Street NW
Washington, DC 20036

EXAMINER
RUDE, TIMOTHY L

ART UNIT	PAPER NUMBER
2871	

MAIL DATE	DELIVERY MODE
10/05/2009	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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Ronald P Kananen
RADER, FISHMAN & GRAUER PLLC
Suite 501
1233 20th Street NW
Washington DC 20036

In re Application of: Yuichi Iwase	:	Petition Decision
Application No. 10/466,901	:	
Filed: December 29, 2003	:	
Confirmation No.: 1694	:	

This is in response to "PETITION UNDER 37 CFR 1.144" filed October 2, 2008 requesting withdrawal of the restriction requirement and withdraw of claims 21-40 as elected by original presentation.

The petition is GRANTED.

The applicant asserts that withdrawn claims 21-40 are not drawn to an independent and distinct invention from that examined. As such, the restriction requirement should be withdrawn and the claims examined.

MPEP 806.03 states:
"Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather, they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition."

A review of the record reveals that the claims examined and those withdrawn are directed to the same embodiment as illustrated, for example, in Figure 17. As such, the restriction is inappropriate and hereby withdrawn.

The application will be forward to the examiner to promptly reopen prosecution and provide an examination of the withdrawn claims. Any question with regards to this decision should be directed to Cassandra Spyrou at 571-272-1624.

Richard Seidel,
Director
Technology Center 2800
Semiconductors, Electrical and Optical Systems and Components

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Soichi Kato et al.
Application No. 10/466,917
Filed: July 23, 2003
Attorney Docket No. R0304T

This is a decision on the petition filed November 26, 2004 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned November 13, 2004 for failure to timely pay the issue fee on or before November 12, 2004. The instant petition and petitions 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

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)).

10 AUG 2004

#8

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Soma G. Simon
GlaxoSmithKline
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939

In re Application of	:	
FORBES et al.	:	
Application No.: 10/466,922	:	DECISION
PCT No.: PCT/GB02/00447	:	
Int. Filing Date: 02 January 2002	:	
Priority Date: 02 February 2001	:	
Attorney Docket No.: P32759	:	
For: SULFONAMIDE COMPOUNDS, THEIR PREPARATION AND USE		

This is a response to applicants' unsigned facsimile communication submitted 27 July 2004 and "Petition under 37 CFR 1.181 or a Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" filed 06 August 2004.

BACKGROUND

On 02 January 2002, applicants filed international application PCT/GB02/00447 which claimed a priority date of 02 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 August 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 02 August 2003.

On 21 July 2003, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 27 October 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 23 June 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 27 October 2003 within the time period set therein.

On 27 July 2004, applicants submitted a unsigned communication which a included an executed declaration.

On 06 August 2004, applicants filed "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" which was accompanied by: a copy of "Response to Notification of Missing Requirements under 35 U.S.C. 371"; an executed declaration in compliance with 37 CFR 1.497; and petitioner's facsimile transmission report. Petitioner alleges that the executed declaration was submitted by facsimile on 04 November 2003.

DISCUSSION

A review of the application file reveals that the original declaration allegedly filed 04 November 2003 under 37 CFR 1.8 is not located in the application file.

37 CFR 1.8(b) states,

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

The evidence filed with the present petition is convincing that the 04 November 2003 response included a declaration with a certificate of facsimile transmission. Additionally, applicant has: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items facsimiled on 04 November 2003, (2) supplied copies of the previously mailed correspondence; and (3) has provided a copy of the sending unit 's report confirming transmission on 04 November 2003. The declaration submitted on 27 July 2004 will be considered as a timely response to the Notification of Missing Requirements mailed 27 October 2003; however, the declaration will be given a receipt date of 27 July 2004. (See 37 CFR 1.8(a))

As the declaration was filed after 30 months from the priority date, the required surcharge of $130 under 37 CFR 1.492(e) will be charged to Deposit Account No. 19-2570.

CONCLUSION

Therefore, applicants' petition under 37 CFR 1.181 is **GRANTED**.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 02 January 2002 and a date of 27 July 2004 under 35 U.S.C. 371.

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

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

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Arrhenius et al.	:	
Patent Number: 7,524,969	:	
Issue Date: 04/28/2009	:	
Application No. 10/466923	:	ON REQUEST FOR
Filing or 371(c) Date: 07/21/2003	:	RECONSIDERATION OF
Attorney Docket Number:	:	PATENT TERM ADJUSTMENT
19128-005US1	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed June 29, 2009. Patentees request that the patent term adjustment be increased from 944 days to 1538 days. Patentees request this correction solely on the basis that the Office took in excess of three years to issue this patent.

The Application for Patent Term Adjustment ("PTA") under 37 CFR 1.705(d), is **DISMISSED**.

On April 28, 2009, the above-identified application matured into U.S. Patent No. 7,524,969, with a patent term adjustment of 944 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees assert that in view of Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), the patent is entitled to a patent term adjustment of 1538 days (1086 days pursuant to 37 CFR 1.702(a) *plus* 1011 days pursuant to 37 CFR 1.702(b) *less* 417 overlapping days *less* 142 days of applicant delay).

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, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the issuance of the patent on April 28, 2009, the application was pending three years and 1012 days after national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. Pursuant to a request for immediate examination, and compliance with the relevant requirements, the date of commencement is July 21, 2003. Thus, the period of adjustment pursuant to 37 CFR 1.703(b) began July 22, 2006, the day after the date that is three years after the date that national stage commenced, and ended April 28, 2009, the date that the patent issued.

The Office further agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 1086 days is correct. At issue is whether patentees should accrue 1012 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 1086 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 1012 days of delay in issuing the patent overlaps with the 1086 days of examination delay under 37 CFR 1.702(a). 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, 35 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[1]

[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).

As such, the period for over three-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 period during which the application was pending before the Office beginning on the date that national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, July 21, 2003, to the date the patent issued on April 28, 2009. Prior to the issuance of the patent, 1086 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 1012 days for Office delay in issuing the patent overlap with the 1086 days of Office examination delay. During that time, the issuance of the patent was delayed by 1086 days, not 1086 days and 1012 days. The Office took 14 months and 1086 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 1086 days of Office examination delay and the time allowed within the time frames for processing and examination, the application issued three years and 1012 days after national stage commenced. However, the Office did not delay 1086 days and also delay an additional 1012 days. Accordingly, 1086 days of patent term adjustment was properly entered because the period of delay of 1012 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1086 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

Mail Date: 04/20/2010

Applicant	: Wolfgang Eibach	: DECISION ON REQUEST FOR
Patent Number	: 7613817	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/466,937	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1762** 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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Lathrop & Gage LLP
2345 Grand Boulevard
Suite 2400
Kansas City MO 64108

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Victor PETRENKO et al.	:	
Application No. 10/466,940	:	ON PETITION
Filed: February 23, 2004	:	
Attorney Docket No. 411125	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 01, 2009, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 07, 2008, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 08, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final rejection requirement of April 07, 2008 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 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 of 37 CFR 1.137(b) was unintentional, 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 Ella Colbert at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1795 for appropriate action on the concurrently filed election.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Curtis A. Vock
4845 Pearl East Circle
Suite 201
Boulder, CO 80301

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/466,959	12/18/2003	Niel Goldsmith	Goldsmith1	1665

1444 7590 02/24/2010
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

EXAMINER
BURKHART, MICHAEL D

ART UNIT	PAPER NUMBER
1633	

MAIL DATE	DELIVERY MODE
02/24/2010	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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FEB 2 4 2010

Iver P. Cooper
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of: GOLDSMITH et al.
Serial No.: 10/466,959
Filed: July 23, 2003
Attorney Docket No.: Goldsmith1
Title: **CONCATEMERS OF DIFFERENTIALLY EXPRESSED MULTIPLE GENES**

:DECISION ON PETITION

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on August 18, 2008.

BACKGROUND/DISCUSSION

This application was filed as a national stage application in compliance with 35 USC 371 and as such is subject to PCT unity of invention rules.

Applicant filed the instant petition accompanied by an amendment to the claims. Applicant's argument regarding the presence of a special technical feature is based on the amendment of claim 122 to recite that n>= 10. Applicant asserts that this amendment distinguishes the claims over Peterson thereby providing a special technical feature. While this argument is somewhat premature in that the examiner has not yet considered whether the amendment would change the claim such that a special technical feature would unify the claims it will be considered so as to expedite prosecution.

Peterson teaches:

> After 5-10 rounds of chain ligation, the growing chains of concatemers will be deprotected with BamHI and prepared for ligation to the expression vector by treatment with the Klenow fragment and DATP and dGTP. (Column 58, lines 36-39)

After 10 rounds of ligation the limitation of n>=10 would be met by Peterson. The claim does not contain a special technical feature.

Applicant's arguments concerning the intermediate-final product relationship of Groups V and I, the combination-subcombination relationship of Groups VI and V, that Groups VI and VII represent the same "special adaptation," that Groups VII and VI are joinable under the principles of Annex B, and the separation of Groups V and VII results from a failure to properly apply 37 CFR §1.475(d) have been considered. If there were a special technical feature linking the claims applicant's arguments would be persuasive.

DECISION

The petition is **DENIED** for the reasons set forth above.

Should there be any questions about this decision, please contact Quality Assurance Specialist Michael P. Woodward, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-8373 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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SUITE 300
WASHINGTON DC 20001-5303

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OFFICE OF PETITIONS

Applicant: Goldsmith et al.
Appl. No.: 10/466,960
International Filing Date: January 25, 2002
Title: LIBRARY OF A COLLECTION OF CELLS
Attorney Docket No.: GOLDSMITH2
Pub. No.: US 2004/0241672 A1
Pub. Date: December 2, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on January 13, 2005, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error on the front page of the publication in the related U.S. application data, as the benefit claim to provisional application No. 60/300,863 is not listed on the front page of the publication.

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 omitting the benefit claim on the front page of the publication is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The omission of the benefit claim on the front page of the publication is not a material mistake as the benefit claim is in the first line of the specification, as required by 37 CFR 1.78. The omission of the benefit claim to the provisional application on the front page of the publication is not a material mistake because

[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).

it does 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. Since, the first line of the specification contains the proper benefit claim, one can read and understand the content of the application and properly use the patent application publication as a prior art reference.

On July 27, 2004, a Filing Receipt was mailed, which did not properly list the priority information. To avoid this type of problem in the future, applicant's representative should make request for a corrected filing receipt at least 10 weeks before the projected publication date.

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

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

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

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

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

Enclosure: Corrected Filing Receipt

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/466,960	01/06/2004	Neil Goldsmith	GOLDSMITH2	1680

1444 7590 02/20/2009
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

EXAMINER
SAJJADI, FEREYDOUN GHOTB

ART UNIT	PAPER NUMBER
1633	

MAIL DATE	DELIVERY MODE
02/20/2009	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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624 NINTH STREET, NW
WASHINGTON DC 20001-5303

In re Application of:
Goldsmith et al.
Serial No.: 10/466960
Filed: January 6, 2004
Attorney Docket No.: **GOLDSMITH2**

DECISION ON PETITION TO VACATE NOTICE OF NON-COMPLIANT AMENDMENT

This is in response to applicants' petition under 37 CFR. § 1.181(a), filed on February 10, 2009, to vacate notice of non-responsive amendment.

The petition and file history have been carefully reviewed.

One basis for the holding of non-responsiveness was an alleged failure of claim 112 to comply with the provisions of 37 C.F.R. § 1.121. The amendment received July 24, 2008 is found to be in compliance with 37 C.F.R. § 1.121(c)(2). The examiner incorrectly interpreted "[PR-X]" in claim 112 as an improper instruction to delete "PR-X" when, in fact, "[PR-X]" appears in the previous version of claim 112 received November 8, 2007.

The other basis for the holding of non-responsiveness was an alleged shift of election due to the amendment of claim 113. However, in the final rejection mailed January 28, 2008, claim 113 was rejected by the examiner under 35 U.S.C. § 112, second paragraph, due to the unclear meaning of the phrase "special spectral properties." The amendment of July 24, 2008 replaced the phrase "the ability to provide special spectral properties" with the phrase "the ability to produce small molecules with certain spectroscopic properties, selected from the group consisting of visible light, microwaves, IR, UV and X-ray spectroscopic properties" in an apparent attempt to address the rejection under 35 U.S.C. § 112, second paragraph. The new claim language does not clearly correspond to any of the non-elected species listed in the restriction requirement mailed July 31, 2006 and the examiner has not explained how the new language denotes a species that should be examined separately from the elected species.

Applicant's petition is **GRANTED**.

Applicants' amendment of July 24, 2008 will be entered.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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.
10/466,960	01/06/2004	Neil Goldsmith	GOLDSMITH2	1680

1444 7590 08/24/2009
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

EXAMINER
SAJJADI, FEREYDOUN GHOTB

ART UNIT	PAPER NUMBER
1633	

MAIL DATE	DELIVERY MODE
08/24/2009	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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AUG 2 4 2009

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of :	:
Goldsmith et al.	:
Serial No.: 10/466,960	: PETITION REGARDING IDS
Filed: January 6, 2004	:
Attorney Docket No: **GOLDSMITH2**	:

This is in reply to the petition filed July 27, 2009 under 37 CFR § 1.181 to consider the information disclosure statement of August 23, 2004.

DISCUSSION

It is pointed out the Information Disclosure Statement (IDS) was, in fact, considered by /D.S./ on January 28, 2008 (copy attached). In any event, applicants' point was well taken and persuasive that the examiner should consider an IDS which complied with 37 CFR 1.98 as it existed at the time of the submission.

In view of the fact that the IDS was considered, the petition is **Dismissed as Moot.**

This application will be forwarded to the examiner for continued consideration of the IDS filed on August 23, 2004.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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ALEXANDRIA, VA 22313-1450
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ANDREW S MARKS
47 RICE ROAD
WAYLAND, MA 01778

In re Application of	:	
Thomas Buttner et al	:	
Application No. 10/466,966	:	NOTICE
Filed: November 12, 2003	:	
Attorney Docket No. 000977US	:	

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.

37 CFR 1.28(c)(2)(i) states:

The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the **current** fee amount (for other than a small entity)on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error.

Petitioner has tendered a check in the amount of $515.00. The Office has applied $470.00 toward the payment of the filing fee which leaves an outstanding balance of $45.00. Accordingly, Your fee deficiency submission under 37 CFR 1.28 has **not** been accepted until the $20.00 fee deficiency is submitted to the Office.

Since petitioner failures to comply with the requirements under 37 CFR 1.28(c). Petitioner is given **ONE MONTH NOT-EXTENDABLE** time period from the date of this Notice to correct the deficiency under 37 CFR 1.28 to avoid the return of the fee deficiency paper, at the option of the Office.

Inquiries related to this communication should be directed to Wan Laymon at(703) 306-5685

Wan Laymon

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

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DEC 28 2005

ELIZABETH A. McGRAW
ELI LILLY AND COMPANY
PATENT DIVISION
P. O. BOX 6288
INDIANAPOLIS, IN 46206-6288

In re Application of	:
Sandra Ann Fila et al	:
Serial No.: 10/466,969	: PETITION DECISION
Filed: July 22, 2003	:
Attorney Docket No.: X-10829	:

This is in response to the petition under 37 CFR 1.144, filed October 26, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and accepted on July 22, 2003, and, as amended, contained claims 1-22. In a first Office action, mailed November 19, 2004, the examiner set forth a Lack of Unity requirement dividing the claims into two groups, as follows:

Group I – claims 1-13, drawn to copounds;
Group II – claim 14-17, drawn to multiple uses.

Claims 18-22 were indicated as being drawn to non-statutory subject matter and not grouped with the above.

The examiner reasoned that Groups I and II were directed to product and process of use and were divisible based on the multiple uses claimed. The claims were also said to lack Unity of Invention under PCT rules based on lack of a significant structural element qualifying as the special technical feature based on the extensive variation of the substituents attached to the structure. On this basis, the examiner required an election of species within whichever group was elected as well as election of a specific method of use if Group I was elected.

On December 22, 2004, applicants replied amending claims 1-9 and 12-17, canceling claims 18-22 and adding claim 23. Applicants elected Group I with traverse noting that the application was filed under 35 U.S.C. 371 and must follow Lack of Unity guidelines under PCT Rule 13, under which a process and its product are considered to have Unity of invention. Applicants also invoked M.P.E.P. 803 and 1850 with regard to restriction, however section 803 relates to

restriction practice under 35 U.S.C. 121. Applicants argued that search of all the inventions would not impose a serious burden on the Office since the genus of compounds claimed are closely related and share a common core. The amendment of the claims was deemed non-compliant with the rules and applicants submitted a compliant amendment on March 4, 2005.

The examiner mailed a new Office action to applicants on April 5, 2005, maintaining the Lack of Unity requirement and replying to applicants' traversal. It was noted that an election of a specific process was not made and therefore the first mentioned process would be examined with the compound claims. The examiner argued that applicants' reasons for traversal of the Lack of Unity requirement were applicable to withdrawal of a restriction requirement rather than a Lack of Unity for the most part. The examiner then rejected claims 1-2 under 35 U.S.C. 112, first paragraph, for lack of enablement, and under second paragraph, for indefiniteness. Claims 1-4 and 7-13 were indicated allowable over the art.

Applicants replied on June 29, 2005, amending claims 1-2, canceling claim 23 and adding claims 24-25. Applicants made a late election of a process in conjunction with the product claims. Applicants questioned why claims 5-6 had been withdrawn from consideration and repeated most of the arguments previously presented for withdrawal of the restriction requirement. Applicants also addressed the rejection under 35 U.S.C. 112.

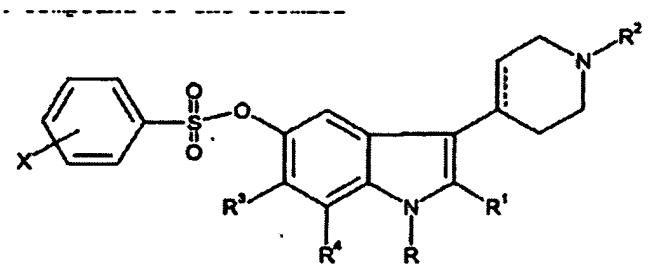
The examiner mailed a Final Office action to applicants on August 29, 2005, setting a three month shortened statutory period for reply and maintaining the Lack of Unity requirement for reasons of record. Claim 15 was rejected under 35 U.S.C. 112, first paragraph, for lack of enablement and undue experimentation.

Applicants filed an amendment after Final Office action on October 26, 2005, addressing the rejections of record, but making no amendments. The traversal of the restriction requirement was continued and the claim rejections addressed. By Advisory Action the examiner notified applicants that the paper would be entered, but did not overcome the rejection. Applicants filed a Notice of Appeal on December 1, 2005.

Applicants filed this petition with the reply to the Office action on October 26, 2005.

DISCUSSION

Applicants claim compounds of the formula:



All compounds are benzene sulfonic acid compounds substituted with a substituted indolyl or other ring system. It is noted that R and be combined with either R^1 or R^4 to form a third ring fused to the indolyl ring system. It is clear that the significant structural element that forms the special technical feature relied on to satisfy Unity is the combination of these two elements – the benzene sulfonic acid and fused ring system. However, the indolyl fused ring is different from the three-fused ring systems thus establishing three separate and distinct special technical features within the generic structure. It also appears that all of the individual species listed in claim 12 are indolyl compounds

In crafting the Lack of Unity requirement the examiner did not distinguish between these three structures as being different special technical features, but grouped them all together in Group I, and commented that because of the numerous and widely divergent meanings of the variables a precise listing of the groups could not be made (thus using arguments usually applied in restriction requirements under 35 U.S.C. 121). The examiner exemplifies this concept by referring to Example 1, Example 2, Example 33, a method of treating Alzheimer's diseases using example 1, etc. The examiner then stated that the claims lacked a significant structural element which defined a contribution over the prior art. Such statement is in error in view of no art being applied against the claims in later Office actions. The examiner then required election of a single disclosed compound and a single disclosed method of use for examination purposes.

A review of the Lack of Unity requirement set forth shows that it is not is not clearly and fully set forth, but is generally supported by proper arguments therefore, although arguments usually used to justify restriction requirements under 35 U.S.C. 121 are also included.

Applicants' reply addresses the requirement generally in proper terms relating to Lack of Unity and, for the examiner's convenience, identifies a species from which to begin examination. Applicants did fail to identify or elect a specific disease to be treated as required and the examiner, in accordance with PCT guidelines, joined the first mentioned method to the compound claims for examination. Applicants argue that the search for the elected indolyl structure will likely be valid for other multiple fused ring structures incorporating the indolyl ring structure and that in view of this no significant burden accrues to the Office by examining all compounds. However the criteria of burden on the Office is not a reason for making or not making a Lack of Unity determination. The determination is made based on the special technical feature(s) found in the claims. The criteria, as noted by applicants, is that there be a common property or activity and a common structure defined as a significant structural element shared by all alternatives. Both of these criteria are met in the claimed compounds with respect to the indolyl ring system and the other two systems noted above. Thus applicants' arguments of traversal are generally proper, but also include arguments not pertinent to Lack of Unity determinations. The examiner has generally followed PCT guidelines properly in making a Lack of Unity determination

Applicants question why claims 5 and 6 are not included within the scope of claims examined. These claims are directed to embodiments where there is a fused three ring system, not just an indolyl ring system. Although the examiner did not clearly set this forth in the original requirement, the examiner's actions indicate what was intended. This does not mean, however,

that claims 5 and 6 cannot be rejoined if claims to the indolyl structure are found to prevail over the prior art. In fact, such rejoinder may be reasonable and proper.

Applicants also argue that all method claims should be examined with the compound claims. The examiner has correctly noted the guidelines under PCT Rule 13.1 and 13.2 which permits examination of a compound and a method of making or using, not plural methods of making or using. Claims 14-17 are all methods of using the compounds claimed. Claim 15 is to cognitive disorders, claim 16 to Alzheimer's disease (a cognitive disorder) and claim 17 to schizophrenia (a type of cognitive disorder) and have been examined with the compounds with respect to their meeting all criteria of the statute for patentability. Claim 14 is to treating HT_6 antagonism which does not appear to be a cognitive disorder and is properly held to lack Unity with the other methods of use. However, if it is shown to be a cognitive disorder method of use, it should be rejoined. Such has not been shown or argued to date.

In summary, the examiner's Lack of Unity requirement, although not clearly or completely set forth was proper in view of the above explanation and is affirmed.

DECISION

The petition is **DENIED.**

In view of the Notice of Appeal, applicants remain under obligation to file a proper Appeal Brief within the time period set under 37 CFR 1.196, or as extended under 37 CFR 1.136(a).

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 571-273-8300

George C. Elliott
Director, Technology Center 1600

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E Eugene Thispen
PGS Americas Inc
738 Highway
6 South
Houston TX 77079

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Petersen et al :
Application No.10/466,976 :
Filed: July 23, 2003 :
Attorney Docket Number: PGS-01-07US :
Title of Invention: System For Controlling :
Streamers :

ON PETITION

This is a decision on the petition filed January 9, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed August 3, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on November 4, 2005. A Notice of Abandonment was mailed on December 19, 2005.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

Petroleum Geo-Services
P.O. Box 42805
Houston, Texas 77242
ATTN: E. Eugene Thigpen

DAC 5Fn

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E Eugene Thispen
PGS Americas Inc
738 Highway
6 South
Houston TX 77079

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MAR 03 2006

OFFICE OF PETITIONS

In re Application of
Petersen et al
Application No.10/466,976
Filed: July 23, 2003
Attorney Docket Number: PGS-01-07US
Title of Invention: System For Controlling Streamers

ON PETITION

This is a decision on the petition filed January 9, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed August 3, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on November 4, 2005. A Notice of Abandonment was mailed on December 19, 2005.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

Petroleum Geo-Services
P.O. Box 42805
Houston, Texas 77242
ATTN: E. Eugene Thigpen

22 JUN 2004

#8

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Evan R. Witt
MADSON & METCALF
Suite 900
15 West South Temple
Salt Lake City, UT 84101

In re Application of: INNES, Frank	:	
U.S. Application No.: 10/466,984	:	DECISION ON PETITION UNDER
PCT No.: PCT/GB02/00268	:	37 CFR 1.182
International Filing Date: 22 January 2002	:	
Priority Date: 24 January 2001	:	
Attorney's Docket No.: 1512.2.125	:	
For: DRILLING SIGNALLING	:	
SYSTEM	:	

This decision is issued in response to the petition filed by applicant on 23 April 2004. Applicant has paid the required petition fee.

BACKGROUND

The background for this application is set forth in the Communication mailed by this Office on 15 April 2004. In that Communication, applicant was informed that a petition under 37 CFR 1.182 was required to correct the international application number herein, and that payment of the surcharge for filing an acceptable declaration later than thirty months after the priority date was required.

On 23 April 2004, applicant filed the petition considered herein, along with the required surcharge payment. The submission also included an argument contesting the necessity of the petition and surcharge payment.

DISCUSSION

The present submission includes all the requirements for a grantable petition, as set forth in the previous communication. Accordingly, the petition is appropriately granted. The present application will be treated as a national stage of international application PCT/GB02/00268, with the basic national fee considered timely filed in such international application on 23 July 2003.

As noted above, the present submission includes an argument asserting that there is no authority for requiring the present petition. However, as noted in the previous Communication, the national stage papers filed by applicant on 23 July 2003 are considered to be targeted to the

international application specifically identified by applicant on the Form PTO-1390 Transmittal Letter filed at that time. In this case, the targeted application was PCT/US02/00268, not PCT/GB02/00268. 37 CFR 1.495 states that an international application is abandoned with respect to the United States unless a request to enter the national stage, including payment of the basic national fee, is filed in such application prior to thirty months after the priority date (in this case, 24 July 2003). Thus, unless the 23 July 2003 basic national fee payment **specifically directed by applicant to PCT/US02/00268** is treated as having been targeted to PCT/GB02/00268, PCT/GB02/00268 is abandoned with respect to the United States. In that case, a petition to revive the international application under 37 CFR 1.137(b), accompanied by the substantially higher fee required for such a petition, would be necessary.

The information consistent with PCT/GB02/00268 contained in the original papers filed 23 July 2003, upon which applicant relies here (i.e., the identification of the proper international application number on the preliminary amendment, the listing of the title, applicant, filing date, and priority information consistent with PCT/GB02/00268 on the Transmittal Letter and declaration), permits the granting of the present petition. This avoids the necessity of a more costly petition to revive. However, the presence of such information does not, absent the present petition, overcome the issues caused by applicant specifically directing the original national stage papers to an unintended international application.

With respect to the declaration surcharge, as noted in the previous communication, the declaration filed 23 July 2003 specifically executes PCT/US02/00268, not PCT/GB02/00268. Applicant asserts that, based on additional information set forth in the declaration (i.e., the applicant name, title, filing date, and priority information), the original declaration should be considered to have adequately identified the specification to which it was directed. However, while such information might be considered sufficient to properly identify the application to which the declaration was directed **in the absence of any contradictory statements in the declaration**, the specific statement in the declaration that it is directed to PCT/US02/003268 creates a conflict that renders the declaration unacceptable. Applicant did not submit the corrected declaration (in which the reference to PCT/US02/00268 was removed) until 19 February 2004, after the expiration of thirty months from the priority date. Accordingly, payment of the $65 surcharge is required pursuant to 37 CFR 1.492(e).

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

The present application will be treated as a national stage of international application PCT/GB02/00268. The 23 July 2003 payment of the basic national fee will be treated as having been targeted to PCT/GB02/00268, thereby avoiding abandonment of such international application with respect to the United States.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 19 February 2004.

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

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MADSON & METCALF
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY, UT 84101

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OFFICE OF PETITIONS

In re Application of	:	
Victor Allan	:	
Application No. 10/466,985	:	ON PETITION
Filed: July 23, 2003	:	
Attorney Docket No. 1512.2.126	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed November 19, 2004.

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, drawings, and specification; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application file is being referred to Technology Center Art Unit 2862, 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 04/22/2010

Applicant	: Niilo Kaartinen	: DECISION ON REQUEST FOR
Patent Number	: 7608464	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/467,022	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1667** 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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C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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DEC 07 2009

OFFICE OF PETITIONS

In re Patent No. 7,462,447	:	
Issue Date: December 9, 2008	:	
Application No. 10/467,033	:	ON PETITION
Filed: August 1, 2003	:	
Attorney Docket No. H0498.70204US00	:	

This is a decision on the petition filed March 10, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the omitted 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.

/KOC/
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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INTELLECTUAL PROPERTY DEPARTMENT
4000 MONROE ROAD
CHARLOTTE NC 28205

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APR 1 9 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bansi Lal Kaul et al :
Application No. 10/467,041 :
Filed: January 22, 2004 :
Attorney Docket No. 2001CH103 :

This is a decision on the petition, filed December 12, 2006, under 37 CFR 1.137(b), which is being treated as a petition under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The application was held abandoned for failure to timely reply to the Restriction Requirement mailed May 2, 2006.

The petition states that a reply was timely submitted on June 2, 2006. However, the response submitted on June 2, 2006 inadvertently reference Application No. 10/647,041 instead of Application No. 10/467,041. To support this assertion, petitioner has submitted a copy of the facsimile transmission with the date of June 2, 2006.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

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

This matter is being referred to Technology Center AU 1625.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Interl nal Application No
PCT/ 2/01291

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61K31/122 A61P3/10 A61P25/02 A61P13/12 A61P27/02

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 A61K A61P

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, BIOSIS, MEDLINE, WPI Data, PAJ, CHEM ABS Data

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 00 47199 A (GONZALEZ DE AGUILAR JOSE LUIS ;LUU BANG (FR); SCHMITT GABY (FR); C) 17 August 2000 (2000-08-17) * claims 1-3, 5, 6 *	1-3
Y	* claims 7-9 *	4,5

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[X] Further documents are listed in the continuation of box C.

[X] Patent family members are listed in annex.

° Special categories of cited documents :

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search	Date of mailing of the international search report
11 June 2002	15/07/2002

Name and mailing address of the ISA	Authorized officer
European Patent Office, P.B. 5818 Patentlaan 2 NL – 2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Uiber, P

Form PCT/ISA/210 (second sheet) (July 1992)

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication,where appropriate, of the relevant passages	Relevant to claim No.
Y	DATABASE BIOSIS 'Online! BIOSCIENCES INFORMATION SERVICE, PHILADELPHIA, PA, US; 1998 UNGER J W ET AL: "Nerve growth factor (NGF) and diabetic neuropathy in the rat: Morphological investigations of the sural nerve, dorsal root ganglion, and spinal cord." Database accession no. PREV199800499846 XP002201770 abstract & EXPERIMENTAL NEUROLOGY, vol. 153, no. 1, 1998, pages 23-34, ISSN: 0014-4886 ---	4,5
Y	DATABASE BIOSIS 'Online! BIOSCIENCES INFORMATION SERVICE, PHILADELPHIA, PA, US; 1995 HAMMES HANS-PETER ET AL: "Nerve growth factor prevents both neuroretinal programmed cell death and capillary pathology in experimental diabetes." Database accession no. PREV199699149925 XP002201771 abstract & MOLECULAR MEDICINE (CAMBRIDGE), vol. 1, no. 5, 1995, pages 527-534, ISSN: 1076-1551 ---	4,5
Y	EP 0 555 149 A (MITSUBISHI GAS CHEMICAL CO ;SAGAMI CHEM RES (JP)) 11 August 1993 (1993-08-11) * p.2, l.6-11, espec. l.11 * ---	4,5
Y	DATABASE BIOSIS 'Online! BIOSCIENCES INFORMATION SERVICE, PHILADELPHIA, PA, US; 30 August 1999 (1999-08-30) APFEL STUART C: "Neurotrophic factors in the therapy of diabetic neuropathy." Database accession no. PREV199900487598 XP002201772 abstract & AMERICAN JOURNAL OF MEDICINE, vol. 107, no. 2 PART B, 30 August 1999 (1999-08-30), pages 34S-42S, ISSN: 0002-9343 ---	4,5

-/--

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	DATABASE BIOSIS 'Online! BIOSCIENCES INFORMATION SERVICE, PHILADELPHIA, PA, US; 1984 NISHIDA T ET AL: "SUPEROXIDE DISMUTASE EC-1.15.1.1 ACTIVITY IN DIABETIC RAT RETINA" Database accession no. PREV198580008367 XP002201773 abstract & JAPANESE JOURNAL OF OPHTHALMOLOGY, vol. 28, no. 4, 1984, pages 377-382, ISSN: 0021-5155 -----	4,5

Patent document cited in search report		Publication date	Patent family member(s)			Publication date
WO 0047199	A	17-08-2000	JP	2000297034	A	24-10-2000
			EP	1150667	A1	07-11-2001
			WO	0047199	A1	17-08-2000
EP 0555149	A	11-08-1993	DE	69313316	D1	02-10-1997
			DE	69313316	T2	19-02-1998
			EP	0555149	A1	11-08-1993
			JP	6211660	A	02-08-1994
			US	5589481	A	31-12-1996
			US	5846977	A	08-12-1998
			JP	6009396	A	18-01-1994

10 SEP 2004

#6

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Edward J. Chalfie
Ladas & Parry
224 South Michigan Avenue
Suite 1200
Chicago, IL 60604

In re Application of RUSTON, Jeremy Waine et al. Application No.: 10/467,100 PCT No.: PCT/GB02/00602 Int. Filing Date: 11 February 2002 Priority Date: 09 February 2001 Attorney Docket No.: CU-3553 For: NETWORK CONDUIT FOR PROVIDING ACCESS TO DATA SERVICES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Response to Notification of Missing Requirements," filed in the United States Patent and Trademark Office (USPTO) on 28 April 2004.

BACKGROUND

On 11 February 2002, applicants filed international application PCT/GB02/00602, which claimed a priority date of 09 February 2001. A copy of the international application was transmitted to the Office by the International Bureau on 22 August 2002. The period for paying the basic national fee in the United States expired at midnight on 11 August 2003 (09 August 2003 was a Saturday).

On 04 August 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 November 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 28 April 2004, applicants submitted the instant petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration of inventorship and a statement of facts.

On 31 August 2004, applicants submitted a statement of the last known address of the nonsigning inventor.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (2), (3) and (4) have been met. (1) The petition fee of $130 has been paid. (2) James Cross' statement details the attempts to obtain the signature of Mr. Conway on the declaration. (3) The last known address of non-signing inventor Richard Conway is 5 Broadhurst Gardens, Chigwell, Essex IG7 5HE, United Kingdom. (4) The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(a).

CONCLUSION

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **28 April 2004**.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

10 SEP 2004

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Richard Conway
5 Broadhurst Gardens
Chigwell, Essex IG7 5HE
United Kingdom.

In re Application of
RUSTON, Jeremy Waine et al.
Application No.: 10/467,100
PCT No.: PCT/GB02/00602
Int. Filing Date: 11 February 2002
Priority Date: 09 February 2001
Attorney Docket No.: CU-3553
For: NETWORK CONDUIT FOR PROVIDING ACCESS TO DATA SERVICES

Dear Mr. Conway:

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

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

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

Edward J. Chalfie
Ladas & Parry
224 South Michigan Avenue
Suite 1200
Chicago, IL 60604

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John A. Harrelson
Woodcock Washburn, LLP
One Liberty Place, 46 th Floor
1650 Market Street
Philadelphia, PA 19103

In re Application of	:	
THERIEN	:	
PCT No.: PCT/US02/05584	:	DECISION ON PETITION
Application No.: 10/467,107	:	
Int. Filing Date: 26 February 2002	:	UNDER 37 CFR 1.181
Priority Date: None	:	
Atty. Docket No.: UPN-4276	:	
For: EMISSIVE MULTICHROMOPHORIC	:	
SYSTEMS	:	

This is a decision on applicant's "Petition to Accord Correspondence Filing Date Shown on Express Mail Label "Date-In" (37 CFR § 1.10(C))" filed on 29 January 2004 in the United States Patent and Trademark Office (USPTO). The request is being treated as a request for a corrected filing receipt pursuant to 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 26 February 2002, applicant filed international application PCT/US02/05584.

On 05 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an unsigned declaration of the inventor.

On 23 September 2003, applicant filed a combined declaration and power of attorney executed by the sole inventor, Michael J. Therien.

On 21 November 2003, applicant was mailed a "Notification of Acceptance" indicating the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements as 05 August 2003 and the date of receipt of all 35 U.S.C. 371 requirements as 23 September 2003.

On 29 January 2004, applicant filed the present petition.

DISCUSSION

An examination of the application file and stamped transmittal letter contained therein reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United

States were satisfied on 23 September 2003. As such, it is proper to **GRANT** applicant's petition at this time.

CONCLUSION

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

The application will be given an international filing date of 26 February 2002 under 35 U.S.C. 363 and a date of **23 September 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 21 November 2003 indicating a date of 05 August 2003 under 35 U.S.C. 371(c) is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a corrected filing receipt indicating the correct 371 date as detailed above.

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

DT20 Rec'd PCT/PTO 29 JAN 2004

DOCKET NO.: UPN-4276 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Michael J. Therien

Confirmation No.: 9625

Serial No.: 10/467,107

Group Art Unit: 1616

Filing Date: September 23, 2003

Examiner: Not Yet Assigned

For: EMISSIVE MULTICHROMOPHORIC SYSTEMS

EXPRESS MAIL LABEL NO: EL 975570181 US
DATE OF DEPOSIT: 29 January 2004

02/03/2004 LLANDGRA 00000063 233050 10467107
01 FC:1460 130.00 DA

EL975570181US

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

PETITION TO ACCORD CORRESPONDENCE FILING DATE SHOWN ON EXPRESS MAIL LABEL "DATE-IN" (37 CFR § 1.10(C))

1. This is a petition to accord the correspondence in the above-identified

   ☒ application

   ☐ patent

the "date-in" of **September 23, 2003**, shown on the Express Mail label No.**EV 321473548 US**.

2. Attached is a true copy of the first page of the correspondence which was filed, showing both the date on which this correspondence was mailed as Express Mail Label No. **EV 321473548 US**, and that the number of the Express Mail was placed thereon prior to mailing. 37 CFR § 1.10(c)(2).

3. Attached is a true copy of the "Express Mail" mailing label showing the "date-in" of **September 23, 2003**. 37 C.F.R.§ 1.10(c)(3).

4. The petition fee (37 CFR § 1.17(h)) is paid as follows:

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Paper No. None

Michaelson & Wallace
Parkway 109 Office Center
328 Newman Springs Road
PO Box 8489
Red Bank NJ 07701

COPY MAILED

DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Jasper Feijtel :
Application No. 10/467,110 : DECISION ON PETITION
Filed: December 2, 2003 : UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number: Accius-3(P53362US00) :
Title: FASTENING DEVICE FOR AN ORTHESIS OR PROSTHESIS :

This is a decision on the petition filed on July 25, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 1, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 2, 2005. A notice of abandonment was mailed on May 5, 2006.

---

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.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

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

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment, which was received with the present petition, can be processed.

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).

28 SEP 2004

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Patent Department
Microcoating Technologies Inc
5315 Peach Tree Ind. Blvd
Atlanta GA 30341

In re Application of	:	
OLJACA et al.	:	
Application No.: 10/467,139	:	DECISION
PCT No.: PCT/US01/49559	:	
Int. Filing Date: 27 December 2001	:	
Priority Date: 01 February 2001	:	
Attorney's Docket No.: 0060-NA US	:	
For: CHEMICAL VAPOR DEPOSITION DEVICES	:	
AND METHODS	:	

This is a decision on applicants' submission filed 08 March 2004 in the United States Patent and Trademark Office (USPTO), which has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 27 December 2001, applicants filed international application PCT/US01/49559, which claimed a priority date of 01 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 08 August 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 August 2003.

On 01 August 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 19 December 2003, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) were required. This NOTIFICATION set a two month extendable period for reply.

On 08 March 2004, applicants filed the instant submission, which has been treated as a petition under 37 CFR 1.181.

DISCUSSION

The submission filed 08 March 2004 urges that a declaration of inventors was already filed

in the PCT application on 07 February 2002 and a new declaration is not necessary, nor is the surcharge under 37 CFR 1.492(e). The submission also includes a copy of the declaration purportedly filed 07 February 2002. This declaration does not appear in the file jacket of either the home copy of the search copy of the PCT application.

37 CFR 1.497(a) states in part:

> When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to § 1.495, and a declaration in compliance with this section has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26 ter.1, he or she must file an oath or declaration . . .

The declaration purportedly filed in the PCT application on 07 February 2002 was not filed under PCT Rule 4.17(iv). Accordingly, an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is now required.

The declaration filed with the 08 March 2004 submission is in compliance with 37 CFR 1.497(a)-(b). The published international application lists George A. Neuman and Fred Fortunato as inventors while the declaration of inventors filed 08 March 2004 lists George Andrew Neuman and Fred A. Fortunato as inventors, respectively. As to the middle name of Mr. Neuman and the middle initial of Mr. Fortunato, the difference in names is presumed not to be a name change or a change of inventors or a typographical error. The names George A. Neuman and Fred Fortunato are presumed to be shortened versions of the names George Andrew Neuman and Fred A. Fortunato and these names are construed to designate the same persons, respectively. (If this interpretation is incorrect, applicants are required to provide a written notification of this fact to the Office of PCT Legal Administration *immediately*.)

The surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date has been charged to Deposit Account 50-1231.

CONCLUSION

For the reasons set forth above, applicants' petition under 37 CFR 1.181 to accept the copy of the declaration filed 08 March 2004 as having been received in the USPTO on 07 February 2002 is **DISMISSED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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

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

11 FEB 2004

#4

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SENNIGER, POWERS, LEAVITT &
ROEDEL
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102

In re Application of	:	DECISION ON
David W. Moskowitz	:	
PCT No.: PCT/US01/09583	:	
Application No.: 10/467,141	:	PETITION UNDER
Int. Filing Date: 26 March 2001	:	
Priority Date: 24 March 2000	:	
Attorney's Docket No.: VTI 2177.2	:	37 CFR 1.47(b) AND
For: DIAGNOSTIC POLYMORPHISMS OF THE	:	
TGF-β-RII PROMOTER	:	37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR FILING OF PATENT APPLICATION WHEN INVENTOR REFUSES TO EXECUTE PAPERS UNDER 37 CFR 1.47(b)" submitted on 05 August 2003 that seeks the acceptance of the application without the signature of the inventor David W. MOSKOWITZ.

BACKGROUND

On 26 March 2001, applicant filed international application PCT/US01/09583, which claimed priority of an earlier application filed 24 March 2000. A copy of the international application was transmitted to the United States from the International Bureau on 04 October 2001. A Demand was filed for this application on 16 October 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 September 2002.

On 05 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). In addition the following items have been submitted:

1) a petition under 37 CFR 1.137(b);

2) a petition under 37 CFR 1.47(b);

3) a Declaration for U.S. Patent Application executed by Lee A. Henderson;

4) declarations by T. Kungel, L. Henderson, D. Pearman, and J. Schwarz;

5) the required petition fee under 37 CFR 1.137(b).

DISCUSSION

PETITION UNDER 37 CFR 1.47(b):

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner has satisfied requirements (1) – (3) and (5) - (6) but not requirement (4) thus not completing the requirements under 37 CFR 1.47(b).

Petitioner has satisfied item (1) since the petition fee has been charged to applicant's deposit account 19-1345 as indicated in the transmittal letter of 05 August 2003.

Regarding requirement (2), petitioner has indicated that David W. Moskowitz has refused to sign the declaration. The petition does include sufficient proof to establish that inventor Dr. Moskowitz has refused to execute the application.

Specifically, the declaration of Mr. Henderson indicates that he called Dr. Moskowitz on June 5, 2003 and asked Dr. Moskowitz would he be available to sign a Oath and Declaration. In response, Dr. Moskowitz stated that he was unwilling to sign any document in connection with the prosecution of this application based upon inventions assigned by DZGenes to Viral Therapeutics without substantial compensation. However, the terms of compensation was not acceptable to Viral Therapeutics, Inc so Dr. Moskowitz informed Mr. Henderson that he would not sign any papers.

Further, the declaration of Mr. Schwarz indicates that on July 18, 2003 he hand delivered to Dr. David Moskowitz current business a complete copy of the published PCT application serial number PCT/US01/09583 and a Declaration/Power of Attorney to be signed by Dr. Moskowitz for filing the U.S. national application. He accepted delivery of them and said he was unwilling to sign any document with the prosecution of this application without further compensation from Viral Therapeutics, Inc. Consequently, the petition does include sufficient factual proof that Mr. Moskowitz refuses to sign the required papers.

Regarding item (3), applicant has stated the last known address of the inventor:

Dr. David Moskowitz
518 Bonhomme Woods Drive
St. Louis, Missouri 63132

Regarding item (4) the declaration that has been provided which is executed by Mr. Lee A. Henderson, Chief Executive Officer of Viral Therapeutics signing on behalf of the corporation for the non-signing sole inventor, Dr. Moskowitz is defective. The declaration

improperly indicates Mr. Henderson as the inventor in the application. The declaration must identify Dr. Moskowiz as the inventor and give his information.

Regarding item (5) applicant has submitted proof that applicant has sufficient proprietary interest in the application. A copy of the assignment from Dr. Moskowitz to DZGenes, LLC of St. Louis, Missouri and the assignment from DZGenes, LLC of St. Louis, Missouri to Viral Therapeutics, Inc. has been provided. Petitioner has in the present petition established petitioner's right to take action under 37 CFR §3.73(b).

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

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

PETITION UNDER 37 CFR 1.137(b):

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting an executed declaration, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b), and it is appropriate to accord the national stage application status at this time.

DECISION

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

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

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

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

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

Richard Cole
PCT Legal Examiner
PCT Legal Office

10 AUG 2004

#6

UNITED STATES PATENT and TRADEMARK OFFICE

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

SENNIGER, POWERS, LEAVITT &
ROEDEL
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102

In re Application of	DECISION ON
David W. Moskowitz	
PCT No.: PCT/US01/09583	
Application No.: 10/467,141	RENEWED PETITION
Int. Filing Date: 26 March 2001	
Priority Date: 24 March 2000	
Attorney's Docket No.: VTI 21772	UNDER 37 CFR 1.47(b)
For: DIAGNOSTIC POLYMORPHISMS OF THE TGF-β-RII PROMOTER	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.47(b)" submitted on 09 April 2004 that seeks the acceptance of the application without the signature of the inventor David W. MOSKOWITZ.

BACKGROUND

In a decision from this Office on 11 February 2004, the petition filed under 37 CFR 1.47(b) on 05 August 2003 was dismissed. The decision indicated that requirement (4) was not met because the declaration was defective since it improperly indicated Mr. Henderson as the inventor.

On 09 April 2004, applicant submitted a "Renewed Petition Pursuant 37 CFR 1.47(b)" requesting reconsideration in view of the supplemental Declaration submitted.

DISCUSSION

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

Regarding item (4) a declaration has been provided which is executed by Mr.Lee Henderson signing on behalf of the corporation for the non-signing sole inventor, Mr. Moskowitz. The declaration sets forth Mr. Henderson relationship to the non-signing inventor and lists the required information for Mr. Moskowitz.

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

CONCLUSION

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

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

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) to continue national stage processing of the application. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **09 April 2004.**

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

Richard Cole
PCT Legal Examiner
PCT Legal Office

10 AUG 2004

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

Dr. David Moskowitz
518 Bonhomme Woods Drive
St. Louis, Missouri 63132

In re Application of
David W. Moskowitz
PCT No.: PCT/US01/09583
Application No.: 10/467,141
Int. Filing Date: 26 March 2001
Priority Date: 24 March 2000
Attorney's Docket No.: VTI 2177.2
For: DIAGNOSTIC POLYMORPHISMS OF THE TGF-β-RII PROMOTER

Dear Dr. Moskowitz:

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

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

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

SENNIGER, POWERS, LEAVITT & ROEDEL
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102

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

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Dr. David W. MOSKOWITZ) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/US01/09583 and was filed on 26 March 2001 in the name of David W. Moskowitz for the invention entitled DIAGNOSTIC POLYMORPHISMS OF THE TGF-β-RII PROMOTER. The national stage application number is 10/467,141 and has a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 09 April 2004.

15 JUN 2004

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#6

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

G. Gregory Schivley
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48329

In re Application of	:	
Etsua OOBA, et al.	:	
Application No.: 10/467,144	:	
PCT No.: PCT/JP02/01250	:	DECISION
Int. Filing Date: 14 February 2002	:	ON
Priority Date: 16 February 2001	:	PETITION UNDER 37 CFR 1.181
Attorney Docket No.: 8957-000003	:	
For: RESISTOR ELEMENT, STRESS	:	
SENSOR AND METHOD FOR	:	
MANUFACTURING THEM	:	

This decision is in response to applicants' communication filed by facsimile on 26 April 2004, which is being treated as a petition under 37 CFR 1.181 requesting the Office to vacate the Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) issued 04 December 2003 in the present application. The Petition is **DISMISSED**, without prejudice, as follows:

No petition fee is necessary.

A review of the declaration of the inventors submitted during the international phase reveals that it is not in compliance with 37 CFR 1.69(b), which stipulates that "Unless the text of any oath or declaration in a language other than English is a form provided or approved by the Patent and Trademark Office, it must be accompanied by an English translation together with a statement that the translation is accurate." No translation of the declaration of the inventors has been provided. Furthermore, the declaration which is a part of the Request form fails to comply with PCT Rule 4.16. Names and addresses must also be indicated in Latin alphabet if they are written in characters other than the Latin alphabet.

Applicants are required to file a new declaration of the inventors in compliance with 37 CFR 1.63 and 1.69 within a time limit of **ONE (01) MONTH** from the mail date of this decision or within the time remaining in the response period of the last Office action, whichever is the longer. NO EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER EITHER 37 CFR 1.136(a) OR (b) BUT THE PERIOD FOR RESPONSE SET IN

THE LAST OFFICE ACTION MAY BE EXTENDED UP TO A MAXIMUM OF FIVE MONTHS. **Failure to respond will result in abandonment of the application as to the national stage in the United States**.

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

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/LES:hn

Tel: (703) 308-6508

26 AUG 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

G. Gregory Schivley
HARNESS, DICKEY, & PIERCE
PO Box 828
Bloomfield Hills, Michigan

In re Application of:	:	
Etsua OOBA, et al..	:	
Application No.: 10/467,144	:	DECISION
PCT No.: PCT/JP02/01250	:	
International Filing Date: 14 February 2002	:	
Priority Date: 16 February 2001	:	
Attorney's Docket No.: 8957-000003	:	
For: RESISTOR ELEMENT, STRESS SENSOR AND	:	
METHOD FOR MANUFACTURING THEM	:	

In a decision mailed on 15 June 2004, applicants' petition under 37 CFR 1.181 seeking to vacate the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 04 December 2003 was dismissed without prejudice. The decision stated that applicants were required to file an acceptable declaration within one month of the mail date of the decision.

On 13 July 2004, applicants filed a "Submission Of Executed Declaration" accompanied by an executed declaration and the required surcharge for filing the declaration later than thirty months after the priority date. The declaration is acceptable under 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 13 July 2004.

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

18 DEC 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

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

Edward J. Hejlek
Senniger, Powers, Leavitt & Roedel
One Metropolitan Square, 16th Floor
St. Louis, MO 63102

In re Application of	:	
Moskowitz	:	
US Application No.: 10/467,149	:	
PCT Application No.: PCT/US01/09743	:	
International Filing Date: 26 March 2001	:	DECISION ON PETITION
Priority Date: 24 March 2000	:	UNDER 37 CFR 1.47(b)
Attorney's Docket No.: VTI 2178.2	:	AND 37 CFR 1.137(b)
For: DIAGNOSTIC POLYMORPHISMS	:	
OF THE TGF-BETA1 PROMOTER	:	

This decision concerns the "Petition for Filing of Patent Application When Inventor Refuses to Execute Papers under 37 CFR 1.47(b)" filed on 05 August 2003 under 37 CFR 1.47(b), and to revive the above-identified application for "unintentional" delay under 37 CFR 1.137 (b).

BACKGROUND

On 26 March 2001, international application PCT/US01/09743 was filed, claiming priority of an earlier U.S. provisional application filed on 24 March 2000. A demand was timely filed, accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 24 September 2002.

On 05 August 2003, a transmittal letter for entry into the national stage in the United States (Form PTO-1390) was filed along with, *inter alia*, the $360 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(1). The transmittal letter further includes an authorization to charge Deposit Account No. 19-1345 for any additional fees which may be required. In addition, concurrently on 05 August 2003, the present petition to revive the above-identified application was submitted. The $650.00 petition fee, and the $130.00 as required by 37 CFR 1.17(h) were enclosed. The petition further includes a rule 63 Declaration singed by Lee Henderson, Ph.D., President and CEO of Viral Therapeutics, Inc., on behalf of the sole inventor Dr. Moskowitz who refused to sign the Declaration. The transmittal letter further includes the following documents:

A letter from G. Harley Blosser to David Moskowitz, M.D. dated 06 February 2002.
A letter from David Moskowitz to G. Harley Blosser dated 08 February 2002.
A declaration of prior invention under 37 CFR 1.131 signed by Terrence M. Kungel dated 14 February 2002.

A letter to the United States Receiving Office (RO/US) signed by G. Harley Blosser dated 19 July 2001.

A Declaration of Lee A.Henderson, Ph.D. signed and dated 30 June 2003.

A Declaration of Darlene E. Pearman signed and dated 05 August 2003.

A Declaration of Joel Z. Schwarz signed and dated 05 August 2003.

DISCUSSION

PETITION UNDER 37 CFR 1.47(b)

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. A review of the documents submitted 05 August 2003 listed above reveals that the petitioner satisfied items (1)-(3), and (5)-(6).

With regard to item (4) above, the declaration signed by Lee A. Henderson on 20 July 2003 cannot be accepted in that it improperly lists Lee A. Henderson as the inventor and includes his citizenship and residence. A proper declaration should list Dr. Moskowitz as the inventor, include the inventor's citizenship and residence, and be executed by Mr. Henderson as an officer of the 37 CFR 1.47(b) applicant. Therefore, the instant §1.47(b) petition fails to satisfy the requirement under (4), and as such the petition cannot be properly granted at this time.

PETITION UNDER 37 CFR 1.137(b)

A petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition fee required by 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, and (4) a terminal disclaimer fee (only for utility and plant applications filed before 08 June 1995).

With regard to items (1) and (2), applicant furnished the basic national fee of $360.00 and the petition fee of $650.00 based on the claimed small entity status.

With regard to item (3), the petition includes a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

With regard to item (4), because the application filing date of 26 March 2001 is after 08 June 1995, the requirement of a terminal disclaimer with disclaimer fee is not applicable in this case.

Accordingly, applicant has satisfied each of the requirements under 37 CFR 1.137 (b).

CONCLUSION

In view of the above, the petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

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

If reconsideration on the merits of the petition under 1.47(b) is desired, a proper response should include an executed declaration by Lee A. Anderson as an officer of the corporation on behalf of the inventor Moskowitz as stated above. The response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136 (a).

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

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

Richard Cole
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

28 APR 2004

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

Edward J. Hejlek
Senniger, Powers, Leavitt & Roedel
One Metropolitan Square, 16th Floor
St. Louis, MO 63102

In re Application of	:	
Moskowitz, David W.	:	
Application No.: 10/467,149	:	
PCT Application No.: PCT/US01/09743	:	DECISION ON
International Filing Date: 26 March 2001	:	
Priority Date: 26 March 2000	:	PETITION
Attorney Docket No.: VTI 2178.2	:	
For: DIAGNOSTIC	:	UNDER 37 CFR 1.47(b)
POLYMORPHISMS	:	
OF THE TGF-BETA1	:	
PROMOTER	:	

This decision concerns applicant's "Renewed Petition Under 37 CFR 1.47(b), filed in the United States Patent and Trademark Office on 06 January 2004 [hereinafter, "Renewed Petition"]. This Renewed Petition is GRANTED.

BACKGROUND

On 05 August 2003 applicant filed a "Petition for Filing of Patent Application When Inventor Refuses to Execute Papers Under 37 CFR 1.47(b)." This petition was dismissed without prejudice in a decision mailed on 18 December 2003.

The petition filed on 05 August 2003 had been dismissed only because applicant had submitted a declaration that listed Viral Therapeutics, Inc.'s corporate officer Mr. Henderson as the inventor, rather than the actual inventor, Dr. Moskowitz. The decision of 18 December 2003 suggested that "[a] proper declaration should list Dr. Moskowitz as the inventor, include the inventor's citizenship and residence, and be executed by Mr. Henderson as officer of the 37 CFR 1.47(b) applicant." As well, the decision of 18 December 2003 had granted the petition to revive under 37 CFR 1.137(b).

Applicant has responded to the dismissal by filing another Rule 63 declaration to replace the declaration filed on 05 August 2003. As well, applicant has filed a "Legal Memorandum Under MPEP 409.03(f)" [hereinafter, "Legal Memorandum"] to demonstrate that applicant has "sufficient proprietary interest to be awarded title by a court of competent jurisdiction."

DISCUSSION

When no inventor is available, an assignee may file an application under 37 CFR 1.47(b), as discussed in MPEP 409.03(b). A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The applicant has filed another Rule 63 declaration. The declaration lists David W. Moskowitz as inventor, including his citizenship and residence, and the declaration is signed by Lee A. Henderson, Ph.D., Chief Executive Officer of the 37 CFR 1.47(b) applicant, Viral Therapeutics, Inc. The declaration is acceptable, satisfying the requirement of item (4) above.

Petitioner's Legal Memorandum concludes that the 37 CFR 1.47(b) applicant (Viral Therapeutics, Inc.) would by the weight of applicable authority be awarded title of the invention underlying the present application, satisfying the requirement of item (5) above.

In concert with the reasons provided in the decision of 18 December 2003, applicant has satisfied the requirements of items (1)-(6), as set forth above, and so the Renewed Petition is granted.

CONCLUSION

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

As provided in 37 CFR 1.47(b), a notice of the filing of the application will be forwarded to the non-signing inventor at the last known address set forth in the petition, and notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision. The date under 35 USC 371(c)(1), (c)(2), and (c)(4) is 06 January 2004.

Michael La Villa
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

28 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David W. Moskowitz
518 Bonhomme Woods Drive
St. Louis, Missouri 63132

In re Application of
Moskowitz, David W.
Application No.: 10/467,149
PCT Application No.: PCT/US01/09743
International Filing Date: 26 March 2001
Priority Date: 26 March 2000
Attorney Docket No.: VTI 2178.2
For: DIAGNOSTIC POLYMORPHISMS OF THE TGF-BETA1 PROMOTER

Dear Mr. Moskowitz:

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

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

Michael La Villa
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

Counsel of Record:
Edward J. Hejlek
Senniger, Powers, Leavitt & Roedel
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102

10 MAR 2004

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

Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of	:	
Kohlhase et al.	:	
Application No.: 10/467,176	:	
PCT No.: PCT/EP02/01474	:	
Int. Filing Date: 13 February 2002	:	DECISION
Priority Date: 16 February 2001	:	
Attorney Docket No.: P24064	:	
For: Gel Emulsions In The Form Of O/W	:	
Emulsions Having A Hydrocolloid Content	:	

This is a decision on applicants' "Cover Letter Regarding Change Of Name Of Inventor" filed on 20 January 2004.

BACKGROUND

This international application was filed on 13 February 2002, designated the U.S., and claimed a priority date of 16 February 2001. The International Bureau transmitted a copy of the published international application to the USPTO on 29 August 2002. Consequently, the thirty period for payment of the basic national fee in the United States expired as of midnight on 18 August 2003 (since 16 August 2003 was a Saturday).

On 15 August 2003, applicants filed *inter alia* the basic national fee.

On 20 November 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

DISCUSSION

Review of the record reveals that the declaration of the inventors filed on 20 January 2004 itemizes a joint inventor, Silke Kohlhase, whose name does not appear in the published international application, and that the published international application itemizes a joint inventor, Silke Füller, whose name does not appear in the declaration of the inventors filed on 20 January 2004. The declaration also bears the words "ehemals Füller." In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition under 37 CFR 1.182 is required to resolve this matter. Specifically, MPEP 605.04(c) provides in part that

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182... The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Accordingly, such a petition must be accompanied by the $130.00 petition fee and by verified statements by the inventor and any other individuals having first-hand knowledge of the error. These statements must set forth in detail the specific circumstances as to how and when the error was made and discovered, and must also state (if appropriate) that the mistake was an inadvertent error made without deceptive intent.

CONCLUSION

Counsel's request to accept the declaration filed on 20 January 2004 is **REFUSED**, without prejudice.

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

3 1 MAR 2004

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

Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of	:	
Kohlhase et al.	:	
Application No.: 10/467,176	:	
PCT No.: PCT/EP02/01474	:	CORRECTED
Int. Filing Date: 13 February 2002	:	
Priority Date: 16 February 2001	:	DECISION
Attorney Docket No.: P24064	:	
For: Gel Emulsions In The Form Of O/W	:	
Emulsions Having A Hydrocolloid Content	:	

This is a corrected version of the 10 March 2004 decision on applicants' "Cover Letter Regarding Change Of Name Of Inventor" filed on 20 January 2004.

BACKGROUND

This international application was filed on 13 February 2002, designated the U.S., and claimed a priority date of 16 February 2001. The International Bureau transmitted a copy of the published international application to the USPTO on 29 August 2002. Consequently, the thirty period for payment of the basic national fee in the United States expired as of midnight on 18 August 2003 (since 16 August 2003 was a Saturday).

On 15 August 2003, applicants filed *inter alia* the basic national fee.

On 20 November 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

DISCUSSION

Review of the record reveals that the declaration of the inventors filed on 20 January 2004 itemizes a joint inventor, Silke Kohlhase, whose name does not appear in the published international application, and that the published international application itemizes a joint inventor, Silke Füller, whose name does not appear in the declaration of the inventors filed on 20 January 2004. The declaration also bears the words "ehemals Füller." In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition under 37 CFR 1.182 is required to resolve this matter. Specifically, MPEP 605.04(c) provides in part that

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182... The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Accordingly, such a petition must be accompanied by the $130.00 petition fee and by verified statements by the inventor and any other individuals having first-hand knowledge of the error. These statements must set forth in detail the specific circumstances as to how and when the error was made and discovered, and must also state (if appropriate) that the mistake was an inadvertent error made without deceptive intent.

CONCLUSION

Counsel's request to accept the declaration filed on 20 January 2004 is **REFUSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **ONE (1) MONTH** (nonextendable under 37 CFR 1.136(a)) from the mail date of this decision or within the extendable period for response to the Notification of Missing Requirements mailed 20 November 2003, whichever is longer. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)". No additional processing fee is required.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

06 AUG 2004

#9

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Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of	:	
Kohlhase et al.	:	
Application No.: 10/467,176	:	
PCT No.: PCT/EP02/01474	:	DECISION ON
Int. Filing Date: 13 February 2002	:	
Priority Date: 16 February 2001	:	PETITION
Attorney Docket No.: P24064	:	
For: Gel Emulsions In The Form Of O/W	:	
Emulsions Having A Hydrocolloid Content	:	

This is a decision on the renewed submission under 37 CFR 1.497(d) filed on 13 April 2004, a copy of which was filed on 07 June 2004.

DISCUSSION

Applicants request that the declaration of the inventors filed on 20 January 2004 be accepted despite the fact that it itemizes a joint inventor, Silke Kohlhase, whose name does not appear in the published international application, and that the published international application itemizes a joint inventor, Silke Füller, whose name does not appear in the declaration of the inventors filed on 20 January 2004. The declaration also bears the words "ehemals Füller." The instant renewed submission is accompanied by a "Declaration Of Silke Kohlhase Concerning Name Change," signed by Ms. Kohlhase and attesting to the fact that the discrepancy in question arose from her name change due to marriage. Consequently, it would now be appropriate to accept the declaration filed on 20 January 2004.

CONCLUSION

Counsel's request to accept the declaration filed on 20 January 2004 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371 (c)(1), (2) and (4) is **13 April 2004**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

15 SEP 2004

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C. Irvin McClelland
OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of MASAHIKO MEGA et al. Appl. No.: 10/467,179 PCT No.: PCT/JP02/08730 Int. Filing Date: 29 August 2002 Priority Date: 29 August 2001 Agent's File Reference: 241357US3PCT For: METHOD FOR PLUGGING HOLE ON TIP OF GAS TURBINE BLADE	:	DECISION ON REQUEST FOR REFUND UNDER 37 CFR 1.181

This decision is in response to applicant's communication filed 01 July 2004. Applicant's communication has been treated as a petition under 37 CFR 1.181 for the refund of fees in the amount of $130. The petition is **DISMISSED.**

BACKGROUND

On 15 August 2003, applicant filed U.S. application 10/467,179 as a national stage entry of international application PCT/JP02/08730. An oath/declaration was not included with the application papers.

On 28 November 2003, the United States Designated Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that an oath/declaration executed in accordance with 37 CFR 1.497(a) and (b) accompanied by a surcharge of $130 and additional claim fees in the amount of $290 were due.

On 27 April 2004, applicants filed an executed oath/declaration accompanied by an authorization by counsel to charge any required fees to Deposit Account No. 15-0030.

On 01 July 2004, applicants filed the present petition requesting a refund of the $130 surcharge on the grounds that an oath declaration was filed on 12 February 2004 "...within the 32 month deadline...".

DISCUSSION

A review of the application file reveals that the oath/declaration purportedly filed on 12 February 2004 is not of record and applicant has not submitted any evidence of such a submission. Applicant is reminded that an oath/declaration must be filed prior to the expiration of 30 months from the earliest priority date to not incur the payment of a $130 surcharge. See 37 CFR 1.495(b)(2). In that the only declaration present in the USPTO file was submitted on 27 April 2004, i.e., after the 30 month deadline, the charging of counsel's deposit account for the late surcharge was proper.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.181 is **DISMISSED without prejudice.**

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1451, Alexandria, VA 22313-1450.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

JSF/RC:jf

(703)308-6154

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Santangelo Law Offices
Third Floor
125 South Howes
Fort Collins CO 80521

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OFFICE OF PETITIONS

Applicant: Pauli et al.
Appl. No.: 10/467,181
International
Filing Date: February 5, 2002
Title: AUTOMATED FLOCCULATION TITRIMETER SYSTEM
Attorney Docket No.: WRI-Flocculation-USNP
Pub. No.: US 2004/0058451 A1
Pub. Date: March 25, 2004

This is a decision to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on May 25, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error on the front page of the publication, as the provisional application is listed under "Foreign Application Priority Data" and not under "Related U.S. Application Data".

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 on the front page of the publication is an Office error, but it is not a material error under 37 CFR 1.221(b). The error is understandable from reading the front page of the publication because the listed application is a U.S. provisional application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional

[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).

rights that an applicant may seek to enforce upon issuance of a patent. Furthermore, applicant did not make a proper benefit claim to the provisional application, thus applicant is not entitled to have the benefit claim. The amendment filed on August 4, 2003 was not in compliance with 37 CFR 1.121 because the text in the added paragraph is underlined. Applicant should file a proper amendment in compliance with 37 CFR 1.121. The petition and fee under 37 CFR 1.78 are not required because the Office picked up the priority information.

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

The application will be examined in due course.

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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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

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OFFICE OF PETITIONS

In re Patent No. 7,131,801 :
Issue Date: 11-07-2006 :
Application No. 10/467,205 : ON PETITION
Filed: 08-05-2003 :
Attorney Docket No. 3978.007 :

This is a decision on the petition filed December 18, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

24 MAY 2004

#6

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SMITH & AMUNDSEN
440 SCIENCE DR.
SUITE 320
MADISON, WI 53711

In re Application of KAEVER	:	
U.S. Application No.: 10/467,208	:	
PCT Application No.: PCT/EP02/01030	:	
Int. Filing Date: 01 February 2002	:	DECISION
Priority Date Claimed: 09 February 2001	:	
Attorney Docket No.: WESTLAN-4	:	
For: DEVICE FOR DETERMINING THE MASS OF A FLOWING, FOAMING FLOW OF LIQUID	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 05 January 2004.

BACKGROUND

On 01 February 2002, applicant filed international application PCT/EP02/01030, which claimed priority of an earlier Germany application filed 09 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 22 August 2002. The thirty-month period for paying the basic national fee in the United States expired on 09 August 2003.

On 05 August 2003, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 December 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely file the requisite basic national fee.

On 05 January 2004, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

On 18 February 2004, applicant filed an executed declaration.

DISCUSSION

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

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

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

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

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 01 February 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 18 February 2004.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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~~SEP 16 2005~~ SEP 20 2005

NOVAK, DRUCE, DELUCA & QUIGG, LLP
1300 EYE STREET, NW
SUITE 400 EAST
WASHINGTON, DC 20036

In re Application of	:
Ralf Noe et al	:
Serial No.: 10/467,234	: PETITION DECISION
Filed: August 6, 2003	:
Attorney Docket No.: 52177	:

This is in response to the petition under 37 CFR 1.144, filed June 16, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and accepted on August 6, 2003, and, as amended, contained claims 9-17. In a first Office action, mailed November 9, 2004, the examiner set forth a Lack of Unity requirement dividing the claims into two groups, as follows:

Group I – claims 9-14 and 16-17, drawn to a process for preparing cyclohexane-dicarboxylic acids;
Group II – claim 15, drawn to mixtures (of the acids).

The examiner reasoned that the process did not represent a contribution over the prior art and therefore, Unity was lacking.

On December 13, 2004, applicants replied electing Group I with traverse and noting that the application was filed under 35 U.S.C. 371 and must follow Lack of Unity requirements under PCT Rule 13, under which a process and its product are considered to have Unity of invention..

The examiner mailed a new Office action to applicants on March 14, 2005, maintaining the Lack of Unity requirement and replying to applicants' traversal by maintaining that the common special technical feature of the process and product claims were different. The requirement was made Final. The examiner also rejected claims 9-14 and 16-17 under 35 U.S.C. 112, first paragraph, as lacking enablement and under 35 U.S.C. 112, second paragraph as indefinite. Claims 9-14 and 16-17 were also rejected under 35 U.S.C. 103(a) as unpatentable over Winstrom et al in view of DE 2823164, Wartman et al and/or WO 00/78704

Applicants then filed this petition and a reply to the Office action on June 16, 2005.

DISCUSSION

Applicants first note that claim 15 is a dependent claim, dependent on claim 9, and is directed to the product of the process claimed. Applicants note that the examiner used as a basis for holding Lack of Unity that the claims lacked a common special technical feature. Insofar as the process produces the product claimed, and Unity under PCT guidelines accords Unity to products and their process of making, this basis is unsupported as noted by applicants. Further the examiner appeared to base the Lack of Unity on the International Search Report (which is merely an advisory report on references discovered which may have a bearing on patentability), but is not dispositive of patentability or non-patentability. Applicants further note that the International Preliminary Examination Report issued later does not apply any of the cited references against the claims giving a preliminary opinion that the claims are patentable. In view of this the examiner's initial holding of Lack of Unity was not properly supported.

The examiner's argument that the special technical features of the process claims are the steps thereof and the special technical feature of the product claim is the elements of the claimed mixture is also not well taken. A process claim or a product claim may have more than one special technical feature and it need only be one among many special technical features on which Unity is based. Since the process produces the product and the product claim claims the same product, the product is determined to be the common special technical feature irrespective of any other differing special technical features.

In view of the above the restriction requirement is withdrawn.

DECISION

The petition is **GRANTED**.

The application will be forwarded to the examiner for consideration of all claims pending.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 571-273-8300

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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In re Application of	:
James D. Harper, et al.	:
Serial No.: 10/467,242	: PETITION DECISION
Filed: January 16, 2004	:
Attorney Docket No.: 0050.2068-011	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed January 10, 2006. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Alexandria, VA. 22313-1450, or by telephone at (571) 272-0500 or by facsimile transmission at (571) 273-8300.

Long V. Le
Supervisory Patent Examiner
Art Unit 1641

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LUCASH, GESMER & UPDEGROVE, LLP
40 BROAD ST
SUITE 300
BOSTON, MA 02109

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OFFICE OF PETITIONS

In re Application of	:	
Damle	:	
Application No. 10/467,251	:	DECISION ON PETITION
Filed: August 7, 2003	:	TO WITHDRAW
Attorney Docket No. 2028-002-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 31, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, file previously transferred to Attorney shown below, do not meet any the conditions set forth in 37 CFR 10.40.

The revocation of power of attorney filed June 15, 2006 was improperly accepted by the office on July 3, 2006 since it did not satisfy the provisions set forth in 37 CFR 3.73(b). Accordingly the notice of acceptance mailed on July3, 2006 is hereby vacated.

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 April Wise at 571-272-1642.

for Denise Pothier
Petitions Examiner
Office of Petitions

cc: ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

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NATH & ASSOCIATES PLLC
112 South West Street
Alexandria VA 22314

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In re Application of Martin	:	
Application No. 10/467,272	:	Decision on Application
Filing Date: August 6, 2003	:	For Patent Term Adjustment
Attorney Docket No. 25502	:	
For: Tryptase Inhibitors	:	

This is a decision in response to "APPLICATION FOR PATENT TERM ADJUSTMENT," filed May 16, 2006. The paper requests correction of the patent term adjustment from three hundred ninety (390) days to four hundred thirty-three (433) 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 as four hundred thirty-three (433) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 16,2006, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised of a patent term adjustment to date of 390 days. In response, applicant timely[1] filed the instant request for reconsideration of the patent term adjustment. Applicant submits the relevant dates as specified in 1.703(a) through (e) for which an adjustment is sought and requests that the patent term adjustment be corrected to 433 days. Applicant states that the patent issuing from the application is not subject to terminal disclaimer. Applicant asserts that no circumstances exist within the prosecution of this application that may be considered as resulting in a failure to engage in reasonable efforts to conclude examination of the present application.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 390 days is incorrect.

[1] PALM Records indicate that the Issue Fee payment was received on May 16, 2006.

Applicant disputes the reduction of 43 days of PTA for applicant delay in filing a supplemental response on February 21, 2006. Applicant states that the response was filed at the request of the examiner and, therefore, no reduction is warranted.

Applicant's argument is well-taken. A review of the record supports a conclusion that the amendment dated February 21, 2006 was expressly requested by the examiner, within the meaning of 1.704(c)(8). Accordingly, no reduction is warranted.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is four hundred thirty-three (433) days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to sections 1.702(a)(4) and 1.703(b).

Telephone inquiries regarding this communication should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised Pair Screen

Day : Monday
Date: 7/24/2006

PALM INTRANET

Time: 16:14:13

PTA Calculations for Application: 10/467272			
Application Filing Date:	08/06/2003	PTO Delay (PTO):	433
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	43
Post-Issue Petitions:	0	Total PTA (days):	433
PTO Delay Adjustment:	43		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
37	07/24/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	43		
31	03/16/2006	MAIL NOTICE OF ALLOWANCE			
30	03/14/2006	ISSUE REVISION COMPLETED			
29	03/14/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
28	03/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
27	03/14/2006	NOTICE OF ALLOWABILITY			
26	02/09/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
24	03/01/2006	DATE FORWARDED TO EXAMINER			
23	02/21/2006	SUPPLEMENTAL RESPONSE		43	20
22	10/03/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	01/27/2006	DATE FORWARDED TO EXAMINER			
20	01/09/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
19	12/13/2005	MAIL RESTRICTION REQUIREMENT	433		-1
18	12/09/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
17	12/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	12/02/2005	CORRESPONDENCE ADDRESS CHANGE			
15	08/16/2004	MISCELLANEOUS INCOMING LETTER			
14	08/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	07/27/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	10/03/2003	REFERENCE CAPTURE ON IDS			
11	10/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/03/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			

9	06/09/2004	PRELIMINARY AMENDMENT			
8	08/06/2003	PRELIMINARY AMENDMENT			
7	07/23/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
6	06/09/2004	WORKFLOW INCOMING AMENDMENT IFW			
5	01/24/2004	CLEARED BY OIPE CSR			
4	08/06/2003	371 COMPLETION DATE			
3	01/05/2004	APPLICATION DISPATCHED FROM OIPE			
2	01/05/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	08/06/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of :
David J. ROSSI et al. :
Application No. 10/467,275 :
Filed: January 20, 2004 :
Attorney Docket No. **GEOA,153** :

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 22, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is May 23, 2007.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1020 extension of time fee submitted with the petition on August 24, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

For reason discussed below, 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. A revocation and appointment of a new power of attorney was filed on June 02, 2006. The office improperly accepted the power of attorney on June 08, 2006, despite the fact that the proper party to sign a power of attorney is the assignee of record of the entire interest. See 37 CFR 1.33(b) (4). Ms. Danita Maseles has not indicated she is authorized to act on behalf of the assignee, and she does not appear to have the apparent authority to sign on behalf of the assignee. 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) 272-2783.

This application is being referred to Technology Center AU 3672 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.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Jennie Salazar
5599 San Felipe
Suite 100
Houston, TX 77019

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 062106

DATE : 6-12-06

TO SPE OF : ART UNIT 3748

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/467274 Patent No.: 7028202

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

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

Please Check Drawing sheets

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Thomas Denion
SPE

3748
Art Unit

30 SEP 20

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Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

Winston & Strawn
Patent Department
1400 L Street, N.W.
Washington, DC 20005-3502

In re Application of Andreasson et al. US Application No.: 10/467,286 PCT Application No.: PCT/DK00/00738 International Filing Date: 28 December 2000 Priority Date: 28 December 2000 Attorney's Docket No.: 81421-4030 For: APPARATUS FOR WINDING UP A WEB IN ROLLS AND A METHOD FOR CUTTING OFF A LENGTH OF THE WEB	DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b), filed on 04 August 2003 in the above-captioned application, is hereby **GRANTED** as follows.

BACKGROUND

On 28 December 2000, Applicants filed international application PCT/DK00/00738, which did not claim priority of any earlier-filed application. A copy of the international application was communicated from the International Bureau to the USPTO on 11 July 2002. The period for paying the basic national fee is 30 months and ended at midnight on 28 June 2003.

The basic national fee was not paid on or before 30 June 2003 (Monday). The international application became abandoned as to the United States on 29 June 2003.

DISCUSSION

The instant petition is accompanied by, *inter alia*:

(1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, authorizing the USPTO to charge the basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(3) ($1,000 and $60 deficiency, totaling $1,060) to Deposit Account No. 50-1814;

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

US 1046728603P1

Creation date: 06-21-2004
Indexing Officer: ABUIE - AJA BUIE
Team: OIPEBackFileIndexing
Dossier: 10467286

Legal Date: 10-22-2003

No.	Doccode	Number of pages
1	M905	2

Total number of pages: 2

Remarks:

Order of re-scan issued on .....

18 MAR 2004

#7

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Hovey Williams
Suite 400
2405 Grand Blvd
Kansas City, MO 64108

In re Application of	:	
HUBER et al.	:	DECISION ON
Application No.: 10/467,292	:	PAPERS UNDER 37 CFR 1.42
PCT No.: PCT/US02/32125	:	
Int. Filing Date: 07 October 2002	:	
Priority Date: 05 October 2001	:	
Attorney Docket No.: 31935-CIP1	:	
For: ANIMAL FEEDS INCLUDING HEARTWORM-PREVENTION DRUGS		

This is a response to the declaration filed 06 February 2004 which is being treated as a Petition under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 07 October 2002, applicants filed international application PCT/US02/32125, which claimed a priority date of 05 October 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 05 April 2004.

On 05 August 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by the basic national fee and a copy of the international application.

On 10 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e).

On 06 February 2004, applicants filed a declaration executed by four of the five inventors and Catherine M. Jones on behalf of deceased inventor, David R. Jones.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

The declaration submitted on 06 February 2004 was executed by Catherine M. Jones as "executor" to the deceased inventor, David R. Jones. The declaration has been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

In addition, it is noted that revised 37 CFR 1.497(b)(2) states the following:

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

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 06 February 2004 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the executor or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

CONCLUSION

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

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

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

Anthony Smith

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

18 MAR 2004

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RECEIVED
MAR 23 2004
HOVEY WILLIAMS LLP

Hovey Williams
Suite 400
2405 Grand Blvd
Kansas City, MO 64108

In re Application of
HUBER et al.
Application No.: 10/467,292
PCT No.: PCT/US02/32125
Int. Filing Date: 07 October 2002
Priority Date: 05 October 2001
Attorney Docket No.: 31935-CIP1
For: ANIMAL FEEDS INCLUDING HEARTWORM-PREVENTION DRUGS

DECISION ON PAPERS UNDER 37 CFR 1.42

This is a response to the declaration filed 06 February 2004 which is being treated as a Petition under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 07 October 2002, applicants filed international application PCT/US02/32125, which claimed a priority date of 05 October 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 05 April 2004.

On 05 August 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by the basic national fee and a copy of the international application.

On 10 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e).

On 06 February 2004, applicants filed a declaration executed by four of the five inventors and Catherine M. Jones on behalf of deceased inventor, David R. Jones.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

ALECTO
MAR 23 2004
ENTERED BY

The declaration submitted on 06 February 2004 was executed by Catherine M. Jones as "executor" to the deceased inventor, David R. Jones. The declaration has been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

In addition, it is noted that revised 37 CFR 1.497(b)(2) states the following:

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

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 06 February 2004 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the executor or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

CONCLUSION

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

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

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

Anthony Smith

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

08 JUN 2004

#9

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Tracey S. Truitt
Hovey Williams
Suite 400
2405 Grand Blvd.
Kansas City, MO 64108

In re Application of HUBER et al. Application No.: 10/467,292 PCT No.: PCT/US02/32125 Int. Filing Date: 07 October 2002 Priority Date: 05 October 2001 Attorney Docket No.: 31935-CIP1 For: ANIMAL FEEDS INCLUDING HEARTWORM-PREVENTION DRUGS	: : : : : : : : : : :	DECISION ON PAPERS UNDER 37 CFR 1.42

This is a response to the "Renewed Submission under 37 CFR 1.42" filed 14 May 2004. No petition fee is required.

BACKGROUND

On 07 October 2002, applicants filed international application PCT/US02/32125, which claimed a priority date of 05 October 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 05 April 2004.

On 05 August 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by the basic national fee and a copy of the international application.

On 10 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e).

On 06 February 2004, applicants filed a declaration executed by four of the five inventors and Catherine M. Jones on behalf of deceased inventor, David R. Jones. In a decision dated 18 March 2004, applicants' petition under 37 CFR 1.42 was dismissed without prejudice.

On 14 May 2004, applicant filed "Renewed Submission under 37 CFR 1.42."

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

The declaration filed on 14 May 2004 is executed by Catherine Jones as the "executor" of the deceased inventor, David R. Jones. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 14 May 2004.

CONCLUSION

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

The application has an international filing date of 07 October 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **14 May 2004**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

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

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Sven Thollin	: DECISION ON REQUEST FOR
Patent Number	: 7596898	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/467,299	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **50** 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.

TRAITE DE COOPERATION EN MATIERE DE BREVETS

Rec'd PCT/PTO 06 AUG 2003

Expéditeur : le BUREAU INTERNATIONAL

PCT

NOTIFICATION RELATIVE A LA PRESENTATION OU A LA TRANSMISSION DU DOCUMENT DE PRIORITE

(instruction administrative 411 du PCT)

Destinataire:

ORES, Béatrice
CABINET ORES
6 avenue de Messine
F-75008 Paris
FRANCE

Date d'expédition (jour/mois/année) 09 avril 2002 (09.04.02)	
Référence du dossier du déposant ou du mandataire F263/65PCT	**NOTIFICATION IMPORTANTE**
Demande internationale no PCT/FR02/00471	Date du dépôt international (jour/mois/année) 07 février 2002 (07.02.02)
Date de publication internationale (jour/mois/année) Pas encore publiée	Date de priorité (jour/mois/année) 08 février 2001 (08.02.01)
Déposant COMMISSARIAT A L'ENERGIE ATOMIQUE etc	

1. La date de réception (sauf lorsque les lettres "NR" figurent dans la colonne de droite) par le Bureau international du ou des documents de priorité correspondant à la ou aux demandes énumérées ci-après est notifiée au déposant. Sauf indication contraire consistant en un astérisque figurant à côté d'une date de réception, ou les lettres "NR", dans la colonne de droite, le document de priorité en question a été présenté ou transmis au Bureau international d'une manière conforme à la règle 17.1.a) ou b).
2. Ce formulaire met à jour et remplace toute notification relative à la présentation ou à la transmission du document de priorité qui a été envoyée précédemment.
3. Un **astérisque(*)** figurant à côté d'une date de réception dans la colonne de droite signale un document de priorité présenté ou transmis au Bureau international mais de manière non conforme à la règle 17.1.a) ou b). Dans ce cas, **l'attention du déposant est appelée** sur la règle 17.1.c) qui stipule qu'aucun office désigné ne peut décider de ne pas tenir compte de la revendication de priorité avant d'avoir donné au déposant la possibilité de remettre le document de priorité dans un délai raisonnable en l'espèce.
4. Les **lettres "NR"** figurant dans la colonne de droite signalent un document de priorité que le Bureau international n'a pas reçu ou que le déposant n'a pas demandé à l'office récepteur de préparer et de transmettre au Bureau international, conformément à la règle 17.1.a) ou b), respectivement. Dans ce cas, **l'attention du déposant est appelée** sur la règle 17.1.c) qui stipule qu'aucun office désigné ne peut décider de ne pas tenir compte de la revendication de priorité avant d'avoir donné au déposant la possibilité de remettre le document de priorité dans un délai raisonnable en l'espèce.

Date de priorité	Demande de priorité n°	Pays, office régional ou office récepteur selon le PCT	Date de réception du document de priorité
08 févr 2001 (08.02.01)	01/01700	FR	25 mars 2002 (25.03.02)

Bureau international de l'OMPI **34, chemin des Colombettes** **1211 Genève 20, Suisse** no de télécopieur (41-22) 740.14.35	Fonctionnaire autorisé: Peter WIMMER no de téléphone (41-22) 338.83.38

21 NOV 2003

#13

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Anthony Zelano
Millen, White, Zelano & Branigan
2200 Clarendon Blvd. Suite 1400
Arlington, VA 22201

In re Application of	:	
BOHLMANN et al.	:	
Application No.: 10/467,352	:	DECISION ON PETITION
PCT No.: PCT/EP02/00722	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 24 January 2002	:	
Priority Date: 24 January 2001	:	
Attorney Docket No.: SCH-1866A	:	
For: ANDROGENIC 7-SUBSTITUTED 11-HALOGEN STEROIDS		

The petition to revive under 37 CFR 1.137(b) filed 06 August 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicants have submitted the basic national fee of $900 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

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

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SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON DC 20037-3213

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In re Patent No. 7,288,558

Issue Date: October 30, 2007

Application No. 10/467,359

Filed: August 7, 2003

Attorney Docket No. Q76848

ON PETITION

This is a decision on the petition filed June 23, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**[2].

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 Certificates 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.
[2] It is noted that a request to correct the PCT filing date for the application also accompanied this request under 37 CFR 3.81. The Office of Petitions is delegated only the authority to grant a certificate of correction to correct assignee data. The request to correct the PCT filing date is likely to be determined by the Certificate of Corrections Branch.

30 MAR 2004

#6

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Donald O. Nickey
Cadinal Health, Inc.
7000 Cardinal Place
Dublin, Ohio 43017

In re Application of :
FAVARA et al. :
U.S. Application No.: 10/467,402 :
PCT No.: PCT/US02/03199 :
Int. Filing Date: 04 February 2002 : DECISION ON PETITION
Priority Date: 05 February 2001 :
Attorney Docket No.: RPS6103 :
For: METHODS AND COMPOSITION FOR REDUCING THE TASTE OF PHARMACEUTICALLY ACTIVE AGENTS :

This is a decision on applicants' "Petition under 37 CFR 1.47(a)" filed 18 February 2004 to accept the application without the signature of joint-inventor, Andrew Favara.

BACKGROUND

On 28 September 2000, applicants filed international application PCT/CN00/00293 which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 April 2002. Pursuant to 37 CFR 1.495, the thirty-month time period for submitting the requisite basic national fee in the United States of America was to expire 30 months from the priority date, 05 August 2003.

On 04 August 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and a copy of the international application.

On 18 December 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 18 February 2004, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

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

As to item (2), a review of the present petition reveals that petitioner has not provided an acceptable showing under 37 CFR 1.47(a) and Section 409.03(d) of the Manual of Patent Examining Procedure. Petitioner states that a complete copy of the application was sent to Andrew Favara However, petitioner fails to clearly state whether Mr. Favara has refused to execute the application or cannot be found or located. If the nonsigning inventor cannot be located or found, copies of documentary evidence such as internet searches, certified mail return receipt, cover letter of instructions, telegrams, etc., should be supplied by a person having firsthand knowledge of the facts. Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Andrew Favara under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

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

08 JUN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Donald O. Nickey
Cardinal Health, Inc.
7000 Cardinal Place
Dublin, Ohio 43017

In re Application of :
FAVARA et al. :
U.S. Application No.: 10/467,402 :
PCT No.: PCT/US02/03199 :
Int. Filing Date: 04 February 2002 : DECISION ON PETITION
Priority Date: 05 February 2001 :
Attorney Docket No.: RPS6103 :
For: METHODS AND COMPOSITION FOR REDUCING THE TASTE OF PHARMACEUTICALLY ACTIVE AGENTS :

This is a decision on applicants' "Request for Reconsideration of Decision Refusing Status under 37 CFR 1.47(a)" filed 28 May 2004 to accept the application without the signature of joint-inventor, Andrew Favara.

BACKGROUND

On 04 February 2002, applicants filed international application PCT/US02/03199 which claimed a priority date of 05 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 August 2002. Pursuant to 37 CFR 1.495, the thirty-month time period for submitting the requisite basic national fee in the United States of America was to expire 30 months from the priority date, 05 August 2003.

On 04 August 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and a copy of the international application.

On 18 December 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 18 February 2004, applicants filed the present petition under 37 CFR 1.47(a). In a decision dated 30 March 2004, applicants' petition was dismissed without prejudice.

On 28 May 2004, applicants' filed "Request for Reconsideration of Decision Refusing Status under 37 CFR 1.47(a)" which included a declaration executed by Andrew Favara.

DISCUSSION

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 28 May 2004 with the present renewed petition was executed by the named inventor, the previous non-signing inventor, Andrew Favara. For the reasons above, the renewed petition is dismissed as moot. The declarations filed 18 February 2004 and 28 May 2004 are acceptable under 37 CFR 1.497.

CONCLUSION

For the reasons above, the renewed petition is **DISMISSED** as MOOT. The application need not be returned to this Office for any further consideration of Rule 1.47 status and no such status should be indicated on this application file.

The application has an international filing date of 04 February 2002 under 35 U.S.C. 363 and a date of **28 May 2004** under 35 U.S.C. 371(c).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

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

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

CIOTTI,THOMAS
Morrison and Foerster LLP
755 Page Mill Rd
Palo Alto, CA 94304

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NOV 14 2006

OFFICE OF PETITIONS

In re Application of	:	
NAMBURI, et al.	:	
Application No. 10/467,435	:	DECISION ON PETITION
Filed: February 5, 2004	:	TO WITHDRAW
Attorney Docket No. 246152020600 (27492U)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2006.

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

A review of the file record indicates that the power of attorney to Thomas Ciotti and the attorneys of MORRISON AND FOERSTER LLP have been revoked by the assignee of the patent application on July 11, 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: **NATH & ASSOCIATES**
112 South West Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/467436	01/09/04	FERRANDIS, ERIC	427.079

HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

EXAMINER	
RAWLNGS, STEPHEN	
ART UNIT	PAPER NUMBER
1643	

DATE MAILED: 3/30/07

NOTICE OF RESCINDED ABANDONMENT

☐ **In response to your communication filed** 1/30/07

☒ **Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.**

For Manager, Publications Division
Office of Patent Publication
571-272-4200

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 1-18-06

meb
Paper Number: _____

In re application of
Hasegawa et al.

Serial No. 10/467,450
Filed: August 7, 2003
For: Ion Exchange Fluororesin Membrane

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed August 23, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of June 23, 2005 for failure to timely respond to the Office Action mailed December 3, 2004, be withdrawn. The petitioner asserts that the Office Action, mailed December 3, 2004 was not received by the applicants. The evidence provided includes a statement by the petitioner that the Office Action was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office Action mailed December 3, 2004 was not received. Also provided is a copy of the automated docketing record and cover of the docket file, where the Office Action would have been posted had it been timely received.

DECISION

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(I).

The evidence presented is sufficient to establish that the Office Action was not received by the petitioner. The evidence provided includes a statement by the petitioner that the Office Action was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office Action mailed December 3, 2004 was not received. Also provided is a copy

of the automated docketing record and cover of the docket file, where the Office Action would have been posted had it been timely received.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application will be returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Office Action of December 3, 2004.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Gerald M. Murphy, Jr.
Birch, Stewart, Kolasch & Birch, LLP
8110 Gatehouse Rd.
Suite 100 East
P.O. Box 747
Falls Church, VA 22040-0747

1712

Docket: T3262-906292US01

OIPE JC177
JUL 0 1 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	: Confirmation No.: 9296
Giuseppi Cappi	: Examiner:
Serial No.: 10/467,454	: Group Art Unit:
Filed: February 2, 2004	:
For: Thermosetting Resin-Fiber Composite and Method and Apparatus for the Manufacture Thereof	:

McLean, Virginia
July 1, 2004

AUG 3 0 2004
APPROVED
JACQUELINE M. STONE
DIRECTOR
TECHNOLOGY CENTER 1700

PETITION TO WITHDRAW AS COUNSEL

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

Sir:

The undersigned attorney Edward J. Kondracki, pursuant to the Patent Rules of Practice, Rule 1.36, hereby files this Petition to Withdraw as Counsel, for himself, the firm of Miles & Stockbridge P.C., and its attorneys, and from entry of any appearance behalf of Applicant, Guiseppi CAPPI (the "Applicant"), and his assignee G.P. Concepts, LLC, and/or its Division G.P. Chemicals (all hereinafter "G.P. Concepts"). Applicant is Managing Director of G.P. Concepts.

This withdrawal is with the knowledge of the Applicant and G.P. Concepts, who have been advised of this Petition by regular mail and email. A copy of the letter of July 1, 2004, advising of the filing of a Petition to Withdraw as Counsel is attached as Exhibit A.

This Request is made because of Applicant's continued refusal to pay for services provided on behalf of Applicant and G.P. Concepts.

Applicant and G.P. Concepts have a local office at 3706 MacGregor Drive, Columbia, SC 29206. The Applicant was introduced to the undersigned through his attorney, James Phillips of Dalton, Georgia, who represents Applicant and G.P. Concepts in connection with commercial matters. After the development of the subject invention, Applicant through his attorney, Mr. Phillips, requested the undersigned and the firm of Miles & Stockbridge P.C. to assist in negotiation of a working arrangement with a potential joint venturer, Bakelite A.G., to exploit the invention. Applicant and G.P. Concepts reserved to themselves the exploitation of the invention in Mexico, Canada and the United States. Exploitation of the invention in other countries was reserved to Bakelite, A.G.

Following the filing of an application for patent in Italy, through Applicant's local Italian attorney, Dr. Ugo Trojsi, Studio Tecnico Legale, Applicant requested that a PCT application be filed in the U.S. Receiving Office based on the Italian application. The PCT application was subsequently filed on February 7, 2002, and designated the U.S., among other elected countries. Entry into the U.S. National Phase was perfected on August 7, 2003.

Despite repeated requests, Applicant and G.P. Concepts have ignored requests for payment of invoices dated as far back as June 29, 2001; July 27, 2001; August 20, 2001; January 4, 2002; and February 22, 2002, as well as more recent invoices. Except for the filing of an Information Disclosure Statement and a voluntary Amendment on January 14, 2004, the subsequent application has had no prosecution and has yet to undergo examination. There are no outstanding Office Actions which require a Response.

Applicant and G.P. Concepts are represented by Mr. James Phillips, a general attorney located in Dalton, Georgian, in connection with their commercial interests. Applicant and G.P. Concepts are also represented by an Italian patent attorney, noted above, who filed the priority application in Italy. The undersigned has offered to forward the file related to this application to any representative designated by Applicant and G.P. Concepts.

Sufficient time remains for Applicant to appoint new Counsel and Applicant will not be prejudiced by grant of this request, which is earnestly solicited.

Respectfully submitted,

MILES & STOCKBRIDGE P.C.

By: Edward J. Kondracki

Edward J. Kondracki
Reg. No. 20,604

1751 Pinnacle Drive, Suite 500
McLean, Virginia 22102-3833
Telephone: (703) 610-8627
#922-774V1

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Patent No. 6,826,031	:	
Issue Date: November 30, 2004	:	
Application No. 10/467,484	:	ON PETITION
Filed: August 8, 2003	:	
Attorney Docket No. 116803	:	

This is a decision on the petition under 37 CFR 1.182, filed February 16, 2005, for issuance of a duplicate Letters Patent[1].

The petition is **dismissed**.

Petitioner requests an official copy of U.S. Letters Patent No. 6,826,031 for the second assignee who would like to have his own copy for his respective record.

The request is more appropriately a request to the Office of Public Records for issuance of an official copy of the above-stated Letters Patent.

Petitioner should clarify what type of an official copy of the Letters Patent is desired. In this regard, the following options are available:

- Presentation patent, which is the **first page** of the patent on heavy paper with a short ribbon and seal suitable for framing and hanging on the wall.
- Uncertified copy of complete patent where every page of the patent is printed (duplex) on heavy paper, assembled with an eyelet and a full-length ribbon and seal.
- If certified, same as uncertified copy, except it would have a signed certification cover sheet on top of the patent

[1] Petitioner is advised that the Office will only issue a "Duplicate Letters Patent" under 37 CFR 1.182 where an allegation is made that the original Letters Patent was either destroyed or lost.

copy.

Petitioner may submit a request to the Office of Public Records, and state what type of official copy of the Letters Patent is desired.

Any questions concerning one of the options noted above should be directed to the Office of Public Records at (703) 308-9726.

This patented file is being referred to the Files Repository.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(571) 272-3226

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

GlaxoSmithKline, Inc.
Five Moore Drive
P.O. Box 13398
Research Triangle Park, NC 27709

Date:	August 11, 2006	:	
Application No.:	10/467,487	:	**Petition Under**
Filed:	May 20, 2004	:	**37 CFR 1.48(b)**
Subject: *Benzo[F]Isoindole Derivatives with Affinity*		:	
To the EP4 Receptor		:	

Receipt is acknowledged of the petition filed February 16, 2006 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 DELETING the following names: **NEIL DEREK MILLER, SUSAN ROOMANS, and ANDREW MCMURTIE MASON.** 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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

GlaxoSmithKline, Inc.
Five Moore Drive
P.O. Box 13398
Research Triangle Park, NC 27709

Date:	August 11, 2006	:	
Application No.:	10/467,487	:	**Petition Under**
Filed:	May 20, 2004	:	**37 CFR 1.48(b)**
Subject: *Benzo[F]Isoindole Derivatives with Affinity*		:	
To the EP4 Receptor		:	

Receipt is acknowledged of the petition filed February 16, 2006 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 DELETING the following names: **NEIL DEREK MILLER, SUSAN ROOMANS, and ANDREW MCMURTIE MASON.** 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Robert J Zeitler
Molex Incorporated
2222 Wellington Court
Lisle IL 60532

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Nakano, et al.	:	
Application No. 10/467,502	:	ON PETITION
Filed: August 5, 2003	:	
Attorney Docket No. A2-028 US	:	
For: SOCKET FOR SEMICONDUCTOR PACKAGE		

This is a decision on the petition under 37 CFR 1.137(b), filed April 10, 2007 (certificate of mailing/transmission date April 5, 2007). The petition will be treated under 37 CFR 1.181, as a request that the Office withdraw the holding of abandonment of the above-identified application.

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

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

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed September 15, 2006, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on December 16, 2006 for failure to reply to the September 15, 2006 non-final Office action. A Notice of Abandonment was mailed on March 21, 2007.

Petitioners constructively request withdrawal of the holding of abandonment based on the assertion that an amendment was timely mailed on certificate of mailing date March 12, 2007 and received in the Office on March 16, 2007. The undersigned has located the original documents in the application file and Office financial records shows that the required three month extension of time fee was charged on March 19, 2007. The Office was in possession of an authorization to charge any required fees on certificate of mailing/transmission date March 12, 2007. Therefore, the three month extension of time and amendment were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the March 21, 2007 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Regarding finances, petitioners were charged twice for the IDS and the three month extension of time. Accordingly, deposit account no. 50-1873 will be credited the second $180.00 IDS fee and $1,020.00 three month extension of time fee charged when the present petition was filed. In addition, the $1,500.00 petition to revive fee will be refunded because relief was granted under 37 CFR 1.181.

After the mailing of this decision, the application file will be forwarded to Technology Center A.U. 2833 for consideration of the amendment filed on March 16, 2007 (certificate of mailing date March 12, 2007).

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

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of De Boer et al:	:	
Application No. 10/467,510	:	Decision on Petition
Filing Date: December 23, 2003	:	
Attorney Docket No. 26646	:	

This is a decision on the petition under 37 CFR 1.181, filed September 19, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a Notice of Allowability and Notice of Allowance on April 25, 2007. The Notices set a time period for reply of three (3) months.

The Office failed to receive a reply to the Notice of Allowability and Notice of Allowance. As a result, a Notice of Abandonment was mailed August 20, 2007.

Petitioner requests the Office withdraw the holding of abandonment.

Petitioner has provided sufficient evidence to establish non-receipt of the Notices. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2193 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new Notice of Allowability and Notice of Allowance. 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

13 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Hogan & Hartson LLP
500 South Grand Avenue, Suite 1900
Los Angeles, CA 90071

In re Application of KIM, Jong-Hae Application No.: 10/467,520 PCT No.: PCT/KR02/00138 Int. Filing Date: 31 January 2002 Priority Date: 08 February 2001 Docket No.: 88500.0001 For: THE METHOD OF ... SYSTEM UTILIZING INTERNET	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 20 August 2004 is **GRANTED**.

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 20 August 2004 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

13 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SALIWANCHIK LLOYD & SALIWANCHIK
2421 N.W. 41st Street
Suite A-1
Gainesville, FL 32606-6669

In re Application of: CHICCA, Barbara, et al.	:	
U.S. Application No.: 10/467,554	:	
PCT No.: PCT/IB02/01514	:	DECISION ON
International Filing Date: 07 February 2002	:	PETITIONS UNDER
Priority Date: 09 February 2001	:	37 CFR 1.182 AND 37
Attorney's Docket No.: G-103US03REG	:	CFR 1.47(a)
For: GSSP4 POLYNUCLEOTIDES AND POLYPEPTIDES	:	
AND USES THEREOF	:	

This decision is issued in response to the reply to the: (1) "Petition Under 37 CFR 1.182" filed 07 May 2004, which seeks to change the name of the inventor identified in the international application as Barbara A. BOUR to Barbara CHICCA, and (2) "Petition Under 37 CFR 1.47(a)" filed 07 May 2004 seeking acceptance of the application without the signature of nonsigning inventor Jean-Baptiste DUMAS MILNE EDWARDS. Deposit Account 19-0065 will be charged the required petition fees.

BACKGROUND

On 05 August 2003 applicants filed materials initiating the present national stage application, including payment of the basic national fee.

On 04 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497, the surcharge for filing the declaration later than thirty months after the priority date, and sequence listing materials were required.

On 07 May 2004, applicants filed a reply to the Notification Of Missing Requirements (with the necessary extension fees) that included, among other materials, the petitions under 37 CFR 1.182 and 37 CFR 1.47(a) considered herein.

DISCUSSION

A. Petition Under 37 CFR 1.182

Under M.P.E.P. Section 605.04(c), a petition to change the name of an inventor must be made under 37 CFR 1.182 and it must include the petition fee and "an affidavit signed with both names setting forth the procedure whereby the change of name was effected" or "a certified copy

of the court order." Here, applicants have authorized a charge to Deposit Account no. 19-0065 for the required petition fee, and the petition was accompanied by a copy of a statement in which the inventor states that her name has changed because of marriage; this statement was signed by the inventor in both her current name (Barbara CHICCA) and her former name (Barbara DOUR).

Based on the above, applicants have submitted all the requirements for a grantable petition to change the inventor's name. The name of record of the first inventor herein is therefore appropriately changed to Barbara CHICCA.

B. Petition Under 37 CFR 1.47(a)

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

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

Regarding item (3), section 409.03(a) of the M.P.E.P. states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a group of papers that appears to be a compilation of the executed pages of separate declarations executed by the nine signing inventors and including an unsigned signature box identifying the nonsigning inventor. However, the filed materials do not appear to be a single declaration, but rather a compilation of the separate declaration pages executed by the individual inventors (see MPEP § 201.03: "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration"). Accordingly, the declaration filed 07 May 2004 is not in a proper form and cannot be accepted under 37 CFR 1.497. The declaration materials submitted therefore do not satisfy item (3) above.

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

inventor to execute the application is contained in the petition itself and the accompanying documents. These materials refer to mailings made to the nonsigning inventor by Zurine Areta. However, no statement from Zurine Areta is included. Such a firsthand statement is required to confirm the mailings and deliveries referred to in the petition and documents. Item (4) is therefore not satisfied.

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

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of inventor Barbara A. DOUR to Barbara CHICCA is **GRANTED**.

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and should include copies of the complete declarations executed by the signing inventors (containing an unsigned signature block for the nonsigning inventor) and a firsthand statement from the person who has forwarded the application materials to the nonsigning inventor confirming that the nonsigning inventor has been presented with a copy of the complete application papers and has refused to execute the application, as discussed above and in the form required by MPEP § 409.03(d).

No additional petition fee is required. Failure to file a timely response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

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

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

14 OCT 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SALIWANCHIK LLOYD & SALIWANCHIK
2421 N.W. 41st Street
Suite A-1
Gainesville, Florida 32606-6669

In re Application of: CHICCA, Barbara, et al.	:	
U.S. Application No.: 10/467,554	:	DECISION ON RENEWED
PCT No.: PCT/IB02/01514	:	PETITION UNDER
International Filing Date: 07 February 2002	:	37 CFR 1.47(a)
Priority Date: 09 February 2001	:	
Attorney's Docket No.: G-103US03REG	:	
For: GSSP4 POLYNUCLEOTIDES	:	
AND POLYPEPTIDES AND USES	:	
THEREOF	:	

In a decision mailed by this Office on 13 July 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition.[1] Specifically, petitioner had not submitted: (1) complete declarations executed on behalf of the nonsigning inventor by the remaining inventors; and (2) adequate evidence that the nonsigning inventor has been presented with a copy of the complete application and refused to sign.

On 16 September 2004, petitioners filed the renewed petition considered herein. The petition was accompanied by copies of the complete declarations signed by nine of the ten inventors and containing an unsigned signature block for the nonsigning inventor. This declaration is accepted as having been executed by the signing inventors for themselves and on behalf of the nonsigning inventor. This satisfies one of the two outstanding requirements for a grantable petition.

With respect to the remaining requirement, applicants have included a signed statement from Zurine Areta, with exhibits, providing a firsthand statement confirming that copies of the complete application were delivered to the nonsigning inventor and that he has refused to execute the application. These materials satisfy the remaining requirement for a grantable petition.

Applicants have now satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

[1] The same decision granted applicants' petition under 37 CFR 1.182 to change the name of inventor Barbara CHICCA.

CONCLUSION

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

The application is accepted without the signature of nonsigning inventor Jean-Baptiste DUMAS MILNE EDWARDS.

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

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 16 September 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296

14 OCT 2004

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P.O. BOX 1450
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Jean Baptiste Dumas Milne Edwards
8, Rue Gregoire de Tours
75006 Paris
FRANCE

In re Application of: CHICCA, Barbara, et al.
U.S. Application No.: 10/467,554
PCT No.: PCT/IB02/01514
International Filing Date: 07 February 2002
Priority Date: 09 February 2001
Attorney's Docket No.: G-103US03REG
For: GSSP4 POLYNUCLEOTIDES AND POLYPEPTIDES AND USES THEREOF

Dear Sir:

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

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

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

Agent of Record:
Frank C. Eisenschenk
SALIWANCHIK LLOYD & SALIWANCHIK
2421 N.W. 41st Street
Suite A-1
Gainesville, FL 32606-6669

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Alexandria, VA 22313-1450
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16 NOV 2006

Martin J. Hirsch
Marshall Gerstein & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago IL 60606-6357

In re Application of MOERMAN et al. Application No.: 10/467,563 PCT No.: PCT/NL02/00095 Int. Filing Date: 14 February 2002 Priority Date: 15 February 2001 Attorney Docket No.: 30693/39565 For: REACTION PLATE WITH SLIDABLE COVER AND METHOD TO USE THE SAME	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to applicant's "Petition under 37 CFR 1.182" to correct inventor's name filed in the United States Patent and Trademark Office on 10 August 2006. The petition fee was paid.

BACKGROUND

On 08 August 2003, applicants filed a transmittal letter concerning a filing under 35 U.S.C. 371 accompanied by the basic national fee and an English translation of the international application.

On 26 November 2003, a Notification of Missing Requirements was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b) and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 26 January 2004, applicants filed a Response to the Notification of Missing Requirements along with a newly executed declaration of the inventors. The published international application identified the second inventor as Gijs Willem Karel van Dedem. The declaration identified the second inventor as Willem Karel Gigs Van Dedem and was executed as such.

On 10 August 2006, applicant filed a newly executed declaration along with a petition under 37 CFR 1.182 and an application data sheet.

DISCUSSION

A review of the application file reveals that the given name of the applicant is listed in the international application as "Gijs Willem Karel van Dedem.". The declaration, filed on 26 January 2004, is signed by "Willem Karel Gigs van Dedem". Applicant explains that Inventor van Dedem's name should have been listed as "Gijsbert Willem K. van Dedem as executed in the declaration submitted on 10 August 2006. The correction of the error in the first name of inventor van Dedem is accepted and noted in the record.

The executed declaration submitted on 10 August 2006 is in compliance with 37 CFR 1.497(a) and (b) and thus, satisfies the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

CONCLUSION

The declaration of inventors submitted by applicants on 10 August 2006 is in compliance with 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a corrected filing receipt.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Nath & Associates, PLLC
1030 Fifteenth Street, N.W.
Sixth Floor
Washington DC 20005-1503

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JUL 0 7 2005

OFFICE OF PETITIONS

In re Application of
Flockerzi et al.
Application No. 10/467,568
Filed: August 8, 2003
Attorney Docket No. 25508

: DECISION GRANTING PETITION

This Office action is in response to applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT" timely[1] filed on December 23, 2004 requesting that the Office remove the forty-two days of applicant delay for an overdue three month reply to Office action mailed on April 8, 2004.

Applicants' application for PTA adjustment is **GRANTED.** The Office will remove the forty-two days of applicant delay from the PTA determination. The overall determination will remain zero because there was no Office delay.

Applicants argue that applicants responded within three months to the Office notice because the Office action mailed on April 8, 2004 was re-mailed on June 1, 2004 with a new response period set. Accordingly, applicants assert that they responded to the restarted response date within three months of June 1, 2004.[2]

Applicants arguments are persuasive. The record reflects that the Office did restart the response period from April 8, 2004 to June 1, 2004. Accordingly, applicants had three months from June 1, 2004 to file the reply pursuant to 37 CFR 1.704(b) without suffering a PTA penalty for failing to engage in reasonable efforts to conclude prosecution of the application. Applicants responded on August 19, 2004. Accordingly, applicants did not fail to engage in reasonable efforts to conclude prosecution of the application at any time during the prosecution of the application.

After the mailing of the Office action, the application will be forwarded to the Office of Patent Publication for a prompt issuance of the patent application. Any delays in failing to issue the application within four months of the payment of the issue fee will be reflected in the PTA determination provided in the issue notification letter that is mailed to applicants approximately

[1]Issue fee paid on December 23, 2004.

[2]Applicants actually responded on August 19, 2004.

three weeks prior to issue date of the application.

The Office notes payment of the $200.00 application fee. No additional fees are required with this decision.

Any questions concerning this decision should be directed to Kery Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery A Fries
pll

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

cc: adjusted PTA calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Joseph S Tripoli
Thomson Multimedia Licensing Inc
Patent Operations CN 5312
Princeton NJ 08543-0028

In re Application of	:	
Soufflet, et al.	:	
Application No. 10/467,586	:	DECISION ON PETITION
Filed: January 9, 2004	:	
Attorney Docket No. PF010006	:	

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

The petition is DISMISSED.

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

In accordance with 37 CFR 1.33(b), amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by: (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b); (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34; (3) An assignee as provided for under §3.71(b) of this chapter; or (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered.

In accordance with 37 CFR 1.34, when a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration

number, his or her name and signature. Further proof of authority to act in a representative capacity may be required.

Catherine A. Ferguson signed the instant petition. Ms. Ferguson does not appear to have been appointed to represent applicants. Ms. Ferguson has not satisfied the requirements of 37 CFR 1.33(b) or 37 CFR 1.34. Accordingly, the petition is subject to dismissal and has not been reviewed on the merits.

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

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

By 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

Any questions 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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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Joseph S Tripoli
Thomson Multimedia Licensing Inc
Patent Operations CN 5312
Princeton NJ 08543-0028

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OFFICE OF PETITIONS

In re Application of
Soufflet, et al.
Application No. 10/467,586
Filed: January 9, 2004
Attorney Docket No. PF010006

DECISION ON PETITION

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

The petition is DISMISSED.

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

In accordance with 37 CFR 1.33(b), amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by: (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b); (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34; (3) An assignee as provided for under §3.71(b) of this chapter; or (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered.

In accordance with 37 CFR 1.34, when a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration

number, his or her name and signature. Further proof of authority to act in a representative capacity may be required.

Catherine A. Ferguson signed the instant petition. Ms. Ferguson does not appear to have been appointed to represent applicants. Ms. Ferguson has not satisfied the requirements of 37 CFR 1.33(b)(2) and 37 CFR 1.34. Accordingly, the petition is subject to dismissal and has not been reviewed on the merits.

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Joseph S Tripoli
Thomson Multimedia Licensing Inc
Patent Operations CN 5312
Princeton NJ 08543-0028

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OFFICE OF PETITIONS

In re Application of :
Soufflet, et al. :
Application No. 10/467,586 : DECISION ON PETITION
Filed: January 9, 2004 :
Attorney Docket No. PF010006 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned May 23, 2007 for failure to timely submit a proper reply to the non-final Office action mailed February 22, 2007. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time was timely requested. Notice of Abandonment was mailed September 25, 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 required petition fee, and (3) a proper statement of unintentional delay.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner. the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

This application is being referred to Technology Center AU 2626 for further processing.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Catherine A. Ferguson
Thomson Licensing LLC
P. O. Box 5312
Princeton, NJ 08543

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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10/476587

Patent No. : 7,302,110
Inventor(s) : Chesnokov
Issued : November 27, 2007
Title : Image enhancement methods and apparatus therefor
Docket No. : 59017-00601

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

RoChaun Johnson

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1572** or (703) 305-8309

DAVID R. YAHANNAN
KELLEY DRYE & WARREN, LLP
3050 K STREET, NW SUITE 400
WASHINGTON DC 20007

[RMJ]

11 DEC 2003

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Clifton W. Thompson
Thorpe North & Western
P.O. Box 1219
Sandy, Utah 84091-1219

In re Application of	:	
DAVISON	:	
Application No.: 10/467,589	:	DECISION ON PETITION
PCT No.: PCT/US01/21533	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 03 July 2001	:	
Priority Date: 05 July 2000	:	
Attorney Docket No.: 20189.PCT.US	:	
For: A POWER GENERATION ASSEMBLY	:	

The petition to revive under 37 CFR 1.137(b) filed 07 August 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has submitted the basic national fee of $360 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Deposit Account No. 20-0100 has been charged a $65.00 surcharge fee under 37 CFR 492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date.

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

Anthony Smith

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

24 NOV 2003

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Richard T. Knauer
Roche Diagnostic Corporation
9115 Hague Road, Bldg. D
Indianapolis, IN 462050-0457

In re Application of HAAR et al. Application No.: 10/467,592 PCT No.: PCT/EP02/01091 Int. Filing Date: 02 February 2002 Priority Date: 06 February 2001 Attorney Docket No.: RDID01013US For: SYSTEM FOR MONITORING THE CONCENTRATION OF ANALYTES IN BODY FLUIDS	: : : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 07 August 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicants have submitted the basic national fee of $900 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

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

United States Patent and Trademark Office

03 MAR 2006

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Griffin & Szipl, P.C.
Suite PH-1
2300 Ninth Street, South
Arlington, VA 22204

In re Application of	:	
Kehlenbeck et al.	:	
Application No.: 10/467,596	:	DECISION
PCT No.: PCT/EP02/01544	:	
Int. Filing Date: 14 February 2002	:	ON
Priority Date: 14 February 2001	:	
Attorney Docket No.: 5725-11; KREIS0015	:	PETITION
For: Dispensing Device	:	

This is in response to the petition to revive under 37 CFR 1.137(b) filed on 02 February 2005.

BACKGROUND

This international application was filed on 14 February 2002, claimed an earlier priority date of 14 February 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 22 August 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 14 August 2003. Applicant filed *inter alia* the basic national fee on 06 August 2003.

On 05 December 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e).

On 08 October 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, indicating that this international application had become abandoned with respect to the U.S. national stage for failure to timely reply to the Notification of Missing Requirements mailed on 05 December 2003.

DISCUSSION

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

Regarding requirement (1), the "required reply" is the reply required by the Notification of Missing Requirements - that is, the oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(e). The surcharge has been paid. However, inspection of the declaration filed on 02 February 2005 (as well as later-submitted copies of the same declaration document) reveals that it names two joint inventors, 'Irmgard Lorenzen (nee Werner)" and "Dagmar Lambrue (nee Rothauszky)," whose names differ from those of the fourth and fifth

inventors nominated in the published international application. Since the discrepancy in inventorship represents more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition and fee under 37 CFR 1.182 are required to resolve this matter. Such a petition should set forth evidence, such as statements made on the basis of first-hand knowledge, establishing how the discrepancy occurred, as well as statements from the two inventors concerned indicating whether deceptive intent was present on their part (if appropriate). *See* MPEP § 605.04(b). Since the declaration is not in compliance with 37 CFR 1.497(a) and (b) at this time, the "required reply" requirement has not been satisfied.

Regarding requirement (2), the petition fee has been paid.

Regarding requirement (3), the petition includes a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

#11

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15 NOV 2006

Griffin & Szipl, P.C.
Suite PH-1
2300 Ninth Street, South
Arlington, VA 22204

In re Application of	:	
Kehlenbeck et al.	:	
Application No.: 10/467,596	:	DECISION
PCT No.: PCT/EP02/01544	:	
Int. Filing Date: 14 February 2002	:	ON
Priority Date: 14 February 2001	:	
Attorney Docket No.: 5725-11; KREIS0015	:	PETITION
For: Dispensing Device	:	

This is in response to the "Petition Under Rule 182" filed on 02 May 2006, a copy of which was filed on 27 October 2006. The petition is being treated under both 37 CFR 1.182 and 37 CFR 1.137(b).

DISCUSSION

In a decision mailed on 03 March 2006, the petition under 37 CFR 1.137(b) filed on 02 February 2005 was dismissed, without prejudice, because

> Regarding requirement (1), the "required reply" is the reply required by the Notification of Missing Requirements - that is, the oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(e). The surcharge has been paid. However, inspection of the declaration filed on 02 February 2005 (as well as later-submitted copies of the same declaration document) reveals that it names two joint inventors, 'Irmgard Lorenzen (nee Werner)" and "Dagmar Lambrue (nee Rothauszky)," whose names differ from those of the fourth and fifth inventors nominated in the published international application. Since the discrepancy in inventorship represents more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition and fee under 37 CFR 1.182 are required to resolve this matter. Such a petition should set forth evidence, such as statements made on the basis of first-hand knowledge, establishing how the discrepancy occurred, as well as statements from the two inventors concerned indicating whether deceptive intent was present on their part (if appropriate). *See* MPEP § 605.04(b). Since the declaration is not in compliance with 37 CFR 1.497(a) and (b) at this time, the "required reply" requirement has not been satisfied.

Petition Under 37 CFR 1.182

In response, the instant renewed petition argues that "the inventor originally named Dagmar ROTHAUSZKY is now named Dagmar LAMBRUE following her marriage. Similarly, the inventor originally named Irmgard WERNER is now named Irmgard LORENZEN following her marriage." The accompanying "Declaration Regarding Change of Name" signed by Irmgard Lorenzen states that "At the time of filing of the above captioned application under the Patent Cooperation Treaty (PCT/EP02/01544), my name was Irmgard WERNER. Subsequently, my

name changed to Irmgard LORENZEN by marriage," and that "No deceptive intent was present on my part." The accompanying "Declaration Regarding Change of Name" signed by Dagmar Lambrue states that "At the time of filing of the above captioned application under the Patent Cooperation Treaty (PCT/EP02/01544), my name was Dagmar ROTHAUSZKY. Subsequently, my name changed to Dagmar LAMBRUE by marriage," and that "No deceptive intent was present on my part." Petitioner paid the $400.00 petition fee on 02 May 2006. In view of the totality of the circumstances presented, it would be appropriate to grant the requested relief under 37 CFR 1.182. Accordingly, the declaration filed on 02 February 2005 is being accepted for purposes of compliance with 37 CFR 1.497(a) and (b).

Petition Under 37 CFR 1.137(b)

In view of the fact that the declaration filed on 02 February 2005 has been accepted, the "required reply" requirement of 37 CFR 1.137(b) has now been satisfied. Accordingly, it would now be appropriate to grant the requested relief under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.182 is **GRANTED**.

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

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **02 February 2005**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6971460
Issue Date: December 6,2005
Application No. 10467598
Filed: August 6,2003
Attorney Docket No. V-259

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

This is a decision on the electronic petition, filed January 19,2010 ,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 January 19,2010 .
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.

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)
6971460	2005-12-06	10467598	2003-08-06	V-259

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/james h walters/	Date (YYYY-MM-DD)	2010-01-19
Name	James H. Walters	Registration Number	35731

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED
JUN 29 2010
OFFICE OF PETITIONS

In re Patent No. 7, 659,404	: DECISION ON REQUEST
Surleraux, et al.	: FOR
Issue Date: February 9, 2010	: RECONSIDERATION OF
Application No. 10/467,609	: PATENT TERM ADJUSTMENT
Filed: August 7, 2003	: and
Atty Docket No. TIP0023US/PCT	: INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 26, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and thirty-seven (737) 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 seven hundred and thirty-seven (737) days is **GRANTED**.

The Office is in receipt of the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections 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 **seven hundred and thirty-seven (737) days.**

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,659,404 B2

DATED : Feb. 9, 2010

INVENTOR(S) : Surleraux et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (401) days

Delete the phrase "by 401 days" and insert – by 737 days--

06 AUG 2004

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#7

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Leslie Gladstone Restaino
Brown Raysman Millstein Felder & Steiner LLP
163 Madison Avenue
PO Box 1989
Morristown NJ 07962-1989

In re Application of	:	
Jurgen Muller	:	
Application No.: 10/467641	:	DECISION ON
PCT Application No.: PCT/EP02/01610	:	
International Filing Date: 15 February 2002	:	PETITION UNDER
Priority Date: 16 February 2001	:	
Attorney Docket No.: 5725-9	:	37 CFR 1.137 (b)
For: MICROSCOPE	:	

This is in response to applicant's petition under 37 CFR 1.137 (b) filed on 01 July 2004, to revive the above-identified application.

BACKGROUND

On 15 February 2002, applicant filed international application number PCT/EP02/01610, which claimed priority to an earlier filed German application 10107210.4 filed 16 February 2001. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 29 August 2002. A demand for international preliminary examination, in which the Untied States was elected, was filed on 04 September 2002, prior to 16 September 2002, the end of the 19 month period from 16 February 2001 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 16 August 2003.

On 06 August 2003, a transmittal letter for entry into the national stage in the United States was filed along with, inter alia: the $900 basic national fee (large entity) required by 35 USC 371 (c)(1) and 37 CFR 1.492 (a)(5), an English Translation of the international application; an information disclosure statement along with a copy of International Search report, but not an oath or declaration.

On 20 November 2003, A "Notification of Missing Requirements under 37 CFR 371 in the United States Designated/Elected Office (DO/EO/US)" was mailed, requesting submission of an oath or declaration, in compliance with 37 CFR 1,497 (a) and (b), within the later of 2 months from the mailing date of the notification, or, 32 months from the priority date.

On 01 July 2004, applicant submitted a petition for revival.

DISCUSSION

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

On 01 July 2004, applicant filed the present petition to revive the national stage application under 37 CFR 1.137 (b). Filed with the present petition were, inter alia: (1) the requisite $1330 Petition fee (large entity); (2) a declaration along with $2010 fee for five month extension of time; 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 was unintentional," plus $130 surcharge for furnishing the oath or declaration more than 30 months from the earliest priority date. Applicant is hereby notified the five month extension fee of $2010 filed on 01 July 2004 will be refunded.

The application and papers have been reviewed and have been found to be in compliance with 37 CFR 1.137 (b).

CONCLUSION

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

This application is being forwarded to the National Stage Processing Division for further processing.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

Michael Lebentritt
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

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Paper No. 20070330

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DIRECTORS OFFICE

APR 3 - 2007

TECHNOLOGY CENTER 2800

GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON VA 22204

In re App:	Muller, Jurgen	:	DECISION ON PEITION FILED
Ser. No.:	10/467,641	:	March 29, 2006
Filing Date:	August 06, 2003	:	
For:	MICROSCOPE	:	
		:	

Petitioner filed a petition for "Review of the Restriction Requirement" under 37 C.F.R. § 1.144.

The petition is **DENIED**.

A restriction requirement was mailed on May 13, 2005. An election was filed on June 13, 2005, (with remarks thereto also filed on September 19, 2005), electing Species 1, claims 1-4 with claims 5 and 7-13 grouped therewith. The examiner made the restriction requirement final in an Office action mailed on November 21, 2005.

The Petitioner asserts that the restriction requirement made in the Office action mailed on May 13, 2005, is improper because the application was filed under 35 U.S.C. § 371, thus, the "Unity of Invention" standard applies (see page 1, 2d paragraph). Petitioner recites that the "standard requires 'a technical relationship among those inventions involving one or more of the same or corresponding special technical features.' PCT Rule 13.2." (See page 1, 2d paragraph).

The Petitioner then attempts to show that both alleged species share the inventive feature of (an optics unit ...directing radiation ... toward the specimen" and (b) a "focusing lens arranged in the beam path in front of the aperture diaphragm." Petitioner then asserts that "[b]ecause the species have a unity of invention, Applicants request withdrawal of the restriction requirement." Finally the Petitioner concludes that this restriction requirement is wasteful and burdensome to both the USPTO's and Applicant's resources. (See page 2, 1st paragraph and page 2, 1st sentence of the second paragraph).

In the M.P.E.P, in the PCT Rules section 13 under the heading of "Unity of Invention," section of 13.2, "Circumstances in Which the Requirement of Unity of Invention Is to Be Considered Fulfilled," states:

Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. ***The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.*** (Emphasis added).

A review of the action filed May 13, 2005 shows that the examiner made the following requirement:

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species (I) directs to a focusing lens which is vertically adjustable with respect to its optical axis; and,

Species (II) directs to a stationary focus lens.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Claims 1-4 corresponds to the species (I); and

Claim 6 corresponds to the species (II).

It was noted that Claims 5 and 7-12 [were] improper multiple dependent claims and thus [were] not grouped into any mentioned species. However, as applicant amended said claims, they fell within the grouping of species I.

The following claim(s) are generic: There is not any generic claim.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

The use of a focus lens which is vertically adjustable with respect to its optical axis of the species (I) does not have the same special technical feature to the use of a stationary focus lens of the species (II).

A review of the application shows that claim 1 is properly drawn to a system with a vertically adjustable focusing lens (see 8th paragraph) while claim 6 is drawn to a stationary focusing lens (30) (see 6th paragraph).

Despite Petitioners argument, *supra*, and as supported under the rules for Lack of Unity, the defined Special Technical feature of claim 1 is the vertically adjustable focusing lens while the Special Technical feature of claim 6 is the stationary focusing lens. Since these two Special Technical features are different, the restriction set forth is deemed proper.

As such, petition for "Review of the Restriction Requirement" under 37 C.F.R. § 1.144 is denied as stated *supra*.

Janice A Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

22 FEB 2005

#6

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Michelle Holmes-Son
Banner & Witcoff, Ltd.
1001 G Street, N.W., 11th Floor
Washington, D.C. 20001

In re Application of	:	
FONTANA, et al.	:	DECISION ON PETITION
Application No.: 10/467,657	:	
Filing Date: 11 August 2003	:	
Atty. Docket No.: 002441.00061	:	
For: GONOCOCCAL PROTEINS AND NUCLEIC ACIDS	:	

The petition to revive under 37 CFR 1.137(b) filed 20 December 2004 in the above-captioned application is hereby **DISMISSED** as follows:

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant has satisfied items (2) - (4) above.

However, with regard to item (1), the proper response was the required sequence listing pursuant to 37 CFR 1.821-1.825. The computer readable form filed 20 December 2004 was found to be non-compliant and a corrected diskette is needed. (See attached copy of CRF Problem Report.) Accordingly, the proper reply has not been furnished.

For the reasons stated above, the petition for revival cannot be granted at this time and the application remains abandoned.

CONCLUSION

Applicant's petition under 37 CFR 1.137(b) is **DISMISSED**.

This application remains abandoned as to the United States of America.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

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

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

Attch: Raw Sequence Listing Error Report

19 APR 2005

#8

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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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Michelle Holmes-Son
Banner & Witcoff, Ltd.
1001 G Street, N.W., 11th Floor
Washington, D.C. 20001

In re Application of	:	
FONTANA, et al.	:	DECISION ON RENEWED
Application No.: 10/467,657	:	
Filing Date: 11 August 2003	:	PETITION UNDER
Atty. Docket No.: 002441.00061	:	
For: GONOCOCCAL PROTEINS AND NUCLEIC ACIDS	:	37 CFR 1.137(b)

The renewed petition to revive under 37 CFR 1.137(b) filed 25 March 2005 in the above-captioned application is hereby **GRANTED** as follows:

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant previously satisfied items (2) - (4) above.

A review of the application file reveals that applicant has currently satisfied item (1) in providing a compliant Sequence Listing for the present application. As such, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application has an international filing date of 12 February 2002 under 35 U.S.C. 363 and will be given a date of **20 December 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

Refine Search

Search Results

Term	Documents
RECOMBINANT	73376
RECOMBINANTS	7304
(6 AND RECOMBINANT).USPT.	77
(L6 and(recombinant)).USPT.	77

Database:
US Pre-Grant Publication Full-Text Database
US Patents Full-Text Database
US Patents OCR Backfile
EPO Abstracts Database
JPO Abstracts Database
Derwent World Patents Index
IBM Technical Disclosure Bulletin Database

Search: L7

Refine Search

Recall Text | Clear | Interrupt

Search History

DATE: Friday, October 17, 2008 Purge Queries Printable Copy Create Case

Set Name side by side	Query	Hit Count	Set Name result set
	DB=USPT; PLUR=YES; OP=ADJ		
L7	L6 and(recombinant)	77	L7
L6	Neisseria gonorrhoeae.clm.	171	L6
L5	L4 and (protein)	1241	L5
L4	Neisseria gonorrhoeae	1633	L4
L3	MALESSEZIA	6	L3
L2	(16 or 17 or 18 or 19 or 20 or 21 or 22 or 23 or 24 or 25 or 26) W (000 OR KD OR KDA OR KDALTON OR KILODALTON)	0	L2
L1	6911208	1	L1

END OF SEARCH HISTORY

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 8/24/06 Paper No.: _____

TO : Supervisor, Art Unit 1626

SUBJECT : Certificate of Correction Request in Patent No.: 7026450

A response to the following question is requested with respect to the accompanying request for a certific 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 th 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, regarding the changes requested in the Request for Certificate of Correction, b placing a check mark (+) in the box that reflects your decision, which corresponds to the question checke above.

☑ **YES** ☐ **NO** ☐ **Comments below**

☐ **Comments:** _____

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Supervisor

1626

Art Unit

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HANIFY & KING, P.C.
1875 K STREET
SUITE 707
WASHINGTON, DC 20006

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of
Hisham KHARTABIL et al.
Application No. 10/467,676
Filed: August 02, 2004
Attorney Docket No. **000500-359**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 08, 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, September 25, 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 December 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of September 25, 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on May 08, 2008 was

subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 2143 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

11 MAR 2004

#5

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

In re Application of HUGHES Application No.: 10/467,679 PCT No.: PCT/US02/02914 Int. Filing Date: 01 February 2002 Priority Date: 06 February 2001 Attorney Docket No.: 38830/253186US For: COMPOSITIONS OF INSOLUBLE MAGNESIUM CONTAINING MINERALS FOR USE IN FLUID FILTRATION	:	DECISION

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 16 January 2004.

BACKGROUND

On 01 February 2002, applicants filed international application PCT/US02/02914, which designated the United States and claimed a priority date of 06 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 03 October 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 August 2003.

On 11 August 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of the inventor.

On 19 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to provide the U.S. Basic National Fee by thirty months from the priority date.

On 16 January 2004, applicant submitted the instant "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

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

As to item (1), applicant submitted the basic national fee on 11 August 2003

As to item (2), applicant submitted the petition fee on 16 January 2004.

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

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

The declaration of the inventor submitted 11 August 2003 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date has been charged to Deposit Account 11-0855.

CONCLUSION

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

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

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

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

1 9 NOV 2007

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Darby & Darby
Jay P. Lessler, Ph.D.
PO Box 770
Church Street Station
New York NY 10008-0770

In re Application of	:	
MATSOUKAS, John et al.	:	
Application No.: 10/467,680	:	DECISION ON
PCT No.: PCT/GR01/00014	:	
Int. Filing Date: 23 March 2001	:	PETITION
Priority Date: None	:	
Attorney Docket No.: 21142/0207234-US0	:	UNDER 37 CFR 1.137(a)
For: PEPTIDE ANALOGUES ...	:	
MULTIPLE SCLEROSIS	:	

This decision is in response to applicant's Petition For Revival of an Application For Patent Abandoned Unavoidably Under 37 CFR 1.137(a), filed in the United States Patent and Trademark Office on 17 July 2007.

BACKGROUND

On 23 March 2001, applicant filed international application PCT/GR01/00014. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 03 October 2002. The thirty month period for paying the basic national fee in the United States expired on 23 September 2003.

On 11 August 2003, applicant submitted a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee and a declaration of the inventors.

On 24 November 2003, the Office mailed Notification of Acceptance (Form PCT/DO/903) indicating that the application had a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 11 August 2003.

On 12 June 2006, the Office mailed Withdrawal of Previously Sent Notice indicating that the Notification of Acceptance had been withdrawn and a Notification to Comply with Requirements For Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) indicating that applicants must comply with 37 CFR 1.821-1.825 and that applicants must furnish the sequence listing in computer readable format.

On 22 November 2006, the Office mailed Notice of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely respond to the Office's Notification.

On 17 July 2007, applicants submitted this petition under 37 CFR 1.137(a).

DISCUSSION

A petition to revive an application for patent unavoidably abandoned under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, (2) the petition fee, (3) a satisfactory showing that the

entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to 1.137(a) was unavoidable and (4) a terminal disclaimer if application was filed before June 8, 1995.

Items (2) and (4) have been met. The petition fee has been paid and a terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (1) has not been satisfied. Applicants were required to comply with 37 CFR 1.821-1.825, including the requirement to furnish the sequence listing in computer readable format (CRF). A review of applicant's submission did not locate a CRF.

Item (3) has not been satisfied. Applicant must document the closures and account for the time through the filing of a grantable petition.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)".

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

3 1 JAN 2008

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Darby & Darby
Jay P. Lessler, Ph.D.
PO Box 770
Church Street Station
New York NY 10008-0770

In re Application of	:	
MATSOUKAS, John et al.	:	
Application No.: 10/467,680	:	DECISION ON
PCT No.: PCT/GR01/00014	:	
Int. Filing Date: 23 March 2001	:	PETITION
Priority Date: None	:	
Attorney Docket No.: 21142/0207234-US0	:	UNDER 37 CFR 1.137(b)
For: PEPTIDE ANALOGUES ...	:	
MULTIPLE SCLEROSIS	:	

This decision is in response to applicant's Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office on 07 December 2007. Applicant's petition is **GRANTED**.

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

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 11 August 2003.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-14-06

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/467682 Patent No.: 7012402

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

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

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

Should request be deleted from patent? E. James

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.

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

Comments: _____

KARL EASTHOM
SUPERVISORY PATENT EXAMINER

SPE

2838
Art Unit

25 JUN 2004

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L.C. BEGIN & ASSOCIATES, PLLC
510 HIGHLAND AVENUE
PMB 403
MILFORD, MI 48381

In re Application of KUNISHIGE et al. Application No.: 10/467,683 PCT No.: PCT/JP02/00954 Int. Filing Date: 06 February 2002 Priority Date: 06 February 2001 Attorney's Docket No.:5754-00012 For: SAFE INJECTOR AND INJECTION NEEDLE FOR SAFE INJECTOR	DECISION ON PETITION UNDER 37 CFR 1.10(d)

This decision is in response to applicant's "Petition Under 37 CFR 1.182 For Correction of Filing Date" treated as a petition under 37 CFR 1.10(d) in the above reference application, filed 24 February 2004 in the United States Patent and Trademark Office (USPTO). Applicant requests that a filing date of 06 August 2003 be accorded to the U.S. national stage papers. No petition fee is required.

BACKGROUND

On 06 February 2002, applicant filed international application No. PCT/JP02/00954 which claimed a priority date of 06 February 2001, and which designated the United States.

A Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date, and as a result the deadline for entry into the national stage in the U.S. was extended and expired 30 months from the priority date, i.e. 06 August 2003.

On 08 August 2003, two days after the expiration of the 30 month period, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: the basic national fee. A certificate of mailing under 37 CFR 1.10 identifying the Express Mail number #EV318170595US and dated 06 August 2003 accompanied the filing.

On 06 November 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration executed by the inventor and the surcharge for filing the oath or declaration after the thirty month period ($130) was required. The Notification also indicated, *inter alia*, that a copy of the international application was filed on 08 August 2003.

On 08 December 2003, applicant responded to the Notification of Missing Requirements with an executed declaration and $130 surcharge. On 22 January 2004, a Notification of Acceptance was erroneously mailed to applicant.

On 24 February 2004, applicant filed the present request to correct the filing date of the

above referenced U.S. national stage application, accompanied by Customer Copy of the Express Mail label #EV318170595US and a copy of the certificate of mailing under 37 CFR 1.10 dated 06 August 2003.

DISCUSSION

At the outset it is noted that applicant does not argue that there was any interruption in the mail service or unavoidable loss or delay in the mail.

Applicant claims that the Express Mailing bearing number #EV318170595US was deposited on 06 August 2003, however #EV318170595US was marked by the United States Postal Service (USPS) with the date "08 August 2003". Counsel for applicant alleges that the date of deposit was 06 August 2003 as evidenced by the certificate of mailing and further states that the "Date-In" can be arguable be considered a "truncated 'six' rather than an 'eight'".

Where applicant alleges that the USPS incorrectly entered the "date-in" on the Express Mail label, 37 CFR 1.10(d) is applicable. 37 CFR 1.10(d) provides as follows:

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

Petitioner has satisfied (1) and (2) above.

With regard to item (3), MPEP Section 513 (p.500-62 (August 2001)) delineates the evidence necessary for a successful petition. The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail."

The reason the Office considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date-in," or other official USPS notation, on the "Express Mail" mailing label. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail."

Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" should be in the form of a log book which contains the following information: the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

A notation in a log book, entered after deposit by the person who deposited the correspondence as "Express Mail" within one business day of such deposit, setting forth the items indicated above, would be deemed on petition to be an adequate showing of the date of deposit under 37 CFR 1.10(d)(3).

37 CFR 1.10(d)(3) further provides that a party must show that correspondence was deposited as "Express Mail" before the last scheduled pickup on the requested filing date in order to obtain a filing date as of that date.

A petition alleging that the USPS erred in entering the "date-in" will be denied if it is supported only by evidence (other than from the USPS) which was: (A) created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or (B) created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail"). Without the Customer Copy of the Express Mail label clearly indicating a "Date-In" of 06 August 2003 or an Express Mail log as described above, applicant's petition cannot be granted.

Petitioner has not provided a satisfactory showing under 37 CFR 1.10(d)(3). Accordingly, it is inappropriate, on the present record, to accord the national stage papers a date of 06 August 2001. Thus, it is concluded that the records of the USPTO that indicate that the national stage application papers were received by the USPTO on 08 August 2003 (the date stamped on the application papers and shown on the addressee's copy of the "Express Mail" mailing label) should control.

Applicant's request to accord a filing date of 06 August 2003 to this application is refused on the present record. The filing date of the above identified application is 08 August 2003. Thus, the evidence provided is insufficient to establish that the correspondence was deposited with the USPS on 06 August 2003.

For the reasons stated above, subsection (3) of 37 CFR 1.10(d) is not satisfied. Because the basic national fee was not paid by the thirty month deadline or by midnight 06 August 2003, the application was abandoned.

The Notification of Acceptance (Form PCT/DO/EO/903) erroneously mailed on 22 January 2004 is hereby **VACATED**. A Notification of Abandonment (Form PCT/DO/EO/909) will be issued indicating that the basic national fee was not paid by the 30 month period.

OPTIONS

To revive the abandoned application, applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the revision of 37 CFR 1.137. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October

21, 1997) (Effective Date: 01 December 1997). This suggestion should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

Applicant's request that the national stage filing of PCT/JP02/00954 as 10/467,683 be accorded a filing date of 06 August 2003 is **DISMISSED WITHOUT PREJUDICE**.

The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision including vacating the Notification of Acceptance (Form PCT/DO/EO/903) erroneously mailed on 22 January 2004 and issuing a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the basic national fee was not paid by the 30 month period and that the application is abandoned.

Any reconsideration on the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled " Renewed Petition Under 37 CFR 1.10(d)". Extensions of time may be obtained under 37 CFR 1.136(a).

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

UNITED STATES POSTAL SERVICE

Date: 06/16/2004

RECEIVED
16 JUN 2004
Legal Staff
International Division

Fax Transmission To: CYNTHIA KRATZ
Fax Number: 703-308-6459

Dear CYNTHIA KRATZ:

The following is in response to your 06/16/2004 request for delivery information on your Express Mail item number EV318170595US. The delivery record shows that this item was delivered on 08/11/2003 at 08:44 AM in ALEXANDRIA, VA 22313 to J STECKEL. The scanned image of the recipient information is provided below.

Signature of Recipient: Delivery Section

James Steckel

James Steckel

Address of Recipient:

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

Adjustment date: 06/29/2004 CSMOOT

03/10/2004 SLUANG1 00000065 041131 10467683

01 FC:1460 130.00 CR

18 OCT 2004

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L.C. BEGIN & ASSOCIATES, PLLC
510 HIGHLAND AVENUE
PMB 403
MILFORD, MI 48381

In re Application of KUNISHIGE et al. Application No.: 10/467,683 PCT No.: PCT/JP02/00954 Int. Filing Date: 06 February 2002 Priority Date: 06 February 2001 Attorney's Docket No.:5754-00012 For: SAFE INJECTOR AND INJECTION NEEDLE FOR SAFE INJECTOR	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 08 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the application went abandoned because the basic national fee of $900 was not provided before the expiration of the thirty month period. The basic national fee was provided. The required petition fee of $1370 is now paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **08 December 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Fax: 571-273-0459

21 DEC 2004
UNITED STATES PATENT AND TRADEMARK OFFICE

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Marc A Rossi
Rossi & Associates
Po Box 826
Ashburn VA 20146-0826

In re Application of	:	
WALLS	:	
Application No.: 10/467,689	:	DECISION
PCT No.: PCT/IE02/00014	:	
Int. Filing Date: 01 February 2002	:	
Priority Date: 08 February 2001	:	
Attorney's Docket No.: TOMK:014	:	
For: DRY SHAVER FOR VARIABLE HEIGHTS	:	
OF CUT	:	

This decision is in response to applicant's "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER RULE 181 AND/OR RULE 183" filed via facsimile transmission in the United States Patent and Trademark Office (USPTO) on 08 October 2004.

BACKGROUND

On 01 February 2002, applicant filed international application PCT/IE02/00014, which designated the United States and claimed a priority date of 08 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 August 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 August 2003.

On 08 August 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, and an assertion of small entity status.

On 19 November 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required (copy enclosed).

On 11 February 2004, applicant filed a "REQUEST FOR NOTIFICATION OF MISSING REQUIREMENTS".

On 05 May 2004, applicant filed a "SECOND REQUEST FOR NOTIFICATION OF MISSING REQUIREMENTS".

On 27 July 2004, applicant filed a "STATUS INQUIRY LETTER".

On 06 August 2004, applicant filed via facsimile transmission a second "STATUS INQUIRY LETTER".

On 08 September 2004, a Notification was mailed in response to the "STATUS INQUIRY LETTER" filed 06 August 2004 indicating that the application was abandoned as to the United States of America for failure to properly respond to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 19 November 2003.

On 06 October 2004, the DO/EO/US mailed a NOTICE OF ABANDONMENT indicating that the application was abandoned for failure to timely respond to the Notification mailed 19 November 2003.

On 08 October 2004, applicant filed the instant "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER RULE 181 AND/OR RULE 183".

DISCUSSION

Petition Under 37 CFR 1.181

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Item (1) has been met.

As to (3), MPEP § 711.03(c), para. I.A. states that "[f]or 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." Although the petition indicates that such a docket report exists, a copy of it has not been provided. Thus, item (3) has not been met.

As to (2), practitioner states that "he has searched the file and the mail inbox where the

incoming Office communications are placed and submits that the Notification dated November 19, 2003 was not received". However, a docket record is not referenced in practitioner's statement. Thus, item (2) has not been met.

It is also noted that a declaration of inventors still has not been submitted.

Petition Under 37 CFR 1.183

The petition of $130 has been charged to Deposit Account 18-2056. The petition under 37 CFR 1.183 fails to specify which rule or rules should be waived.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

For the reasons set forth above, the petition under 37 CFR 1.183 is **DISMISSED** without prejudice.

As indicated in the NOTICE OF ABANDONMENT mailed 06 October 2004, the application is abandoned as to the United States of America.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response. Extensions of time under 37 CFR 1.136(a) are available.

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

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

Enclosure: Copy of NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) mailed 19 November 2003

28 FEB 2005

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P.O. BOX 1450
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Marc A Rossi
Rossi & Associates
Po Box 826
Ashburn VA 20146-0826

In re Application of	:	
WALLS	:	
Application No.: 10/467,689	:	DECISION
PCT No.: PCT/IE02/00014	:	
Int. Filing Date: 01 February 2002	:	
Priority Date: 08 February 2001	:	
Attorney's Docket No.: TOMK:014	:	
For: DRY SHAVER FOR VARIABLE HEIGHTS	:	
OF CUT	:	

This decision is in response to applicant's "RESPONSE TO DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed in the United States Patent and Trademark Office (USPTO) on 25 January 2005.

BACKGROUND

On 01 February 2002, applicant filed international application PCT/IE02/00014, which designated the United States and claimed a priority date of 08 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 August 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 August 2003.

On 08 August 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, and an assertion of small entity status.

On 19 November 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required (copy enclosed).

On 11 February 2004, applicant filed a "REQUEST FOR NOTIFICATION OF MISSING REQUIREMENTS".

On 05 May 2004, applicant filed a "SECOND REQUEST FOR NOTIFICATION OF MISSING REQUIREMENTS".

On 27 July 2004, applicant filed a "STATUS INQUIRY LETTER".

On 06 August 2004, applicant filed via facsimile transmission a second "STATUS INQUIRY LETTER".

On 08 September 2004, a Notification was mailed in response to the "STATUS INQUIRY LETTER" filed 06 August 2004 indicating that the application was abandoned as to the United States of America for failure to properly respond to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 19 November 2003.

On 06 October 2004, the DO/EO/US mailed a NOTICE OF ABANDONMENT indicating that the application was abandoned for failure to timely respond to the Notification mailed 19 November 2003.

On 08 October 2004, applicant filed a "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER RULE 181 AND/OR RULE 183".

On 21 December 2004, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.181 and applicant's petition under 37 CFR 1.183.

On 25 January 2005, applicant submitted the instant "RESPONSE TO DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT".

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

As noted in the decision mailed 21 December 2004, item (1) has been met.

As to (3), MPEP § 711.03(c), para. I.A. states that "[f]or 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." Petitioner has provided a copy of a docket report showing replies docketed for a date two months (since the NOTIFICATION OF MISSING REQUIREMENTS set a two-month period for reply) from the

mailed date of the nonreceived Office action. However, it is not clear if this docket record shows all the replies for petitioner's firm due on that day, i.e., it may show only replies due for cases docketed to petitioner himself rather than for all of the cases in the firm.

Item (2) has not been met. The docket record submitted is not referenced in practitioner's statement.

Declaration of the Inventor

The declaration of the inventor filed 25 January 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

As indicated in the NOTICE OF ABANDONMENT mailed 06 October 2004, the application is abandoned as to the United States of America.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response. Extensions of time under 37 CFR 1.136(a) are available.

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

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

20 MAY 2005

#16

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Marc A Rossi
Rossi & Associates
Po Box 826
Ashburn VA 20146-0826

In re Application of	:	
WALLS	:	
Application No.: 10/467,689	:	DECISION
PCT No.: PCT/IE02/00014	:	
Int. Filing Date: 01 February 2002	:	
Priority Date: 08 February 2001	:	
Attorney's Docket No.: TOMK:014	:	
For: DRY SHAVER FOR VARIABLE HEIGHTS	:	
OF CUT	:	

This decision is in response to applicant's second "RESPONSE TO DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed in the United States Patent and Trademark Office (USPTO) on 28 April 2005.

BACKGROUND

On 01 February 2002, applicant filed international application PCT/IE02/00014, which designated the United States and claimed a priority date of 08 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 August 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 August 2003.

On 08 August 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, and an assertion of small entity status.

On 19 November 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required (copy enclosed).

On 11 February 2004, applicant filed a "REQUEST FOR NOTIFICATION OF MISSING REQUIREMENTS".

On 05 May 2004, applicant filed a "SECOND REQUEST FOR NOTIFICATION OF MISSING REQUIREMENTS".

On 27 July 2004, applicant filed a "STATUS INQUIRY LETTER".

On 06 August 2004, applicant filed via facsimile transmission a second "STATUS INQUIRY LETTER".

On 08 September 2004, a Notification was mailed in response to the "STATUS INQUIRY LETTER" filed 06 August 2004 indicating that the application was abandoned as to the United States of America for failure to properly respond to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 19 November 2003.

On 06 October 2004, the DO/EO/US mailed a NOTICE OF ABANDONMENT indicating that the application was abandoned for failure to timely respond to the Notification mailed 19 November 2003.

On 08 October 2004, applicant filed a "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER RULE 181 AND/OR RULE 183".

On 21 December 2004, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.181 and applicant's petition under 37 CFR 1.183.

On 25 January 2005, applicant submitted a "RESPONSE TO DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT".

On 28 February 2005, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.181. Specifically, it was noted that it was not clear if the docket record provided showed all the replies for petitioner's firm due on the date at issue.

On 28 April 2005, applicant submitted the instant second "RESPONSE TO DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT".

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

As noted in the decision mailed 21 December 2004, item (1) has been met.

As to item (3), the response filed 28 April 2005 indicates that the docket record provided on 25 January 2005 represents all replies due by the petitioner's firm for the date at issue.

Item (2) has now been met.

Declaration of the Inventor

The declaration of the inventor filed 25 January 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision, including changing the correspondence address.

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

19 NOV 2003

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P.O. BOX 1450
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Ted K. Ringsred
Office of Intellectual Property Counsel
3M Innovative Properties company
P. O. Box 33427
St. Paul, Minnesota 55133-3427

In re Application of:	:	
CLAYTON ET AL.	:	DECISION ON
Application No.: 10/467,690	:	PETITION
PCT No.: PCT/US02/01502	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 16 January 2002	:	
Priority Date: 17 January 2001		
Docket No.: 56298US022	:	
For: MEDICINAL AEROSOLS	:	

This is in response to the petition filed 08 August 2003 under 37 CFR 1.137 (b) to revive the above-identified abandoned application for "unintentional" delay.

BACKGROUND

On 16 January 2002, applicants filed international application PCT/US02/01502, which claimed priority to an earlier application, filed 17 January 2001. A Demand for international preliminary examination, in which the United States of America was elected, was timely filed. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 17 July 2003.

On 08 August 2003, the present petition was submitted. This petition further includes an authorization to charge Deposit Account No. 13-3723 the amount of basic national fee of $900.00, a surcharge of $130.00 for submitting Declaration executed by the inventor as required by 35 U.S.C.371 (c)(4) later than 30 months from the priority date of 17 January 2001, and $ 1300.00 for petition fee.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition fee required by 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, and (4) a terminal disclaimer with disclaimer fee (only for utility and plant applications filed before 08 June 1995).

Regarding items (1) and (2), applicants furnished the U.S. Basic National Fee of $900.00 and petition fee of $1300.00 payable via counsel's Deposit Account No. 13-3723.

Regarding item (3), the petition includes a statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Regarding item (4), because applicants' filing date of 16 January 2002 is after 08 June 1995, the requirement of a terminal disclaimer with disclaimer fee is not applicable in this case.

Accordingly, applicants have satisfied each of the requirements of 37CFR1.137(b).

CONCLUSION

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

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

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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OFFICE OF PETITIONS

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

In re Patent No. 7,033,563	:	
Issue Date: 04/25/2006	:	
Application No. 10/467697	:	ON PETITION
Filing or 371(c) Date: 08/08/2003	:	
Title of Invention: METHOD FOR	:	
REDUCING OXYGEN COMPONENT	:	
AND CARBON COMPONENT	:	
IN FLUORIDE	:	

This is a decision on the "Petition for a Duplicate Letters patent Under 37 CFR §1.182", filed July 21, 2006.

The petition is **GRANTED**.

The file record discloses that the instant application matured into U.S. Patent No. 7,033,563 on April 25, 2006. Petitioner, however, contends that the patent is irretrievably lost.

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

Questions concerning this matter may be directed to the undersigned at 571-232-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: Krystal Paige
South Tower 8th floor, Room C-32 (FAX 571-270-9937)

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/467,697	08/08/2003	Hirohisa Kikuyama	FUK-111

CONFIRMATION NO. 8939

OC000000021108318

022855
RANDALL J. KNUTH P.C.
1507 YUMA CT
MUFREESBORO, TN 37129

Date Mailed: 11/03/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/21/2006.

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

DEREK L WOODS
OP (571) 272-3232

NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/467,697	08/08/2003	Hirohisa Kikuyama	FUK-111

CONFIRMATION NO. 8939

OC000000021108382

00466
YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

Date Mailed: 11/03/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/21/2006.

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

DEREK L WOODS
OP (571) 272-3232

ATTORNEY/APPLICANT COPY

07 SEP 2004

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

In re Application of ARTMAN, Linda D. Application No.: 10/467,700 PCT No.: PCT/US02/03876 Int. Filing Date: 08 February 2002 Priority Date: 08 February 2001 Docket No.: 1959-4750.1US For: METHODS AND COMPOUNDS FOR TREATING NEUROLOGIC AND NEUROPSYCHIATRIC DISORDERS AND IDENTIFYING COMPOUNDS TO TREAT THE SAME	DECISION ON PETITION UNDER 37 CFR 1.10(d)

This decision is in response to applicants' "Petition For Change of Filing Date and Request For Corrected Filing Receipt," filed 28 April 2004.

BACKGROUND

On 08 February 2002, applicant filed international application PCT/US02/03876, which claimed a priority date of 08 February 2001. On 06 September 2002, applicant timely filed a demand for international preliminary examination. Accordingly, the thirty month period for paying the basic national fee expired at midnight on 08 August 2003.

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. It was accorded a filing date of 09 August 2003.

On 28 November 2003, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) granting the application a 371 date of 09 August 2003.

On 23 April 2004, applicant submitted "Petition For Change of Filing Date and Request For Corrected Filing Receipt," accompanied by a copy of the transmittal letter and Express Mail tracking information from USPS.

DISCUSSION

In the instant petition, applicant requests that the receipt date be amended to 08 August 2003. The Express Mail mailing label lists the "date in" as 09 August 2003.

Applicant argues that the application was submitted to the USPS on 08 August 2003. 37 CFR § 1.10(d) allows an applicant to petition to correct an incorrectly entered "Date In" of an Express Mail receipt and states that:

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

Applicant has satisfied items (1), (2) and (3). The petition was filed promptly and the papers in the file reflect the mailing label number. Applicant has furnished a print out from USPS track and confirm database indicating the package was accepted by USPS on 08 August 2003.

Applicant also requests a corrected filing receipt reflecting a 08 August 2003 date. The "filing date" on the filing receipt of a national stage application is the date upon which applicant completes the requirements under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). MPEP §1893.03 (b) (May 2004). Those requirements were satisfied on 08 August 2003.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(d) to correct the date of receipt of the papers for entry into the national stage in the United States to 08 August 2003 is **GRANTED**.

The request for a filing receipt reflecting a 08 August 2003 filing date is **GRANTED**.

The Notification of Acceptance mailed 28 November 2003 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, in accordance with this decision,

including issuance of a Notification of Acceptance (Form PCT/DO/EO/903) indicating that the requirements under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) were satisfied on **08 August 2003**.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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

Mail Date: 04/20/2010

Applicant	: Hans Wilhelm Hafner	: DECISION ON REQUEST FOR
Patent Number	: 7581659	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/467,725	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1086** 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.

29 APR 2004

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CORPORATE INTELLECTUAL PROPERTY
GLAXOSMITHKLINE
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

In re Application of BIGGADIKE et al. Application No.: 10/467,733 PCT No.: PCT/EP02/01387 Int. Filing Date: 11 February 2002 Priority Date: 14 February 2001 Attorney Docket No.: PG4396USW For: PHENETHANOLAMINE DERIVATIVES FOR TREATMENT OF RESPIRATORY DISEASES	DECISION ON SUBMISSION

This is a decision in response to applicant's submission to the United States Patent and Trademark Office (USPTO) on 22 April 2004.

On 09 February 2004, applicants filed declarations executed by inventors identified in the published international application and by a signatory identified as Stephen Barry Guntrip; however, Mr. Guntrip was not named as an inventive entity in the published international application.

On 06 April 2004, a decision indicated that the 09 February 2004 declaration as filed was not in compliance with 37 CFR 1.66 or 1.68 because it identified a legal entity not identified on the international application. The declaration was signed by Stephen Barry Guntrip, who was not identified as an inventor on the published international application. Furthermore, no explanation was given with regard to the inclusion of Mr. Guntrip's signature as an inventor on the declaration. The declaration was unacceptable.

On 22 April 2004, applicant forwarded a copy of the Notification of the Recording of a Change (Form PCT/IB/306) dated 16 February 2003, indicating that the correction adding Stephen Barry Guntrip as an applicant and inventor was accepted by the International Bureau.

With the submission of the Form PCT/IB/306, the declarations filed on 09 February 2004 are acceptable and in compliance with 37 CFR 1.497(a) and (b). The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **09 February 2004.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

06 APR 2004

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P.O. BOX 1450
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GLAXOSMITHKLINE
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

In re Application of BIGGADIKE et al. Application No.: 10/467,733 PCT No.: PCT/EP02/01387 Int. Filing Date: 11 February 2002 Priority Date: 14 February 2001 Attorney Docket No.: PG4396USW For: PHENETHANOLAMINE DERIVATIVES FOR TREATMENT OF RESPIRATORY DISEASES	DECISION ON SUBMISSION

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

BACKGROUND

On 15 August 2003, applicants filed a transmittal letter concerning a filing under 35 U.S.C. 371, accompanied by the basic national fee.

On 09 December 2003, a Notification of Missing Requirements was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 09 February 2004, applicants filed declarations executed by inventors identified in the published international application and by a signatory identified as Stephen Barry Guntrip; however, Mr. Guntrip is not named as an inventive entity in the published international application.

The declaration as filed is not in compliance with 37 CFR 1.66 or 1.68 as it identifies a legal entity not identified on the international application and is unacceptable as filed. The declaration is signed by Stephen Barry Guntrip, who is not identified as an inventor on the published international application. Furthermore, no explanation is given with regard to the inclusion of Mr. Guntrip's signature as an inventor on the declaration.

Applicant should forward a copy of the Notification of the Recording of a Change (Form PCT/IB/306) if the correction was accepted by the International Bureau. If a correction under PCT Rule 92*bis* was not requested, a petition under 37 CFR 1.497(d) to add Mr. Guntrip should be filed.

37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part: if the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) A statement from each person being added as an inventor . . . that any error in inventorship in the

international application occurred without deceptive intention on his or her part; (2) The processing fee set forth in § 1.17(I); and (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees. (See 37 CFR 3.73).

CONCLUSION

Applicants should submit either a copy of the Notification of the Recording of a Change (Form PCT/IB/306) if the correction was accepted by the International Bureau or a proper petition under 37 CFR 1.497(d) requesting the addition of Stephen Barry Guntrip as an inventive entity.

Applicant must file a response within TWO (2) months of the mail date of this decision. Extensions of time available may be obtained under 37 CFR 1.136(a).

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

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

24 JUN 2004

#9

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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Amir N. Penn
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

In re Application of	:	
LYNCH, et al.	:	
U.S. Application No.: 10/467,737	:	DECISION ON PETITION
PCT No.: PCT/AU02/00140	:	
Int. Filing Date: 12 February 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 12 February 2001	:	
Attorney Docket No.: 10022/393	:	
For: AGGREGATION OF CREDIT FACILITIES	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. §1.47(a)" filed 20 May 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 February 2002, applicants filed international application PCT/AU/00140, which claimed a priority date of 12 February 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 12 August 2003.

On 12 August 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, a First Preliminary Amendment and an Information Disclosure Statement.

On 17 November 2003, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 20 May 2004, applicant filed the present petition under 37 CFR 1.47(a) accompanied by a petition for a four-month extension of time and payment of the appropriate four-month extension fee. With the filing of the extension of time petition and payment of the extension fee, applicant's response is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR

1.17(I), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied all four items.

Regarding item (1), applicant has provided payment of the $130.00 petition fee.

As to item (2), applicant has provided a signed affidavit from Mr. Neil William Murray detailing firsthand his providing a complete set of the application papers by facsimile transmission to Mr. Andrew Gale. This affidavit, combined with the continued silence of the non-signing inventor, constitutes a refusal to execute the declaration as to the National stage in the United States.

Regarding item (3), applicant has provided the last known address of the non-signing inventor.

As to item (4), applicant has filed a compliant declaration of the inventors executed by the remaining inventors David Lynch and David Eastwood on their own behalf and on behalf of the non-signing inventor.

Accordingly, it is proper to grant applicant's petition at this time.

CONCLUSION

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

The application has an international filing date of 12 February 2000 under 35 U.S.C. 363, and will be given a date of **20 May 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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

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

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OFFICE OF PETITIONS

In re Application of
GRIFFIN, Robert et al.
Application No. 10/467,741
Filed: January 12, 2004
Attorney Docket No. **10798/9**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 1, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, assignee has requested transfer of files, does not meet any of the conditions set forth in 37 CFR 10.40.

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

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROBERT H. FISCHER**
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3800

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT AND TRADEMARK DEPARTMENT
410 SWING ROAD
GREENSBORO NC 27409

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JUL 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Griffiths et al.	:	
Application No. 10/467744	:	ON PETITION
Filing Date: 08/12/2003	:	
Attorney Docket Number: PPD 50601/US	:	

This is a decision on the petition to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b), filed June 5, 2009.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 6, 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 extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 7, 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 Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114 (filed January 9, 2009); (2) the petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

09 MAR 2004

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BURR & BROWN
PO BOX 7068
SYRACUSE, NY 13261-7068

In re Application of UENO	:	
U.S. Application No.: 10/467,748	:	
PCT Application No.: PCT/JP02/01308	:	DECISION
Int. Filing Date: 15 February 2002	:	
Priority Date Claimed: 15 February 2001	:	
Attorney Docket No.: 892_025	:	
For: DRYING SYSTEM	:	

This is in response to applicant's "Petition Under 37 CFR §1.47(b)" filed 26 January 2004.

BACKGROUND

On 15 February 2002, applicant filed international application PCT/JP02/01308, which claimed priority of an earlier Japan application filed 15 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 22 August 2002. The thirty-month period for paying the basic national fee in the United States expired on 15 August 2003.

On 13 August 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 25 November 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 26 January 2004, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached

after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite fee has been provided.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In the present case, petitioner alleges that the sole inventor Makoto Ueno refuses to sign the application papers. However, it has not been demonstrated that a bona fide attempt was made to present a copy of the application papers (including specification, claims, drawings, and oath/declaration) to Ueno for signature. Furthermore, the affidavit of Tateo Uegaki does not provide sufficient details of the purported refusal to sign. In particular, the affidavit does not indicate whether the refusal was made orally, in writing, or whether the letter sent to Ueno stated that Ueno's failure to return a signed declaration by a specific date would be deemed a refusal to sign. Thus, it would not be reasonable to conclude at the present time that Ueno refuses to sign the application papers.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor has been provided.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has

been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

MPEP 324 states that when an assignee files an application under 37 CFR 1.47(b), ownership of the application must be established. Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO. In the present case, petitioner has submitted a copy of a purported assignment agreement. However, this purported assignment agreement references the Japanese priority application 2001-38495 and does not make reference to international application PCT/JP02/01308 or U.S. Application No. 10/467,748. It cannot be assumed that the party who owns the rights to a particular Japanese patent application also holds rights to all other applications based on that Japanese patent application. Furthermore, it is not clear that Ueno has signed an assignment agreement. In particular, the affidavit of Uegaki states that Ueno has refused to sign assignment forms. Additionally, while the purported assignment agreement shows a stamp next to Ueno's name, it is unknown whether such stamp has the legal effect of a signature in Japan. Therefore, petitioner has not demonstrated that Uegaki is the owner of the present U.S. national stage application.

With regard to item (6) above, petitioner has adequately demonstrated that filing under 37 CFR 1.47(b) is necessary to preserve the rights of the parties.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

DT02 d PCT/PTO 0 7 MAY 2004

Practitioner's Docket No.: 892_025

IN THE UNITED STATES ELECTED OFFICE (EO/US)

10/467,748
U.S. APPLICATION NO.

PCT/JP02/01308	15 February 2002 (15.02.02)	15 February 2001 (15.02.01)
INTERNATIONAL APPLICATION NO.	INTERNATIONAL FILING DATE	PRIORITY DATE CLAIMED

TITLE OF INVENTION

DRYING APPARATUS

APPLICANT(S) FOR EO/US

Makoto UENO

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Office of PCT Legal Administration

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 addressed to **Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450** on ***May 7, 2004*** under "EXPRESS MAIL" mailing label number **EV 37308 4265 US**.

Janet M. Stevens

Janet M. Stevens

RESPONSE TO DECISION ON PETITION

Sir:

In response to the Decision on Petition mailed March 9, 2004, attached hereto is a Declaration and Power of Attorney for the above-referenced application, which has been executed by the inventor, Makoto Ueno.

The attached Declaration, in combination with the documents filed January 26, 2004, are believed to be fully responsive to the Notification of Missing Requirements letter mailed November 25, 2003.

Should the appropriate official at the U.S. PTO believe that any additional documents are required, that official is requested to telephone Applicant's undersigned representative.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

Respectfully submitted,

May 7, 2004
Date

Stephen P. Burr
Reg. No. 32,970

SPB/jms
Enclosure:
Declaration and Power of Attorney executed by Makoto Ueno

BURR & BROWN
P.O. Box 7068
Syracuse, NY 13261-7068

Customer No.: 025191
Telephone: (315) 233-8300
Facsimile: (315) 233-8320

Declaration and Power of Attorney for Patent Application English Language Declaration	Attorney Docket No.	892 025
	First Named Inventor	Makoto UENO
	COMPLETE IF KNOWN	
☐ Declaration Submitted with Initial Filing	Application Number	10/467,748
☒ Declaration Submitted After Initial Filing (surcharge (37 CFR 1.16(e) required)	Filing Date	
	Group Art Unit	

As a below named inventor, I hereby declare that:

My residence, post office address and citizen3ship are as stated below next to my name,

I believe 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 entitled

DRYING APPARATUS

the specification of which (check one)

☐ is attached hereto.
☐ was filed on as United States Application No. 10/467,748, and amended on (if applicable).
☒ was described and claimed in PCT International Application Number PCT/JP02/01308 filed on 15 February 2002 and as amended under PCT Article 19 on __ (*if any*).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International Application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or PCT International Application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)			Priority Not Claimed
2001-38495	Japan	15/02/2001	
(Number)	(Country)	(Day/Month/Year Filed)	☐
(Number)	(Country)	(Day/Month/Year Filed)	☐
(Number)	(Country)	(Day/Month/Year Filed)	☐
(Number)	(Country)	(Day/Month/Year Filed)	☐

I hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States Provisional Application(s) listed below:

(Application Serial No.)	(Filing Date)
(Application Serial No.)	(Filing Date)
(Application Serial No.)	(Filing Date)

I hereby claim the benefit under 35 U.S.C. Section 120 of any United States Application(s), or Section 365(c) of any PCT International Application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International Application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, C.F.R. Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

(Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)
(Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)
(Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)

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.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (*List names and Registration Number*)

Stephen P. Burr, Reg. No. 32,970
Kevin C. Brown, Reg. No. 32,402
Charu Narang Moody, Reg. No. 44,963

Send Correspondence to:

Customer No. **025191**

Customer No.: 25191

Direct Telephone Calls to: (*name and telephone number*)

Stephen P. Burr. (315) 233-8300

Full name of sole or first inventor: Makoto UENO

Sole or first inventor's signature: Makoto Ueno Date: May 6, 2004

Residence: Tagajo-shi, Japan

Citizenship: Japan

Post Office Address: 4-7, Yahata 1-chome, Tagajo-shi, Miyagi 985-0874 Japan

Full name of second inventor, if any:

Second inventor's signature: Date:

Residence:

Citizenship:

Post Office Address:

14 MAY 2004

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PO BOX 7068
SYRACUSE, NY 13261-7068

In re Application of UENO	:	
U.S. Application No.: 10/467,748	:	
PCT Application No.: PCT/JP02/01308	:	COMMUNICATION
Int. Filing Date: 15 February 2002	:	
Priority Date Claimed: 15 February 2001	:	
Attorney Docket No.: 892_025	:	
For: DRYING SYSTEM	:	

This is in response to applicant's "Response to Decision on Petition" filed 07 May 2004, which includes a declaration executed by the sole inventor.

Although the submission of an executed declaration would normally be a proper response to the decision mailed 09 March 2004, the present declaration is unacceptable. Specifically, pages 1 and 2 of the declaration appear to be original sheets, while page 3 appears to have been transmitted by facsimile. This raises doubt as to whether pages 1 and 2 were associated with page 3 at the time of execution. Additionally, page 3 of the declaration has an adhesive label which inserts a customer number and deletes a previous correspondence address. MPEP 602.01 provides that a declaration cannot be altered or changed in any manner after it has been signed.

Applicant must file a proper response within TWO (2) MONTHS from the mail date of this communication. Extensions of time are available under 37 CFR 1.136(a). A proper response would include a newly executed declaration. Failure to timely file a proper response will result in abandonment of the application.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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MAY 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Nicholas J. Lench et al	:	
Application No. 10/467,752	:	ON PETITION
Filed: February 4, 2004	:	
Attorney Docket No. 16418.1	:	

This is a decision on the petition filed January 8, 2008 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/944,212.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

30 SEP 2004

#4

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John W. Renner
Renner, Otto, Boisselle & Sklar, LLP
1621 Enclid Avenue, 19th Floor
Cleveland, OH 44115

In re Application of CONTIJOCH MESTRES, Agustin et al. Application No.: 10/467,780 PCT No.: PCT/EP00/05072 Int. Filing Date: 03 June 2000 Priority Date: None Attorney's Docket No.: TURK.PO 123 US For: PROCESS FOR THE PREPARATION OF CATIONIC SURFACTANTS	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicants' "Letter Accompanying Completion of Filing Requirements," filed in the United States Patent and Trademark Office on 13 August 2004. The declaration contains an indication that joint inventor Agustin Contijoch Mestres is deceased. As such, it has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 03 June 2000, applicants filed international application PCT/EP00/05072. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 December 2001. A demand for international preliminary examination was timely filed on 24 March 2001. The deadline for entry into the national stage in the United States was 03 December 2002.

On 25 November 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 August 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 25 August 2004, applicants submitted a request under 37 CFR 1.42 accompanied by a declaration.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42. However, the declaration must include the signature of the legal representative or the signature of all of the heirs (or if there is only one heir, the sole heir), if under applicable law, the heirs' authority corresponds to that of a legal representative. See MPEP 409.01(d).

The declaration is signed by two heirs and the mother of the third heir. The mother of the heir may not sign the declaration on behalf of the third heir. The mother is an agent and an agent may not sign the declaration. MPEP 605.04(a). As such, the declaration does not comply with 37 CFR 1.497(a)-(b).

Additionally, it is not stated that the heirs are all of the heirs of Agustin Contijoch Mestres. This leaves open the possibility of additional heirs who have not signed. Further, the submission of a declaration by the heirs is construed to indicate that a legal representative has not been appointed, nor is one required to be appointed and that the heirs are acting as the legal representatives of the estate. If this is not the case, applicants must submit a declaration executed by the legal representative.

The declaration must list the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497. The declaration appears to list the information for the applicant/inventors and for the heirs, but does not list the information for the deceased inventor Agustin Contijoch Mestres.

CONCLUSION

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

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

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

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

06 JUL 2005
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www.uspto.gov

John W. Renner
Renner, Otto, Boisselle & Sklar, LLP
1621 Enclid Avenue, 19th Floor
Cleveland, OH 44115

In re Application of CONTIJOCH MESTRES, Agustin et al. Application No.: 10/467,780 PCT No.: PCT/EP00/05072 Int. Filing Date: 03 June 2000 Priority Date: None Attorney's Docket No.: TURK.PO 123 US For: PROCESS FOR THE PREPARATION OF CATIONIC SURFACTANTS	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicants' "Renewed Submission Under 37 CFR §1.42," filed in the United States Patent and Trademark Office on 26 November 2004.

BACKGROUND

On 03 June 2000, applicants filed international application PCT/EP00/05072. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 December 2001. A demand for international preliminary examination was timely filed on 24 March 2001. The deadline for entry into the national stage in the United States was 03 December 2002.

On 25 November 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 August 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 25 August 2004, applicants submitted a request under 37 CFR 1.42 accompanied by a declaration.

On 30 September 2004, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicants' request.

On 26 November 2004, applicants submitted the instant renewed request under 37 CFR 1.42, accompanied by a new declaration.

DISCUSSION

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

oath or declaration, and apply for and obtain the patent." 37 CFR 1.42. However, the declaration must include the signature of the legal representative or the signature of all of the heirs (or if there is only one heir, the sole heir), if under applicable law, the heirs' authority corresponds to that of a legal representative. See MPEP 409.01(d).

The declaration is executed by the heirs of the deceased inventor and the remaining two inventors. A submission of the declaration signed by the heirs is construed as an indication that a legal representative has not been appointed nor is one required to be appointed by applicable law, and thus, the heirs are signing as the legal representative of the estate. See MPEP 409.01(d). If this interpretation is incorrect, applicants are required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to the decision. The declaration complies with 37 CFR 1.42 and 37 CFR 1.497(a)-(b).

CONCLUSION

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

The application has an international filing date of 03 June 2000 under 35 U.S.C. §363 and a date of 26 November 2004 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/22/06

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction on Patent No.: 6871667

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:

Kevin Lee

Kevin Lee
Primary Examiner

Eric Keasel
SPE

3753
Art Unit

4.106

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P.O. Box 1450
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Peter J Butch III
Synnestvedt & Lechner
2600 Aramark Tower
1101 Market Street
Philadelphia PA 19107-2950

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JUN 19 2009

OFFICE OF PETITIONS

In re Application of	:	
David Roberts	:	
Application No. 10/467,789	:	DECISION ON PETITION
Filed: November 24, 2003	:	
Attorney Docket No. P24,803 USA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 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, June 18, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 19, 2008. The Notice of Abandonment was mailed February 4, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3768 for appropriate action by the Examiner in the normal course of business on the reply received

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Peter J. Butch**
Fox Rothschild LLP
Princeton Pike Corporate Center
2000 Market Street, 10th Floor
Philadelphia, PA 19103-3291

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Oliff & Berridge
PO Box 19928
Alexandria VA 22320

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of
Yutaka Yamagata et al.
Application No. 10/467,805
Filed: February 13, 2004
Attorney Docket No. 116827

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie L. McCollum: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Melanie L. McCollum has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request was signed by Melanie L. McCollum attorney/agent of record on behalf of herself.

Melanie L. McCollum has been withdrawn as attorney or agent of record.

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

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

for David Bucci
Petitions Examiner
Office of Petitions

06 APR 2006

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

In re Application of FUSHIMI et al. Application No.: 10/467,823 PCT No.: PCT/JP02/01178 Int. Filing Date: 13 February 2002 Priority Date: 14 February 2001 Attorney Docket No.: Q76683 For: GLUCOPYRANOSYLOXYBENZYLBENZENE DERIVATIVES AND MEDICINAL USES THEREOF	:	DECISION

This is a decision on applicants' "Petition under 37 CFR 1.181 to Replace English Translation" requesting acceptance of an English translation as a replacement for the English translation filed 13 August 2003 in the above identified application. The petition was filed in the United States Patent and Trademark Office (USPTO) on 19 January 2006. No petition fee is required. The processing fee for filing the English translation after the thirty month period is required and will be charged to applicants' deposit account per their authorization.

On 13 August 2003, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee and English translation of the international application.

On 09 March 2004, a Notification of Acceptance was mailed to applicants indicating that the requirements of 35 U.S.C. 371 were completed on 13 January 2004.

On 19 January 2006, applicants filed the instant request to accept an English translation as a replacement for the originally filed English translation. Applicants indicate that translation errors were recently discovered and were identified in a marked-up copy of the English translation, which was submitted. A new unmarked English translation of the international application was submitted. The new English translation of the international application filed on 19 January 2006 is accepted.

The Notification of Acceptance mailed on 09 March 2004 is hereby **VACATED.** The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date is **19 January 2006**.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

06 MAY 2005

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Max Bachrach
Jones Day
51 Louisiana Avenue, N.W.
Washington, DC 20001-2113

In re Application of TELERMAN, *et al.* US Application No.: 10/467,851 PCT Application No.: PCT/FR02/00543 Int. Filing Date: 13 February 2002 Priority Date: 13 February 2002 Attorney's File Reference: 11416-014-999 For: SEQUENCES INVOLVED IN PHENOMINA OF TUMOR SUPPRESSION, TUMOR REVERSION, APOPTOSIS AND/OR RESISTANCE TO VIRUSES AND THEIR USE AS MEDICINES	DECISION ON PETITION UNDER 37 CFR 1.37(b)

This decision is in response to applicants' "Petition to Revive Application Under 37 C.F.R. § 1.137(b) Due to Unintentional Abandonment" filed 09 February 2005. The petition is **GRANTED**.

BACKGROUND

On 13 February 2002, applicants filed international application PCT/FR02/00543. The international application designated the United States and did claim priority to an earlier filed application. The deadline for paying the basic national fee in the United States was thirty months from the priority date, that is 13 August 2003.

On 13 August 2003, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia,* a Transmittal Letter, a copy of the International Application, an English language translation of the International Application, a copy of the International Search Report, preliminary amendments, a biochemical sequence diskette, an oath or declaration, a biochemical sequence listing, a request for immediate examination, the US basic national fees, and priority documents. The Transmittal Letter listed Deposit Account Number 16-1150 for payment of the $900 National Stage Filing Fee as well as the $130 surcharge for furnishing the oath or declaration later than 30 months from the earliest claimed priority date.

On 16 December 2003, the USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) notifying applicant that in order to complete requirements under 35 USC 371, an oath or declaration must be furnished identifying the application by the international application number and international filing date. Applicant was also notified that all of the items must be submitted within two months from the date of that notice or by 32 months from the priority date of the application, whichever is later.

On 10 November 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to respond to a notification of MISSING REQUIREMENTS mailed 16 December 2003 within the time period set therein.

On 09 February 2005, applicants filed the instant petition for revival accompanied by, *inter alia,* a copy of the notice of MISSING REQUIREMENTS, a response to the notice of MISSING REQUIREMENTS, and an executed declaration by the inventors. The petition lists Deposit Account Number 50-3013 for the required fee in the amount of $750.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). A proper reply requires the filing of the oath or declaration and the surcharge for submitting the oath or declaration later than 30 months from the priority date.

The submission of the declaration and authorization to charge Deposit Account Number 50-3013 satisfies the requirement under 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). Applicant's statement in the petition that "... the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed after 08 June 1995, which satisfies the requirements of 37 CFR 1.137 (b)(4). Therefore the requirements of 37 CFR 1.137(b) have been met.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED**.

Applicant is advised that although the notification of abandonment (Form PCT/DO/EO/909) was mailed to Customer Number 20582 (Jones Day), the current application does not contain a change of address or correspondence. Accordingly, applicant is advised that the next correspondence should make such changes of record.

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

Craig Thompson
PCT Legal Administration Detailee
Office of PCT Legal Administration
Telephone: 571-272-6094
Facsimile: 571-272-0459

Leonard E. Smith
PCT Legal Examiner
Office of PCT Legal Administration

17 JUN 2004

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Post Office Box 1404
Alexandria, VA 22313-1404

In re Application of:	
WATSON, Sarah, May, et al.	DECISION ON PETITION
U.S. Application No.: 10/467,854	(37 CFR 1.47(a))
PCT No.: PCT/GB02/00643	
International Filing Date: 13 February 2002	
Priority Date: 14 February 2001	
Attorney's Docket No.: 032860-017	
For: DIET MENU PLAN GENERATION	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)" filed 10 May 2004. Applicants have paid the required petition fee.

BACKGROUND

On 13 May 2002, applicants filed international application PCT/GB02/00643 which claimed a priority date of 14 February 2001 and which designated the United States. On 22 August 2002, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 14 August 2003.

On 13 August 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 09 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration acceptable under 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 10 May 2004, applicants filed a response to the Notification Of Missing Requirements, accompanied by the fee for a three month extension of time to respond. Applicants' submission included the required surcharge payment, a declaration executed by three of the four inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of the remaining inventor, Richard Coulson, whom applicants assert has refused to sign the application documents.

DISCUSSION

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

Applicants here have submitted the petition fee. Accordingly, item (1) is satisfied.

The petition includes an express statement of the last known address of the nonsigning inventor. Item (2) is satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by three of the four inventors that includes an unsigned signature box identifying the nonsigning inventor (Richard Coulson). This declaration is treated as having been executed by the available inventors on their own behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

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

Here, the evidence submitted by applicants to demonstrate Mr. Coulson's refusal to execute the application papers is contained in the declaration of Stuart L. Geary and the attachments thereto. The petition contains a firsthand statement regarding the attempted mailing to the nonsigning inventor of the complete application papers and instructions related thereto. The petition includes evidence that the application materials were accepted by a person at the residence identified as "E Coulson." Mr. Geary states that no response was received from the nonsigning inventor in the four month period between the delivery of the application materials and the filing of the petition. The present submission is considered sufficient to demonstrate that the nonsigning inventor has refused to execute the application. Item (4) is satisfied.

Based on the above, applicants have satisfied all the requirements for a grantable petition under 37 CFR 1.47(a)

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

The application is accepted without the signature of nonsigning inventor Richard Coulson.

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

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 10 May 2004.

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Richard Coulson
103 Wheatley Road
Halifax, HX3 5AA
Great Britain

In re Application of: WATSON, Sarah, May
U.S. Application No.: 10/467,854
PCT No.: PCT/GB02/00643
International Filing Date: 13 February 2002
Priority Date: 14 February 2001
Attorney's Docket No.: 032860-017
For: DIET MENU PLAN GENERATION

Dear Mr. Coulson:

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

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

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

Counsel of Record:
BURNS DOANE SWECKER & MATHIS
Post Office Box 1404
Alexandria, VA 22313-1404

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P.O. Box 1450
Alexandria, VA 22313-1450
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STANLEY B. GREEN
CONNOLLY BOVE LODGE & HUTZ LLP
1990 M STREET, N.W., SUITE 800
WASHINGTON, DC 20036-3425

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OFFICE OF PETITIONS

In re Application of :
Lawrence M. Ausubel :
Application No. 10/467,868 :
Filed: August 13, 2003 :
Attorney Docket No. 21736-00027-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.

This file is being forwarded to Technology Center AU 3624.

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

07 APR 2004

#5

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

In re Application of	:	DECISION
ALBINSSON	:	
Application No.: 10/467,869	:	
PCT No.: PCT/SE02/00280	:	
Int. Filing Date: 18 February 2002	:	
Priority Date: 19 February 2001	:	
Attorney Docket No.: 66352-027-7	:	
For: SETTING DEVICE FOR SAWBLADES	:	

This decision is in response to applicant's "PETITION FOR WITHDRAWAL OF NOTIFICATION OF ABANDONMENT" filed via facsimile transmission on 08 March 2004, which has been treated as a petition under 37 CFR 1.181, and to the submission filed by applicant via facsimile transmission on 16 March 2004.

BACKGROUND

On 18 February 2002, applicant filed international application PCT/SE02/00280, which designated the US and claimed a priority date of 19 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 August 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 August 2003.

On 13 August 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, an authorization to charge the U.S. Basic National Fee to Deposit Account No. 04-2223.

On 26 February 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to provide the U.S. Basic National Fee by thirty months from the priority date because the deposit account had insufficient funds.

On 08 March 2004, applicant filed via facsimile transmission a "PETITION FOR WITHDRAWAL OF NOTIFICATION OF ABANDONMENT", which has been treated as a petition under 37 CFR 1.181.

On 16 March 2004, applicant filed, in response to a telephone conversation with the undersigned, a copy of the Monthly Statement of Deposit Account for Account No. 042223 from the USPTO for the period from 12 August 2003 to 27 August 2003.

DISCUSSION

As noted above, the Transmittal Letter included an authorization to charge a Deposit Account. The U.S. Basic National Fee was attempted to be charged to Deposit Account 04-2223 on 22 August 2003. At that time, an indication was made by the person attempting to charge the Deposit Account that the account had insufficient funds. However, a review of the Monthly Statement of Deposit Account from the USPTO for Deposit Account No. 04-2223 reveals a balance greater than the U.S. Basic National fee of $1,060.00 for both 21 August 2003 and 22 August 2003. Accordingly, the indication that the Deposit Account had insufficient funds appears to have been erroneous. The NOTIFICATION OF ABANDONMENT mailed 26 February 2004 is hereby VACATED.

CONCLUSION

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

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 26 February 2004 is hereby VACATED.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including: (1) charging the fees specified in the Transmittal Letter filed 08 September 2000 to Deposit Account 04-2223; and (2) preparation and mailing of a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) of $130 for providing the oath or declaration later than thirty months from the priority data are required.

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

21 SEP 2004

UNITED STATES PATENT and TRADEMARK OFFICE

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www.uspto.gov

Richard H. Tushin
Franklin Square, Third Floor West
1300 I. Street N. W.
Washington, D.C. 20005-3353

In re Application of	:
Albinsson	:
Application No.: 10/467,869	:
PCT No.: PCT/SE02/00280	:
Int. Filing Date: 18 February 2002	: DECISION
Priority Date: 19 February 2001	:
Attorney's Docket No.: 66352-027-7	:
For: SETTING DEVICE FOR SAWBLADES	:

This decision is in response to applicant's "REQUEST FOR CORRECTED NOTICE OF ACCEPTANCE AND CORRECTED FILING RECEIPT" filed on the 04 June 2004 indicating that the Notice of Acceptance (form PCT/DO/EO/903) and the filing receipt incorrectly identifies the completion of all 35 U.S.C. 371 requirements.

BACKGROUND

On 18 February 2002, applicant filed international application PCT/SE02/00280 that claimed priority of an earlier application filed 19 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 August 2002. The thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 19 August 2003.

On 13 July 2003, applicant filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, authorization to charge the basic national fee of $1060 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/467,869.

On 23 November 2003, applicant filed a declaration of the inventors.

On 06 May 2004, the United States Patent and Trademark Office in its capacity as an Elected Office mailed out a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903). This notice indicated that the date of receipt of the requirements of 35 U.S.C. 371(c)(1), (2) and (4) was 08 March 2004.

On 04 June 2004, applicant filed the current response indicating that the requirements of 35 U.S.C. 371 were filed by 24 November 2003.

DISCUSSION

A review of the application file reveals that applicant completed the 35 U.S.C. 371(c)(1), (2) and (4) requirements on 24 November 2003, upon the filing of the declaration of inventors.

CONCLUSION

The request is **GRANTED**.

The "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) mailed 06 May 2004 and the filing receipt are hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision, and the according of a 35 U.S.C. 371 (a) (1), (2) and (4) date of 24 November 2003. A new filing receipt will also be issued.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Richard Cole
PCT Legal Examiner
PCT Legal Office

DSB/RC:dsb
Telephone: (703) 308-3401
Facsimile: (703) 308-6459

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

WOODCOCK WASHBURN LLP
One Liberty Place – 46th Floor
Philadelphia, PA 19103

MAILED

APR 2 6 2005

Technology Center 2100

In re Application of:
Tom SCHRIJVERS, et al.
Application No.: 10/467,885
Filed: August 13, 2003
For: METHOD AND APPARATUS FOR PROVIDING AN AUTOMATED INFORMATION MANAGEMENT FOR HIGH THROUGHPUT SCREENING

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed March 28, 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 is **GRANTED**.

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

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

cc: Philip S. Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

P

UNITED STATES PATENT AND TRADEMARK OFFICE

05 JAN 2005

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

Stefan V. Stein
HOLLAND & KNIGHT LLP
100 N. Tampa Street, Suite 4100
Tampa, Florida 33602-3644

In re Application of	:
Christopher Douglas BLAIR	:
US Application No.: 10/467,899	: DECISION ON
PCT Application No.: PCT/GB02/00586	:
Int. Filing Date: 11 February 2002	: PETITION
Priority Date: 12 February 2001	:
Attorney Docket No.: 091608.00002	: UNDER 37 CFR 1.137(b)
For: PACKET DATA RECORDING METHOD	:
AND SYSTEM	:

This is a decision on applicant's petition under 37 CFR 1.137(b) filed on 08 March 2004, requesting revival of PCT/GB02/00586 for purposes of national stage entry into the United States of America.

BACKGROUND

On 11 February 2002, applicant filed international application PCT/GB02/00586, which designated the United States of America and claimed a priority date of 12 February 2001. Accordingly, the 30-month deadline for entry into the U.S. national stage expired at midnight on 12 August 2003.

On 11 August 2003, applicant filed national stage papers in the United States Patent and Trademark Office for PCT/GB02/00586 but did not pay the Basic National Filing fee. Therefore, this international application became abandoned with respect to the United States for failure to pay the required basic national fee prior to midnight on 12 August 2003.

On 08 March 2004, applicants filed the instant petition.

DISCUSSION

37 CFR 1.137(b) provides in part:

"... A grantable petition under 37 CFR 1.137(b) must be accompanied by the following:

(1) The reply 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 to the filing of a grantable petition pursuant to this paragraph was unintentional;. . . ., and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section."

Regarding requirement (1), the petition is accompanied by the required reply in the form of the required basic national fee. It is noted that the applicant has not submitted an oath or declaration of the inventor as required by 35 U.S.C. 371(c)(4).

Regarding requirement (2), the petition is accompanied by the requisite petition fee.

Regarding requirement (3), the petition is accompanied by the required statement.

Regarding requirement (4), a terminal disclaimer is not required since this international application was filed after 08 June 1995.

DECISION

The petition to revive PCT/GB02/00586 is **GRANTED**.

Since no oath or declaration has been submitted, the requirements of 35 U. S. C. 371 have not been satisfied.

This application will be forwarded to the United States Designated/Elected/Office (US/DO/EO) for further processing under the Patent Cooperation Treaty and 35 U.S.C. 371.

Specifically, this further processing will include the mailing of a NOTIFICTION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES

DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO 905) indicating that an oath or declaration of the inventor and the surcharge for furnishing this document to DO/EO/US later than 30 months from the priority date is required.

Richard Cole
PCT Legal Examiner
PCT Legal Office

Paul A. Bell
PCT Special Programs Examiner
Telephone (571) 571-3278

20 JAN 2004

#3

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Edwin D. Schindler
Five Hirsch Avenue
P. O. Box 966
Coram, New York 11727-0966

In re Application of:	:	
McDONALD	:	DECISION ON
Application No.: 10/467,902	:	PETITION
PCT No.: PCT/AU01/01486	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 16 November 2001	:	
Priority Date: 17 November 2000		
Docket No.: 1002884	:	

For: SENSORS FOR ROBOTIC DEVICES :

This is in response to the petition filed 08 August 2003 under 37 CFR 1.137 (b) to revive the above-identified abandoned application for "unintentional" delay.

BACKGROUND

On 16 November 2001, applicant filed international application PCT/AU01/01486, which claimed priority to an earlier application, filed 17 November 2000. A copy of the international application was transmitted on 23 May 2002 to the United States Patent and Trademark Office from the International Bureau. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 17 May 2003.

On 08 August 2003, the present petition was submitted, including the amount of basic national fee of $530.00, and $ 650.00 for petition fee based on the applicant's claim of small entity status. A surcharge of $65.00 for submitting Declaration executed by the inventor as required by 35 U.S.C.371 (c)(4) later than 30 months from the priority date of 17 November 2000 was also submitted. This petition further includes an authorization to charge Deposit Account No. 19-0450 for any additional fees.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition fee required by 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, and (4) a terminal disclaimer with disclaimer fee (only for utility and plant applications filed before 08 June 1995).

Regarding items (1) and (2), applicants furnished the U.S. Basic National Fee of $530.00 and petition fee of $650.00 by checks.

Regarding item (3), the petition includes a statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Regarding item (4), because applicants' filing date of 16 November 2001 is after 08 June 1995, the requirement of a terminal disclaimer with disclaimer fee is not applicable in this case.

Accordingly, applicants have satisfied each of the requirements of 37 CFR1.137(b).

CONCLUSION

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

The application has an international filing date of 16 November 2001 under 35 USC 363, and a 35 USC 371 date of **08 August 2003.**

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

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

20 MAY 2004

#6

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

RICHARD C. EKSTROM
INCYTE CORPORATION
3160 PORTER DRIVE
PALO ALTO CA 94304

In re Application of SANJANWALA et al. Application No.: 10/467,903 PCT No.: PCT/US02/03814 Int. Filing: 08 February 2002 Priority Date: 09 February 2001 Attorney Docket No.: PI-0360 USN For: PUTATIVE HUMAN ENZYMES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's "Petition under 37 CFR 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 08 March 2004, requesting acceptance of the application without the signature of joint inventor Madhusudan M. Sanjanwala. Petitioner also requests a one month extension of time, which is granted.

BACKGROUND

On 08 March 2004, in response to the 03 December 2003 Notification of Missing Requirements, applicants filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor, Madhusudan M. Sanjanwala, on the grounds that the nonsigning inventor refuses to execute the application.

DISCUSSION

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

Applicant satisfied Items (1), (3) and (4) above.

With respect to item (2), Applicant filed the statement of facts under 37 CFR 1.47(a) of Nancy Ramos, Senior Patent Clerk for Incyte Corporation. Ms. Ramos states that on 02 July 2003, she telephoned Mr. Sanjanwala to request his signature on a declaration in connection with the above identified application. "At his request, a copy of the subject application and the Declaration were sent to his residence at 210 Silvia Court, Los Altos, California 94024 by Federal Express on July 02, 2003." Ms. Ramos included a letter requesting that Mr. Sanjanwala return the documents by July 13, 2003. She never received a phone call or return correspondence from Mr. Sanjanwala concerning the documents sent on 02 July 2003. On 17 October 2003, Ms. Ramos again sent a copy of the application and Declaration to Mr. Sanjanwala to his last known address. She also included a return Federal Express label addressed to Incyte Corporation. Ms. Ramos confirmed with Federal Express that the package was delivered on 18 October 2003. Ms.

Ramos states that she never received a phone call or return correspondence from Mr. Sanjanwala concerning the package sent on 17 October 2003.

On 15 August 2003, counsel for applicant spoke with Mr. Sanjanwala at his residence by telephone and requested that he sign the declaration in connection with the above referenced application. Counsel also offered to drive to Mr. Sanjanwala's home to obtain his signature. Mr. Sanjanwala indicated that he was too busy and could not comply with the request at that time, indicating that he would call back in a few days to set up a time to execute the declaration. Again on 02 September 2003, counsel telephoned Mr. Sanjanwala to obtain his signature, receiving the same response.

In her first hand statement, Katherine Stofer, Senior Patent assistant at Incyte Corporation states that on or about 01 October 2003, she attempted to contact Mr. Sanjanwala at his home telephone number without success. Ms. Stofer left a voice message explaining the reason for her call. She states that she never received a return phone call or correspondence from Mr. Sanjanwala.

This is sufficient evidence to conclude that Mr. Sanjanwala's conduct constitutes a refusal to sign the application papers and satisfies Item (2) above.

Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 08 March 2004. The application has an international filing date of 08 February 2002 under 35 U.S.C. 363, and a date of 08 March 2004 under 35 U.S.C. 371(c).

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

The application is being returned to the Publications Branch for processing.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

20 MAY 2004

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MADHUSUDAN M. SANJANWALA
210 SILVIA COURT
LOS ALTOS, CA 94024

In re Application of SANJANWALA et al. Application No.: 10/467,903 PCT No.: PCT/US02/03814 Int. Filing: 08 February 2002 Priority Date: 09 February 2001 Attorney Docket No.: PI-0360 USN For: PUTATIVE HUMAN ENZYMES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

Dear Mr. Sanjanwala:

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

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467

RICHARD C. EKSTROM
INCYTE CORPORATION
3160 PORTER DRIVE
PALO ALTO CA 94304

28 APR 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Mark G. Mortenson
The Law Offices of Mark G. Mortenson
Post Office Box 310
North East, Maryland 21901-0310

In re Application of BROOKS, Juliana H. J. ET AL. Application No.: 10/467,912 PCT Application No.: PCT/US02/01418 International Filing Date: 16 January 2002 Priority Date: 16 January 2001 Attorney Docket No.: BKL:111 (a) US For: ENHANCED DATA STORAGE AND RETRIEVAL DEVICES AND SYSTEMS AND METHODS FOR UTILIZING THE SAME	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition For Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 19 March 2004, is GRANTED.

BACKGROUND

On 16 January 2002, applicant filed international application number PCT/US02/01418, claiming priority of an earlier U.S. provisional application, filed on 16 January 2001. The United States of America was designated in the Request. A copy of the international application was transmitted by the International Bureau on 25 July 2002. The thirty month period for paying the basic national fee in the United States expired at midnight on Wednesday, 16 July 2003. Due to the failure to pay the basic national fee by this deadline, the international application became abandoned as to the United States of America as of the deadline.

On 13 August 2003, applicants filed national stage papers, including, *inter alia*, the basic national fees.

On 26 November 2003, applicants were mailed a Notification of Missing Requirements FORM PCT/DO/EO/905 (371 Formalities Notice), requesting provision of an inventor oath or declaration and associated fees.

On 19 March 2004, applicants filed the petition currently under consideration for revival of their application for failure to file their national stage papers by the thirty month deadline.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) 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, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

With regard to item (1) above, applicants' statement that "[t]he entire delay in filing this Request for appropriate entry into the U.S. National Phase until the filing of a grantable petition under 1.137(b) was unintentional" is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b)(3) was unintentional." Hence, the statement is being accepted as meeting the requirement of item (1) above. In the event that applicants' statement has been misinterpreted, petitioner must notify the United States Patent and Trademark Office.

With regard to item (2) above, applicants on 13 August 2003 had previously provided a transmittal letter for entry into the national stage, including, *inter alia*, the basic national fees, meeting the requirement of item (2).

With regard to item (3) above, applicants have paid of the required petition fee for small entity status.

With regard to item (4), a terminal disclaimer is not required as application was filed after 08 June 1995.

Accordingly, all of the requirements under 37 CFR 1.137(b) have been satisfied.

In view of the abandoned status of the application at the time, the Notification of Missing Requirements FORM PCT/DO/EO/905 (371 Formalities Notice), mailed on 26 November 2003, was issued in error and is hereby vacated.

A review of the file wrapper reveals that no executed oath or declaration is currently present and that no surcharge for provision of an executed oath or declaration beyond thirty months from the priority date has been paid. Therefore, applicant has failed to satisfy the requirements of 35 USC 371(c)(4).

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is GRANTED as to National Stage in the United States of America.

This application has an international filing date of 16 January 2001 under 35 USC 363.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including issuance of a Notification of Missing Requirements FORM PCT/DO/EO/905 (371 Formalities Notice) for failure to provide an executed inventor oath or declaration and the associated late surcharge.

Michael La Villa
Detailee
Office of PCT Legal Administration
Telephone: (703) 308-6162
Facsimile: (703) 308-6459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6639
Facsimile: (703) 308-6459

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United States Patent and Trademark Office
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NATH & ASSOCIATES
112 South West Street
Alexandria VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Gil et al.	:	
Application No. 10/467913	:	
Filing or 371(c) Date: 08/14/2003	:	ON PETITION
Attorney Docket Number:	:	
82485	:	

This is a decision on the "Petition to Expedite Petition to Revive," filed April 29, 2008.

This Petition is hereby **granted**.

A Decision on the Petition to revive the application under 37 CFR 1.137(b) is being mailed on even date herewith.

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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112 South West Street
Alexandria VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Gil et al.	:	
Application No. 10/467913	:	
Filing or 371(c) Date: 08/14/2003	:	ON PETITION
Attorney Docket Number:	:	
82485	:	

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

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 25, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on January 26, 2008. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

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

This application is being referred to Technology Center Art Unit 2146 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

27 SEP 2005

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P.O. Box 1450
Alexandria, VA 22313-1450
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HENRY M FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK, NY 10118

In re Application of	:	
WICHNER, Wolfgang	:	
U.S. Application No.: 10/467,977	:	DECISION ON
PCT No.: PCT/DE02/00454	:	
International Filing Date: 07 February 2002	:	PETITION
Priority Date: 13 February 2001	:	
Attorney's Docket No.: WICHNER	:	UNDER 37 CFR 1.181
For: OPERATING METHOD AND DEVICE	:	
FOR OPERATING AUTOMATED	:	
CONTAINER QUAY CRANES	:	

This decision is in response to applicant's "Request For Correct Filing Receipt," filed on 27 May 2005. In effect, applicant asks the Office to vacate the Notification of Acceptance and issue a corrected Notification of Acceptance and Filing Receipt. The Request has been treated as a Petition Under 37 CFR 1.181.

BACKGROUND

On 07 February 2002, applicant filed international application PCT/DE02/00454, which claimed a priority date of 13 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB") on 22 August 2002. The deadline for entry into the national stage in the US was 13 August 2003.

On 13 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 18 August 2003, applicant submitted a declaration executed by the inventor.

On 19 November 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 25 November 2003, applicant submitted "Copy of Declaration and Postcard," accompanied by a copy of the declaration, a postcard and a statement that the declaration had been previously submitted on 18 August 2003.

On 18 December 2003, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed giving the application a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 25 November 2003.

On 15 January 2004, 23 March 2005 and 27 May 2005, applicant submitted requests for corrected filing receipts.

DISCUSSION

The Notification of Acceptance mailed 18 December 2003, indicated that the declaration in compliance with 37 CFR 1.497(a)-(b) was received on 25 November 2003. A review of the file reveals that a declaration in compliance with 37 CFR 1.497(a)-(b) was originally received on 18 August 2003. As such, the completion date for the requirements under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) was 18 August 2003, not 25 November 2003.

Additionally, as the Office was in receipt of the declaration prior to the mailing of the Notification of Missing Requirements, the Notification of Missing Requirements should not have issued.

CONCLUSION

For the reasons discussed above, the Petition Under 37 CFR 1.181 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 18 December 2003 is **VACATED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 19 November 2003 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including mailing of a corrected Notification of Acceptance and corrected filing receipt. The application should then be forwarded to the Certificates of Correction Branch for the issuance and mailing of a Certificate of Correction. The application has a date of 18 August 2003 under 35 U.S.C. §371 (c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

13 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Herny M. Feiereisen
350 Fifth Avenue
Suite 4714
New York, NY 10118

In re Application of	:	
WICHNER	:	
Application No.: 10/467,977	:	DECISION ON PETITION
PCT No.: PCT/DE02/00454	:	
Int. Filing Date: 02 February 2002	:	UNDER 37 CFR 1.181
Priority Date: 13 February 2001	:	
Atty Docket No.: WICHNER	:	
For: METHOD AND SYSTEM FOR OPERATING	:	
AUTOMATED CONTAINER QUAY CRANES	:	

This is a decision on applicant's "Petition Under 37 C.F.R. 1.181" filed 28 June 2005 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 13 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application and a first preliminary amendment.

On 18 August 2003, applicant filed an executed combined declaration and power of attorney accompanied by payment of the $130.00 surcharge for filing an executed oath or declaration of the inventor later than thirty months from the priority date.

On 19 November 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months or by 32 months from the priority date whichever was later to respond.

On 25 November 2003, applicant responded with a copy of the executed combined declaration and power of attorney accompanied by a copy of a stamped return postcard showing acceptance by the USPTO on 18 August 2003..

On 18 December 2003, applicant was mailed a "Notification of Acceptance" (Form

Copied from 10967977 on 09/30/2005

PCT/DO/EO/903) indicating a 371 date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements as 25 November 2003.

On 28 June 2005, applicant filed the present petition claiming that the 371 requirements were satisfied on 18 August 2003.

DISCUSSION

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "DT14 Rec'd PCT/PTO 18 AUG 2003" and clearly identifies, "Power of Att." as well as listing the international application number and attorney docket number for the National stage filing. The evidence is sufficient to establish that the combined declaration and power of attorney for this application was received in the USPTO on 18 August 2003.

CONCLUSION

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

The application will be given an international filing date of 02 February 2002 under 35 U.S.C. 363 and a date of **18 August 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 18 December 2003 indicating a date of 25 November 2003 under 35 U.S.C. 371(c) is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a corrected filing receipt indicating the correct 371 date as detailed above.

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

Copied from 10967977 on 09/30/2005

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Paper No. _____

Date : June 16, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Georges Bancon et al
Application No. :10/468,001
Filed :August 21, 2003

The above-identified application has been assigned Patent No. 7,062,864 and an issue date of June 20, 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 June 20, 2006:

"All reference to Patent No. 7,062,864 to Georges Bancon et al of France for DEVICE FOR BLOWING A FLUID ON AT LEAST A SURFACE OF A THIN ELEMENT AND ASSOCIATED BLOWING UNIT appearing in the Official Gazette of June 20, 2006 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of :
Georges Bancon et al :
Application No. 10/468,001 :
Filed: August 21, 2003 :
Attorney Docket No. 240392US6PCT :

ON PETITION

This is a decision on the petition, filed June 15, 2006, and supplemented on June 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 9, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3749 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Hiromu Kikawa, et al. :
Application No. 10/468,080 : ON PETITION
Filed: August 15, 2003 :
Attorney Docket No.: KAS-190 :

This is a decision on the petition, filed March 27, 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 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 2855 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

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OCT 18 2005

OFFICE OF PETITIONS

Applicant: Deny et al.
Appl. No.: 10/468,082
International Filing Date: December 10, 2002
Title: METHOD, DEVICE AND PROGRAMME FOR THREE-DIMENSIONAL MODELLING OF A GEOLOGICAL VOLUME BY 3D PARAMETERING OF THE GEOLOGICAL DOMAIN
Attorney Docket No.: 0528-1082
Pub. No.: US 2004/0246249 A1
Pub. Date: December 9, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on February 10, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as the equations on page 6, paragraph [0109] and [0110] are not in the same type style.

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

The request for corrected publication received on February 10, 2005, was not timely filed under 37 CFR 1.221 (b).

The error noted by requestor wherein the equations on page 6, paragraph [0109] and [0110] are not in the same type style is an Office error but the mistake is a minor typographical error, which is clearly understandable to one of ordinary skill in reading the specification and the claims. The

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

mistake is a minor typographical error, which is clearly understandable from reading the specification in which the phrases are used, as terms are not read in a vacuum. 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 compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE Yuen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/468,099

Paper No.: _____

DATE : 1/24/06

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction on Patent No.: 6964263

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

Lamonte M. Newsome
Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

Office error, patent should read as shown in the certificate of correction.

Henry C. Yuen
Supervisory Patent Examiner
Group 3700

SPE **Art Unit**

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JUN 14 2006
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Liniak Berenato & White
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

In re Application of	:	
XI et al.	:	
Application No. 10/468,099	:	DECISION ON PETITION
Filed: August 15, 2003	:	TO WITHDRAW
Attorney Docket No. 8231.010	:	FROM RECORD
	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36(b), filed January 5, 2006. The request appears to have mistakenly identified U.S. Application No. 10/466,099 and not the above-identified application. Other status identifiers (the filing date and group art unit), however, indicate that the request was actually intended for U.S. Application No. 10/468,099. Based on this information, the request is being treated with respect to U.S. Application No. 10/468,099. Petitioner must notify the Office if the request was **not** intended for the above-identified application.

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 Liniak. Mr. Thomas Liniak has been withdrawn as an attorney or agent; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

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100 COLLEGE ROAD WEST
PRINCETON NJ 08540

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OFFICE OF PETITIONS

In re Patent No. 7,008,926	:	
Issue Date: March 07, 2006	:	
Application No. 10/468,111	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: August 15, 2003	:	
Attorney Docket No. 7095.204-US	:	

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

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

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

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

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

17 NOV 2003

#5

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Matthew L. Schneider
Burns, Doane, Swecker & Mathis, LLP
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of	:	
VILLARES LENZ CESAR	:	
U.S. Application No.: 10/468,117	:	DECISION ON PETITION
PCT No.: PCT/BR02/00007	:	
Int. Filing Date: 14 January 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 12 January 2001	:	
Attorney Docket No.: 019017-004	:	
For: SELF-CLEANING DRUM FILTER	:	

The petition to revive under 37 CFR 1.137(b) filed 15 August 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply (i.e. the U.S. national phase application) 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 the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventor and payment of the applicable surcharge is required.

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

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In re Patent No. 6808076
Issue Date: October 26,2004
Application No. 10468117
Filed: February 9,2004
Attorney Docket No. 019017-004

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

This is a decision on the electronic petition, filed September 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6,808,076	2004-10-26	10/468,117	2004-02-09	1019017-000004

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 L. Schneider/	Date (YYYY-MM-DD)	2009-09-03
Name	Matthew L. Schneider	Registration Number	32814

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.

0 8 JAN 2004

#3

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Lynn E. Cargill
Cargill & Associates PLLC
56 Macomb Place
Mt Clemens, MI 48043-5636

In re Application of BALISH et al.	:
Application No.: 10/468,123	:
PCT No.: PCT/US02/04486	: DECISION ON PETITION
Int. Filing: 15 February 2002	:
Priority Date: 15 February 2001	: UNDER 37 CFR 1.47(a)
Attorney Docket No.: Petro P-301 PCT	:
For: DISPENSING DEVICE	:

This is a decision on applicant's petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 15 August 2003.

BACKGROUND

On 15 February 2002, applicant filed international application No. PCT/US02/04486 which made a claim for priority of 15 February 2001.

On 09 September 2002, a Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 August 2003.

On 15 August 2003, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On the same date, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signatures of inventors, Thomas J. Balish, Sr. and Louis J. Mika. Applicant alleges that both inventors refuse to sign the application. The petition included the requisite petition fee, a declaration signed by the 37 CFR 1.47(a) applicants on behalf of Thomas J. Balish, Sr. and Louis J. Mika and a statement of facts under 37 CFR 1.47(a).

DISCUSSION

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

Item (1) is satisfied with the payment of the $130 petition fee. With regard to item (4), the declaration was executed by the available joint inventor on his behalf and on behalf of the non-signing inventors and satisfies the requirement of 37 CFR 1.47(a).

With respect to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure

(MPEP), Proof of Unavailability or Refusal, states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.... It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Here, Petitioner's statement of facts under 37 CFR 1.47(a), entitled "Petition and Declaration of Facts in Support of Filing on Behalf of Omitted Inventors", merely states that "After repeated attempts to procure their signatures by mail and in person, two (2) of the Three (3) inventors, i.e. Thomas J. Balish, Sr., and Louis J. Mika, have refused to sign the Declaration and Power of Attorney. Certified Mail dated May 3, 2003, was sent to Messrs. Balish and Mika, to which we received a telephone message stating that they refused to sign."

A copy of the letter sent to the inventors was attached to the petition and states, in

pertinent part, "enclosed herewith for your signature please find a PCT Power of Attorney form." As the MPEP clearly indicates, what is required is that a copy of the application papers (specification, including claims, drawings, and oath or declaration) be presented to the nonsigning inventor for his signature to ensure that the inventor is apprised of the application to which the oath or declaration is directed.

Furthermore, where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor. Under these circumstances, it cannot be concluded that Messrs. Balish and Mika refuse to sign the application. What is required is that Messrs. Balish and Mika be presented with a copy of all of the national stage application papers (oath and declaration, specification, including claims and drawings) for this application as identified above.

Moreover, Item (3) is not satisfied because the last known addresses for non-signing inventors Thomas J. Balish, Sr. and Louis J. Mika was not provided.

In sum, petitioner has not demonstrated that: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/468,123 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signatures, sent to their last known address and (2) Messrs. Balish and Mika's refusal to sign, either in writing or by telephone, these documents.

The evidence submitted does not support a finding that the nonsigning inventors refuse to sign the application for the reasons set forth above. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (703) 306-5467
Fax: (703)-308-6459

31 AUG 2004
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Lynn E Cargill
Cargill & Associates PLLC
56 Macomb Place
Mt Clemens MI 48043-5636

In re Application of BALISH et al. Application No.: 10/468,123 PCT No.: PCT/US02/04486 Int. Filing: 15 February 2002 Priority Date: 15 February 2001 Attorney Docket No.: Petro P-301 PCT For: DISPENSING DEVICE	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 12 April 2004 and refiled via facsimile on 20 August 2004.

BACKGROUND

On 15 August 2003, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signatures of inventors Thomas J. Balish, Sr. and Louis J. Mika. Applicant alleged that both inventors refused to sign the application.

On 08 January 2004, a decision dismissing the petition was mailed to applicant indicating that applicant had failed to demonstrated that: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/468,123 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signatures, sent to their last known address and (2) Messrs. Balish and Mika's refusal to sign, either in writing or by telephone, these documents.

On 12 April 2004, applicants filed the instant renewed petition including, *inter alia*, a statement of facts under 37 CFR 1.47(a) by attorney Lynn E. Cargill.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Applicant has previously satisfied Items (1) and (4). With respect to Item (3), petitioner provided the last known addresses for the respective nonsigning inventors.

With respect to item (2), where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the

application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts.

Applicant's attorney Lynn E. Cargill submitted Statement of Facts under 37 CFR 1.47(a). Counsel states that on 09 March 2004, a complete set of application papers including specification, claims, abstract, drawings and combined Declaration and Power of Attorney for the above referenced patent application was sent, via certified mail, to both Thomas J. Balish, Sr. and Louis J. Mika. Both certified mail packages were signed for and return receipts returned to counsel. (Copies of certified delivery were provided with the petition.) Counsel also states that in May 2002, a "phone message of a threatening nature was left by Mr. Balish on the answering machine" at her law office, "specifically stating that he and Mr. Mika were refusing to sign anything". As of the date of the renewed petition, neither inventor has responded to the March 2004 communications.

Petitioner has demonstrated that: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/468,123 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signatures, sent to their last known address and (2) sufficient evidence to conclude that Thomas J. Balish, Sr. and Louis Mika's conduct constitute a refusal to sign the application.

The action taken by petitioner is sufficient to prove that "a diligent effort" was made to contact the nonsigning inventors. Under these circumstances, it can now be concluded that Messrs. Balish and Mika refuse to sign the application. Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 15 August 2003. The application has an international filing date of 15 February 2002 under 35 U.S.C. 363, and a date of 15 August 2003 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

The application is being returned to the Publications Branch for processing.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (703) 306-5467
Fax: (703)-308-6459

31 AUG 200

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Thomas J. Balish, Sr.
7577 Plainfield
Dearborn, MI 48127

In re Application of BALISH et al.	:
Application No.: 10/468,123	:
PCT No.: PCT/US02/04486	: DECISION ON PETITION
Int. Filing: 15 February 2002	:
Priority Date: 15 February 2001	: UNDER 37 CFR 1.47(a)
Attorney Docket No.: Petro P-301PCT	:
For: DISPENSING DEVICE	:

Dear Mr. Balish:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

Lynn E Cargill
Cargill & Associates PLLC
56 Macomb Place
Mt Clemens MI 48043-5636

31 AUG 20

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Louis J. Mika
202 N. Holbrook
Plymouth, MI 48170

In re Application of BALISH et al.	:
Application No.: 10/468,123	:
PCT No.: PCT/US02/04486	: DECISION ON PETITION
Int. Filing: 15 February 2002	:
Priority Date: 15 February 2001	: UNDER 37 CFR 1.47(a)
Attorney Docket No.: Petro P-301PCT	:
For: DISPENSING DEVICE	:

Dear Mr. Mika:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

Lynn E Cargill
Cargill & Associates PLLC
56 Macomb Place
Mt Clemens MI 48043-5636

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SEP 14 2004

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of	:
Hiroki Sagawa et al	:
Serial No.: 10/468,128	: PETITION TO MAKE SPECIAL
Filed: August 15,2003	:
Attorney Docket No.: SAGAWA-3	:

This is in response to applicants' petition filed July 28, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

21 MAR 2005

#5

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BROWDY AND NIEMARK, P.L.L.C.
624 NINTH STREET, N.W.
SUITE 300
WASHINGTON, D.C. 20001

In re Application of	:	
COENRAETS	:	
Application No.: 10/468,129	:	DECISION
PCT No.: PCT/BE02/00018	:	
Int. Filing Date: 15 February 2002	:	
Priority Date: 16 February 2001	:	
Attorney's Docket No.: COENRAETS3	:	
For: FLEXIBLE SHUTTER SYSTEM	:	

This decision is in response to the paper entitled "REQUEST FOR OFFICIAL FILING RECEIPT" filed via facsimile in the United States Patent and Trademark Office (USPTO) on 17 March 2005. This paper has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 15 February 2002, applicant filed international application PCT/BE02/00018, which designated the United States and claimed a priority date of 16 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 August 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 August 2003 (16 August 2003 being a Saturday).

On 15 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee. The transmittal letter indicated that all correspondence should be sent to the address listed above.

On 21 November 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The notification set a TWO (2) MONTH extendable period for response. The NOTIFICATION OF MISSING REQUIREMENTS was mailed to a correspondence address other than the correspondence address listed in the transmittal letter.

On 07 October 2004, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to properly

respond to the NOTIFICATION OF MISSING REQUIREMENTS within the time period set. The NOTIFICATION OF ABANDONMENT was mailed to a correspondence address other than the correspondence address listed in the transmittal letter.

On 17 March 2005, applicant filed the instant "REQUEST FOR OFFICIAL FILING RECEIPT" which has been treated as a petition under 37 CFR 1.181.

DISCUSSION

If applicant can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A.

As can be seen from the facts set forth above, the NOTIFICATION OF MISSING REQUIREMENTS was sent to an incorrect correspondence address. Additionally, the petition submitted by applicant 17 March 2005 suggests that the NOTIFICATION OF MISSING REQUIREMENTS was not received. Accordingly, there is sufficient evidence of record to establish that the NOTIFICATION OF MISSING REQUIREMENTS mailed 21 November 2003 was not received.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED**.

The NOTIFICATION OF MISSING REQUIREMENTS mailed 21 November 2003 and the NOTIFICATION OF ABANDONMENT mailed 07 October 2004 are hereby VACATED.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision, including (1) correction of the correspondence address and (2) preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e).

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty

Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

06 JAN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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Bacon & Thomas, PLLC
625 Slaters Lane - Fourth Floor
Alexandria, VA 22314

In re Application of HAGHIRI et al	:	
U.S. Application No.: 10/468,158	:	
PCT Application No.: PCT/EP02/02185	:	DECISION
Int. Filing Date: 28 February 2002	:	
Priority Date Claimed: 01 March 2001	:	
Attorney Docket No.: BARA3001/JEK	:	
For: METHOD OF PRODUCING A MODULE	:	

This is in response to the papers filed 22 December 2003, which is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 28 February 2002, applicant filed international application PCT/EP02/02185, which claimed priority of an earlier Germany application filed 01 March 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 12 September 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 01 September 2003.

On 28 August 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 December 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 22 December 2003, applicant filed the present request for status under 37 CFR 1.42 along with an executed declaration.

DISCUSSION

The declaration states that joint inventor Yahya Haghiri is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration filed 22 December 2003 is accepted 37 CFR 1.42.

Applicant is advised that the submission of a declaration executed by the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 28 February 2002, and a date under 35 U.S.C. 371(c) of 22 December 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

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AUG 22 2005

OFFICE OF PETITIONS

In re Application of :
Norris et al :
Application Number: 10/468,159 :
Patent: 6,842,000
Attorney Docket Number: 03137 :
Filing Date: August 28, 2003 :
Issue Date: January 11, 2005 : DECISION ON PETITION
:

This is a decision on the petition to correct the name of the assignee under 37 CFR 1.183 filed on February 23, 2005. The petition is properly treated under 37 CFR 3.81 (b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

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P.O. Box 1450
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Date : July 22, 2010

Patent No. :7290162
Ser. No. :10/468168
Inventor(s) :Ian Swarbrick, et al.
Issued :October 30, 2007
Title :CLOCK DISTRIBUTION SYSTEM

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. 17(i) (currently $130);
B. **a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and**
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Support 1-866-217-9197 571-272-4100

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.

For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Glenn Patent Group
3475 Edison Way, Ste. L
Menlo Park, CA 94025

/arg

31 MAR 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of	:	
Burstedde et al.	:	
Application No. 10/468,176	:	DECISION
PCT No.: PCT/EP02/00884	:	
Int. Filing Date: 29 January 2002	:	ON
Priority Date: 14 February 2001	:	
Atty. Docket No.: 10537/274	:	PETITION
For: Central Fastening Element For An	:	
Axially Symmetric Gas Spring	:	

This is in response to the " Petition And Statement Under 37 C.F.R. 1.6(e)" filed on 16 August 2003.

BACKGROUND

This international application was filed on 29 January 2002, claimed an earlier priority date of 14 February 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 22 August 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 14 August 2003.

DISCUSSION

The instant petition is accompanied by , *inter alia*, the required basic national fee. Counsel requests that "the enclosed correspondence be accorded a filing date of August 14, 2003" based on a "postal service interruption and an emergency within the meaning of 35 U.S.C. § 21(a) and 37 C.F.R. § 1.6(e)." Specifically, the petition alleges that "the alleged correspondence would have been timely filed on August 14, 2003 if it were not for the designated interruption or emergency in the United States Postal Service" as described in a notice issued by the USPTO on 15 August 2003.

On 19 August 2003, the USPTO issued a notice (courtesy copy attached) which addressed the power outage of 14 August 2003. That notice provided in part that

> The provisions of 35 U.S.C. 21(a) and 37 CFR 1.6(e) apply only to postal interruptions and emergencies. The provisions of 35 U.S.C. 21(a) and 37 CFR 1.6(e) do not provide for the granting of a filing date to correspondence as of the date on which it would have been filed but for other exigencies, such as the unavailability of a computer or word processing equipment, or the inaccessibility of an office or building other than a USPS facility.

Counsel has not established that the reason the correspondence was not timely filed was the interruption in United States Postal Service (USPS) service, as opposed to other reasons such as the unavailability of a computer or the inaccessibility of a facility other than a USPS facility. More specifically, counsel has not indicated that the correspondence was complete and ready for mailing on 14 August 2003 and that it would have been mailed on that date but for the sole reason of the postal service interruption. Therefore, it would not be appropriate to grant the requested relief on the basis of the present record.

DECISION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

cc: Copy of August 19, 2003 Notice regarding postal service interruption

United States Postal Service Interruptions and Emergency Terminated

Office of Patent Legal Administration << *Pre-OG Notices* << *United States Postal Service Interruptions and Emergency Terminated*

The power outage on Thursday, August 14, 2003, resulted in a number of United States Postal Service (USPS) post offices throughout the Northeast and Midwest United States being closed or not accepting mail. The United States Patent and Trademark Office (USPTO) published a notice on Friday, August 15, 2003, on its Internet Web site designating this interruption in the service of the USPS as a postal service interruption and an emergency within the meaning of 35 U.S.C. § 21 (a) and 37 CFR 1.6(e). The USPS has notified the USPTO that this interruption in the service of the USPS ended on Saturday, August 16, 2003. Therefore, the USPTO has terminated the designation of this interruption in the service of the USPS as a postal service interruption and an emergency within the meaning of 35 U.S.C. § 21(a) and 37 CFR 1.6(e).

Correspondence that would have been filed with the USPTO under 37 CFR 1.10 on Thursday, August 14, 2003, through Saturday, August 16, 2003, but which was not filed due to the USPS service interruption, should now be filed with the USPTO under 37 CFR 1.10 with a statement that the correspondence would have been deposited with the USPS on Thursday, August 14, 2003, Friday, August 15, 2003, or on Saturday, August 16, 2003, but for this designated interruption in the "Express Mail" service of the USPS.

The provisions of 35 U.S.C. § 21(a) and 37 CFR 1.6(e) apply only to postal interruptions and emergencies. The provisions of 35 U.S.C. § 21(a) and 37 CFR 1.6(e) do not provide for the granting of a filing date to correspondence as of the date on which it would have been filed but for other exigencies, such as the unavailability of a computer or word processing equipment, or the inaccessibility of an office or building other than a USPS facility.

Inquiries concerning this notice may be directed to Eugenia Jones by e-mail at eugenia.jones@uspto.gov or telephone at 703-306-5586.

Date: 08/19/2003

Signed: Jon W. Dudas for
JAMES E. ROGAN
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

Last Modified: 11/16/2003 02:23:44

15 SEP 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
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Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of	:	
Burstedde et al.	:	
Application No. 10/468,176	:	DECISION
PCT No.: PCT/EP02/00884	:	
Int. Filing Date: 29 January 2002	:	ON
Priority Date: 14 February 2001	:	
Atty. Docket No.: 10537/274	:	PETITION
For: Central Fastening Element For An	:	
Axially Symmetric Gas Spring	:	

This is in response to the "Request For Reconsideration..." filed on 05 August 2004.

DISCUSSION

On 31 March 2004, a decision treating the petition filed on 16 August 2003 was mailed to applicant. The decision referenced a notice issued by the USPTO on 19 August 2003 which addressed the power outage of 14 August 2003. That notice provided in part that

> The provisions of 35 U.S.C. 21(a) and 37 CFR 1.6(e) apply only to postal interruptions and emergencies. The provisions of 35 U.S.C. 21(a) and 37 CFR 1.6(e) do not provide for the granting of a filing date to correspondence as of the date on which it would have been filed but for other exigencies, such as the unavailability of a computer or word processing equipment, or the inaccessibility of an office or building other than a USPS facility.

The petition was dismissed because

> "Counsel has not established that the reason the correspondence was not timely filed was the interruption in United States Postal Service (USPS) service, as opposed to other reasons such as the unavailability of a computer or the inaccessibility of a facility other than a USPS facility. More specifically, counsel has not indicated that the correspondence was complete and ready for mailing on 14 August 2003 and that it would have been mailed on that date but for the sole reason of the postal service interruption. Therefore, it would not be appropriate to grant the requested relief on the basis of the present record."

The renewed petition argues in essence that 37 CFR 1.6(e) requires only "a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service," and that no further showing is required. Upon review, it appears that it would now be appropriate to grant the requested relief.

DECISION

The petition is **GRANTED**.

The national stage papers accompanying the instant petition under 37 CFR 1.6(e), which include, *inter alia*, the Form PTO-1390 Transmittal Letter with fee authorization, will be treated as filed on 14 August 2003. As such, payment of the basic national fee was timely and, accordingly, the instant application is not abandoned.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration and a surcharge under 37 CFR 1.492(e).

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

08 JAN 2007

Commissioner for Patents
United States Patent and Trademark Office
ALEXANDRIA, VA 22313-1450
www.uspto.gov

#12

Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of	:	
Burstedde et al.	:	
Application No. 10/468,176	:	DECISION
PCT No.: PCT/EP02/00884	:	
Int. Filing Date: 29 January 2002	:	ON
Priority Date: 14 February 2001	:	
Atty. Docket No.: 10537/274	:	PETITION
For: Central Fastening Element For An	:	
Axially Symmetric Gas Spring	:	

This is in response to the "Petition To Withdraw Holding Of Abandonment..." filed on 28 April 2006.

BACKGROUND

On 15 September 2004, a Decision On Petition was mailed to applicants, granting a petition filed on 05 August 2004 and stating *inter alia* that

> The national stage papers accompanying the instant petition under 37 CFR 1.6(e), which include, *inter alia*, the Form PTO-1390 Transmittal Letter with fee authorization, will be treated as filed on 14 August 2003. As such, payment of the basic national fee was timely and, accordingly, the instant application is not abandoned.
>
> This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration and a surcharge under 37 CFR 1.492(e).

On 08 October 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of a processing fee under 37 CFR 1.492(f), a surcharge under 37 CFR 1.492(e), and an oath or declaration compliant with 37 CFR 1.497(a) and (b).

On 29 March 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Form PCT/DO/EO/905 mailed on 08 October 2004.

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment on the basis that a response was timely filed on 01 December 2004. In support, counsel presents a "true copy of Applicants' transmittal and fully executed Declaration and Power of Attorney, as submitted on December 1, 2004," as well as a "true copy of the return postcard, which was stamped received by the United States Patent and Trademark Office on December 1, 2004." The accompanying copy of the return postcard receipt, stamped as "Rec'd PCT/PTO 01 DEC 2004," itemizes inter alia a "Declaration + POA." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Following that practice, the copy of the executed declaration accompanying the instant petition is being regarded as a copy of the corresponding declaration originally filed on 01 December 2004. It is noted that the electronic records of the USPTO indicate that the surcharge under 37 CFR 1.492(e) and the processing fee under 37 CFR 1.492(f) were received on 01 December 2004. Review of the declaration document at issue reveals that it is in compliance with the requirements of 37 CFR 1.497(a) and (b). As such, the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 29 March 2006 is hereby **VACATED**.

With regard to the processing fee under 37 CFR 1.492(f), petitioner states that "the above-identified application was filed in the English language on August 14, 2003." Review of the record reveals that the Transmittal Letter filed on 16 August 2003 itemizes "a translation of the International Application into English," and that such a translation in fact accompanied said Transmittal Letter. In view of the decision mailed on 15 September 2004, the $130.00 processing fee under 37 CFR 1.492(f) is therefore not required in this application, and it is being refunded to counsel's Deposit Account no. 11-0600.

DECISION

The petition to withdraw the holding of abandonment is **GRANTED**.

This application is being returned to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **01 December 2004**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

06 APR 2005

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Janis K Fraser
Fish & Richardson
225 Franklin Street
Boston MA 02110-2804

In re Application of	:	DECISION
BROUGH et al.	:	
Application No.: 10/468,179	:	
PCT No.: PCT/SE02/00269	:	
Int. Filing Date: 18 February 2002	:	
Priority Date: 19 February 2001	:	
Attorney Docket No.: 06275-353US1	:	
For: CHEMICAL COMPOUNDS	:	

This decision is in response to applicants' "PETITION FOR UNINTENTIONALLY DELAYED DOMESTIC PRIORITY CLAIM" filed in the United States Patent and Trademark Office (USPTO) on 25 February 2005, which has been treated as a petition under 37 CFR 1.78(a)(3).

BACKGROUND

On 18 February 2002, applicants filed international application PCT/SE02/00269 which designated the US and claimed a priority date of 19 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 29 August 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 August 2003.

On 18 August 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and a declaration of the inventors.

On 23 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of 18 August 2003.

On 25 February 2005, applicant filed the instant "PETITION FOR UNINTENTIONALLY DELAYED DOMESTIC PRIORITY CLAIM", which has been treated as a petition under 37 CFR 1.78(a)(3).

DISCUSSION

Applicant requests that the following sentence be added to the specification under 37 CFR 1.78(a)(3): "This application is the national phase application under 35 U.S.C. § 371 of PCT International Application No. PCT/SE02/00269, filed February 18, 2002, which claims priority to Great Britain Application Serial No. 0104050.0, February 19, 2001."

37 CFR 1.78(a)(3) refers to benefit claims under 35 U.S.C. 120, 121, or 365(c). The instant application does not include a benefit claim under any of these statutes. As noted in MPEP 1893.03(c),

> Note: a national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. See also MPEP § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a benefit claim under 35 U.S.C. 120 in the national stage to the international application is inappropriate and may result in the submission being treated as an application filed under 35 U.S.C. 111(a). See MPEP § 1893.03(a). Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage. For a comparison with 35 U.S.C. 120 benefit claims in a national application filed under 35 U.S.C. 111(a), see MPEP § 1895.

Regarding the priority claim to Great Britain application 0104050.0 filed 19 February 2001, MPEP § 1893.03(c) states in part:

> Pursuant to 35 U.S.C. 365(b) a U.S. national stage application shall be entitled to a right of priority based on a prior foreign application or international application designating at least one country other than the United States in accordance with the conditions and requirements of 35 U.S.C. 119(a) and the treaty and the PCT regulations. See in particular PCT Article 8 and PCT Rules 4.10 and 26 bis. To obtain priority in the U.S. national stage application to such applications, the priority must have been timely claimed in the international stage of the international application. See 37 CFR 1.55(a)(1)(ii). If priority was properly claimed in the international stage of the international application, the claim for priority is acknowledged and the national stage application file is checked to see if the file contains a copy of the certified copy of the priority document submitted to the International Bureau.

Accordingly, the petition under 37 CFR 1.78(a)(3) is moot. Additionally, a petition under 37 CFR 1.55(c) would be unnecessary since the priority was timely claimed in the international stage of the international application. The indication in paragraph 2 of the Office Action mailed 20 September 2004 regarding requiring a specific reference to any prior applications was incorrect as to the instant application for the reasons set forth above. The petition fee has been credited to Deposit Account No. 06-1050. The proposed amendment referring to the

international application and the priority application added after the title in the specification may remain in the specification.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **DISMISSED** as **MOOT**.

This application will be forwarded to Technology Center Art Unit 1625.

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

04 AUG 2004

#5

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Brian W. Poor
Townsend Townsend & Crew LLP
Two Embarcadero Center
8th Floor
San Francisco, California 94111

In re Application of	:
CHERTOV et al.	:
Application No. 10/468,182	:
PCT No.: PCT/US02/05063	: DECISION ON PETITION
Int. Filing Date: 15 February 2002	:
Priority Date: 15 February 2001	: UNDER 37 CFR 1.181
Attorney Docket No.: DVAI109.001A	:
For: BAG HANDLE AND METHOD AND MEANS OF ATTACHMENT	:

This decision is in response to applicant's "Communication Re: Response to Notification of Missing Requirements" filed 14 July 2004, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 15 February 2002, applicants filed the above identified international application which claimed priority date of 15 February 2001. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 August 2003.

On 17 March 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and an executed declaration.

On 19 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b). Furthermore, the Notification indicated that a Sequence Listing had not been filed as required by 37 CFR 1.821(c) and (e).

DISCUSSION

A. Petition under 37 CFR 1.181

Applicants state in their present petition that a declaration and the sequence listing in computer readable form was received at the United States Patent and Trademark Office on 24 February 2004. A review of the present application reveals that the declaration and the sequence listing in computer readable form filed 24 February 2004 are not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicants, title of invention, and serial/application number. The receipt itemizes: declaration; sequence listing in computer readable form; and a fee sheet. The receipt is stamped "Rec'd. PCT/PCT 24 FEB 2004" across its face and is sufficient to indicate that the declaration; sequence listing in computer readable form; and a fee sheet were in fact received in the Office on 24 February 2004.

B. Declaration and Sequence listing

A review of the declaration (Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) for the purposes of the designation of the United States of America) filed on 24 February 2004 reveals that the declaration is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes a duplicate sheet of page 10/12. It is unclear if the inventors were presented with only page 10/12, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document filed 24 February 2004, which is improper. (See MPEP 201.03(B) on how to correct this matter.)

The sequence listing and sequence listing in computer readable form has been forwarded to Scientific and Technical Information Center for further processing.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration is not in compliance with 37 CFR 1.497(a) and (b).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone 703-308-6314
Fax: 703-308-6459

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www.uspto.gov

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OFFICE OF PETITIONS

In re Application of	:	
Munster, Ebbe	:	DECISION ON PETITION
Application No. 10/468,187	:	TO MAKE SPECIAL
Filed: February 13, 2004	:	37 CFR 1.102(c)
Attorney Docket No. GRP-0050	:	

This is a decision on the petitions filed December 22, 2005, under 37 CFR 1.102(c)(2)(i) to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V and under 37 CFR 1.102(c)(2)(ii) to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition under 37 CFR 1.102(c)(2)(i) is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The disclosed and claimed device "improves the balance between production and consumption in distribution systems." While the petition states, "The prognosis-tariff systems will improve the efficiency (and economy) of renewable energy sources ... decreasing airborne emissions." Applicant's device is considered to be merely ancillary to the possibly maintenance of the basic life-sustaining elements. There is no factual evidence 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." The contribution of petitioner's invention, while beneficial to the environment, does not rise to the level intended by the Rule.

The petition under 37 CFR 1.102(c)(2)(ii) is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office

explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The petition states that the applicant's invention "... will improve the efficiency (and economy) of renewable energy sources, conserving fossil energy reserves..." This statement lacks any specifics about how the claimed invention materially contributes to item (B), above, and the above statements are inadequate to establish for the record that the invention "materially contributes to the more efficient utilization and conservation of energy resources." The background of the Invention section describes methods and systems to control production and consumption of different types of distribution systems that presently exist. It is, therefore, not clear how the claimed invention would materially contribute to an efficient utilization and conservation of energy resources any more than the existing technologies in this field.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries 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 2857 for action in its regular turn.

David Bucci
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

Sterne, Kessler, Goldstein & Fox P.L.L.C.
1100 New York Avene
N.W.
Washington DC 20005

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of
Palli, et al.
Application No. 10/468,193
Filed: December 17, 2003
Attorney Docket No. A9529

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 22, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) and 35 U.S.C. § 119(e) for the benefit of priority to prior-filed PCT application and provisional applications.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. While a reference to the prior-filed nonprovisional and provisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1,410.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

---

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

This application is being referred to Technology Center AU 1636 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications.

Any questions concerning this matter 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.

Anthony Knight
Supervisor
Office of Petitions

3 FEB 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Peter G. Dilworth
Dilworth & Barrese, LLP
333 Earle Ovington Blvd.
Uniondale, NY 11553

In re Application of SHIMP et al	:	
U.S. Application No.: 10/468,198	:	
PCT Application No.: PCT/US02/04131	:	DECISION
Int. Filing Date: 12 February 2002	:	
Priority Date Claimed: 14 February 2001	:	
Attorney Docket No.: 285-195 PCT US	:	
For: IMPLANT DERIVED FROM BONE	:	

This is in response to applicant's "Request to Receive August 14, 2003 Filing Date" filed 15 August 2003, which is being treated as a petition under 37 CFR 1.6(e). No petition fee is due.

BACKGROUND

On 12 February 2002, applicant filed international application PCT/US02/04131, which claimed priority of an earlier United States application filed 14 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 22 August 2002. The thirty-month period for paying the basic national fee in the United States expired on 14 August 2003.

On 15 August 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present petition under 37 CFR 1.181.

DISCUSSION

37 CFR 1.6(e) provides:

> If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is: (1) promptly filed after the ending of the designated interruption or emergency; and (2) accompanied by a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service.

The USPTO designated the interruption in the service of the USPS that occurred as a result of the power outage on 14 August 2003, in the Northeast and Midwest United States as a postal service interruption and an emergency within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). On 15 August 2003, a notice was posted on the USPTO website which indicated that correspondence that would have been filed with the USPTO under 37 CFR 1.10 during the USPS service interruption, but which was not filed due to the USPS service interruption, should be promptly filed after the termination of the interruption with a statement that the correspondence would have been deposited with the USPS but for the designated interruption or emergency in "Express Mail" service. Thereafter, on 19 August 2003, a second notice was posted on the USPTO website which indicated that the USPTO had terminated the designation of this interruption in the service of the USPS as postal service interruption and an emergency within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). This notice stated that correspondence that would have been filed with the USPTO under 37 CFR 1.10 on 14 August 2003, through 16 August 2003, but which was not filed due to the USPS service interruption, should now be filed with the USPTO under 37 CFR 1.10 with a statement that the correspondence would have been deposited with the USPS on 14 August 2003, 15 August 2003, or 16 August 2003, but for the designated interruption in the "Express Mail" service of the USPS. *See United States Postal Service Interruptions and Emergency Terminated*, 1274 *Off. Gaz. Pat. Office* 105 (September 16, 2003).

The present petition states that applicant's representative attempted to deliver the correspondence in question to the USPS on 14 August 2003 but was turned away by USPS staff. Thus, it is apparent that the correspondence was ready for mailing at the time the interruption occurred and that applicant was subject to the postal service interruption on 14 August 2003. In view of these circumstances, relief in the present case is appropriate.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.6(e) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision including: (1) according the national stage papers filed on 15 August 2003 an original filing date of 14 August 2003 and (2) preparing and mailing a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

25 JUN 2004

#9

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ALEXANDRIA, VA 22313-1450
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Peter G. Dilworth
Dilworth & Barrese, LLP
333 Earle Ovington Blvd.
Uniondale, NY 11553

In re Application of SYBERT et al	:	
U.S. Application No.: 10/468,198	:	
PCT Application No.: PCT/US02/04131	:	DECISION
Int. Filing Date: 12 February 2002	:	
Priority Date Claimed: 14 February 2001	:	
Attorney Docket No.: 285-195 PCT US	:	
For: IMPLANT DERIVED FROM BONE	:	

This is in response to applicant's "Request to Reorder Joint Inventors of Inventive Entity" filed 25 May 2004.

The petition is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 12 February 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 25 May 2004.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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OFFICE OF PETITIONS

INTREXON CORPORATION
1872 PRATT DRIVE
BLACKSBURG VA 24060

In re Patent No. 7,531,326	:	
Kapitskaya et al.	:	DECISION ON
Issue Date: May 12, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 10/468,199	:	OF
Filed: December 17, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. SW050-1US	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTEMENT DETERMINATION UNDER 37 CFR §1.705(d)," filed June 17, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from one hundred ninety-three(193) days to six hundred seventy-six(676) days. The instant petition was filed by a registered attorney on behalf of the assignee of record.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On May 12, 2009, the above-identified application matured into U.S. Patent No. 7,531,326 with a patent term adjustment of 193 days.

This request for reconsideration of patent term adjustment 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 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 the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 483 days and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 481 days do not overlap as these periods do not occur on the same day.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.702(b), is calculated from the application's commencement date to the filing of a Request for Continued Examination. This is a correct statement. However, patentees incorrectly assert that the national stage commenced on August 15, 2003.

The commencement date is 30 months from the priority date claimed in the international application, or earlier. The priority date claimed in the international application is February 20, 2001. Thirty months from that date is August 20, 2003, which is the beginning of the Three Year Delay period. The period is terminated by the filing of a Request for Continued Examination (RCE). The filing of a RCE cuts-off 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 478 days, counting the number of days beginning on August 21, 2006 and ending on December 11, 2007, when a RCE was filed.

Patentees assert that in addition to the three year delay period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a)(1) of 481 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 the application fulfilled the requirements of 35 U.S.C. 371 in an international application.

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 288 days for applicant delay is not in dispute. Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (483 days per patentees'

calculation) and the period of Examination Delay (481 days, not in dispute) **to the extent that these periods of delay are not overlapping**.

Patentees contend that no portion of the two periods of delay overlap.

As such, patentees assert entitlement to a patent term adjustment of 676 days (483 per patentees' calculation +481 reduced by 0 overlap -288 for applicant delay). Considering that the three-year period is properly calculated as 478 days, patentees' assertion of entitlement to a patent term adjustment is considered to be 671 (478 + 481 reduced by 0 overlap - 288 for applicant delay).

As discussed above, the Office states that the patent issued 3 years and 478 days after the application's commencement date, the calculation of the three year period ending when the December 11, 2007 RCE was filed. 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 481 days is correct. At issue is whether patentees should accrue 478(per Office's calculation of the Three Year Delay Period) days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 481 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 478 days overlap. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. 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 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[1]

[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).

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 commencement date 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 commencement date of the application. Treating the relevant period as starting on August 21, 2006, the date that is 3 years after the commencement date of the application is incorrect.

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 from the application's commencement date, August 20, 2003, to the date of filing of the RCE on December 11, 2007.

481 days of patent term adjustment were accorded prior to the filing of the request for continued examination for the Office failing to respond within a specified time frame during the pendency of the application. During that time, the issuance of the patent was delayed by 481 days, not 481 + 478 days. The Office took 14 months and 481 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 481 days of Office delay, the 288 days of applicant delay and the time allowed within the time frames for processing and examination, as of the filing date of the RCE, the application was pending three years and 478 days. The Office did not delay 481 days and then an additional 478 days. Accordingly, 481 days of patent term adjustment (not 481 and 478 days) was properly entered since the period of delay of 478 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 481 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 481 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 478 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, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 193 days.

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

26 NOV 2003

#3

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ALEXANDRIA, VA 22313-1450
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Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of SUGIMOTO et al	:	
U.S. Application No.: 10/468,208	:	
PCT Application No.: PCT/JP02/01140	:	DECISION
Int. Filing Date: 12 February 2002	:	
Priority Date Claimed: 15 February 2001	:	
Attorney Docket No.: 0020-5164P	:	
For: TABLETS QUICKLY DISINTEGRATED IN ORAL CAVITY	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed 18 August 2003.

BACKGROUND

On 12 February 2002, applicant filed international application PCT/JP02/01140, which claimed priority of an earlier Japan application filed 15 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 22 August 2002. The thirty-month period for paying the basic national fee in the United States expired on 15 August 2003.

International application PCT/JP02/01140 became abandoned as to the United States for failure to timely pay the basic national fee.

On 18 August 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 12 February 2002, and a date under 35 U.S.C. 371(c) of 18 August 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

HOFFMAN WARNICK LLC
75 STATE STREET
14TH FLOOR
ALBANY, NY 12207

Mail Date: 04/20/2010

Applicant	: Milton F. De Souza	: DECISION ON REQUEST FOR
Patent Number	: 7572433	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/468,220	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/12/2004	: 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.

2 3 DEC 2003

#3

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Thomas C. Pontani
COHEN PONTANI LIEBERMAN & PAVANE
551 Fifth Avenue, Suite 1210
New York, New York 10176

In re Application of JOHNE, Frank U.S. Application No.: 10/468,225 PCT No.: PCT/DE02/00546 Int. Filing Date: 15 February 2002 Priority Date: 15 February 2001 Attorney Docket No.: 4070-68PUS For: FINE DRILL HEAD WITH SLACK-FREE RADIAL DISPLACEMENT	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicant's "Petition to Revive Pursuant to 37 CFR 1.137(b)" filed with the national stage papers on 18 August 2003 is hereby **GRANTED** as follows:

The statement that "[t]he delay in filing this petition and for filing the national phase application was unintentional" has been interpreted as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). If this is an incorrect interpretation, applicant is requested to notify this office. The basic national fee, and petition fee for a small entity have been paid. A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $65.00 was submitted on 12 September 2003.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 15 February 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 12 September 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-11-09

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/468241 Patent No.: 7284858

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

Angela Green
Certificates of Correction Branch
703-308-9390 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: _____

/Ricky Mack/
SPE

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Art Unit

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www.uspto.gov

BARNES & THORNBURG LLP (ROCHE)
11 SOUTH MERIDAN STREET
INDIANAPOLIS, MN 46204

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OFFICE OF PETITIONS

In re Application of
Rainer Mueller et al
Application No. 10/468,252
Filed: April 5, 2004
Attorney Docket No. 6398-201325

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 7, 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 October 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1652 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\nov11\468252.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

29 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HODGSON RUSS LLP
ONE M & T PLAZA
SUITE 2000
BUFFALO, NY 14203-2391

In re Application of TURNER et al	:	
U.S. Application No.: 10/468,258	:	
PCT Application No.: PCT/GB02/00493	:	DECISION
Int. Filing Date: 05 February 2002	:	
Priority Date Claimed: 06 February 2001	:	
Attorney Docket No.: 18872.0146	:	
For: FLOWMETER	:	

This is in response to applicant's "Petition Under 37 CFR 1.47" filed 12 April 2004.

BACKGROUND

On 05 February 2002, applicant filed international application PCT/GB02/00493, which claimed priority of an earlier United Kingdom application filed 06 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 15 August 2002. The thirty-month period for paying the basic national fee in the United States expired on 06 August 2003.

On 06 August 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 December 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 12 April 2004, applicant filed declarations executed by the available inventors along with the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2)

factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by each available inventor on his/her own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that joint inventor Roger Turner cannot be located. However, the petition does not illustrate that any attempts were made to contact Turner by postal mail, electronic mail, or telephone. Furthermore, the petition does not show that efforts were made to search for a new address and telephone number for Turner and does not describe any attempts to reach Turner through his former co-workers and/or the other joint inventors. Details concerning efforts to locate Turner should be provided by an affidavit from the person with firsthand knowledge of such efforts.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

Because the petition fails to satisfy item (2) above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

28 JUL 20

UNITED STATES PATENT AND TRADEMARK OFFICE

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HODGSON RUSS LLP
ONE M & T PLAZA
SUITE 2000
BUFFALO, NY 14203-2391

In re Application of TURNER et al	:	
U.S. Application No.: 10/468,258	:	
PCT Application No.: PCT/GB02/00493	:	COMMUNICATION
Int. Filing Date: 05 February 2002	:	
Priority Date Claimed: 06 February 2001	:	
Attorney Docket No.: 18872.0146	:	
For: FLOWMETER	:	

This is in response to the correspondence filed 01 July 2004, including a declaration executed by the previously nonsigning inventor.

The 01 July 2004 response is a proper reply to the decision mailed 29 April 2004.

The application has an International Filing Date under 35 U.S.C. 363 of 05 February 2002 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 01 July 2004.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this communication.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

OIPE IAP82
NOV 0 7 2005
PATENT & TRADEMARK OFFICE

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Ria DE COOMAN et al. Group Art Unit: 1713

Application No.: 10/468,262 Wu, Ives

Filed: August 19, 2003 Docket No.: 116858

For: EASY TO MANUFACTURE (METH) ACRYLIC ADHESIVE COMPOSITIONS

PETITION TO MAKE SPECIAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is respectfully requested that examination of the above-identified application be accelerated and made special under the provisions of 37 CFR §1.102(d) and MPEP §708.02, VIII.

Attached hereto is our Check No. 172628 in the amount of $130.00 in payment of the fee under 37 CFR §1.17(h). Please credit or debit Deposit Account No. 15-0461 as necessary in order to effect entry of this paper.

It is respectfully submitted that all claims of this application are directed to a single invention.

A Pre-examination search was made by the European Patent Office acting as the International Searching Authority for the related PCT application, of which this application is the U.S. National Stage. The corresponding International Search Report and listed references are of record in the above-identified application.

MAR 1 7 2006
PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700

11/08/2005 HALI11 00000110 10468262
01 FC:1464 130.00 OP

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/21/07

TO SPE OF : ART 3754

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/468267** Patent No.: **6901965**

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: correction of drawing to show corrected angle.

SPE

3754
Art Unit

08 MAR 2004

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

In re Application of	:	
GLYNN, Christopher	:	
Application No.: 10/468,279	:	DECISION ON
PCT No.: PCT/GB02/01083	:	
Int. Filing Date: 08 March 2002	:	PETITION UNDER
Priority Date: 09 March 2001	:	
Attorney Docket No.: 2537-8	:	37 CFR 1.181
For: NON-INVASIVE SPECTROPHOTOMETER	:	

This decision is in response to the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. § 371" filed 27 January 2004, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 08 March 2002, applicants filed international application PCT/GB02/01083 which claimed a priority date of 09 March 2001 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 19 September 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 September 2003.

On 19 August 2003, applicants filed a Transmittal Letter (Form PTO-1390) for entry into the national stage under 35 U.S.C. 371 accompanied by, *inter alia*, the basic national fee and an assertion of small entity status.

On 28 November 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The NOTIFICATION OF MISSING REQUIREMENTS set a two-month extendable time period.

On 27 January 2004, applicants filed the instant "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. § 371" filed 27 January 2004, which has been treated as a petition under 37 CFR 1.181. The petition was accompanied by a date-stamped

postcard receipt and a declaration of the inventor.

DISCUSSION

Applicants have provided sufficient evidence to establish that on 19 August 2003 applicants filed the declaration of the inventor. The proof is in the form of the copy of the receipt for the above-identified application which bears a United States Patent and Trademark Office (USPTO) date stamp of 19 August 2003 and which itemizes, *inter alia*, the declaration and identifies the above-captioned docket number, inventor, and title. Further, practitioner states that the copy of the declaration filed 27 January 2004 is a true copy of the declaration originally filed 19 August 2003. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 27 January 2004 may properly be accepted as originally received in the USPTO on 19 August 2003. The declaration of the inventor filed 19 August 2003 is in compliance with 37 CFR 1.497(a)-(b). Accordingly, the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 28 November 2003 is hereby VACATED.

DECISION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 28 November 2003 is VACATED for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. 371(c) date of **19 August 2003**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/468,282	08/19/2003	Geórge A Bilchev	36-1712	1715

23117 7590 04/22/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
NANO, SARGON N

ART UNIT	PAPER NUMBER
2457	

MAIL DATE	DELIVERY MODE
04/22/2009	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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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED

APR 22 2009

TECHNOLOGY CENTER 2100

Larry S. Nixon
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of:
George A. Bilchev
Application No. **10/468,282**
Filed: August 19, 2003
Docket No. 36-1712
Title: SUPPLY OF PERSONALIZED INFORMATION

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed November 28, 2008 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Notice of Non-Compliant Amendment under 37 CFR 1.121.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to Notice of Non-compliant Amendment under 37 CFR 1.121. The amendment document filed on September 04, 2008 was considered non-compliant by Examiner because it failed to meet the requirement of 37 CFR 1.121 or 1.4. Specifically, "amended limitation of claim 4 is not underlined".

Responsive to the Notice of non-compliant amendment mailed December 17, 2008 applicant request withdrawal of the same as being clearly erroneous.

Accordingly, the petition is **GRANTED.**

RELEVANT PROSECUTION HISTORY

December 11, 2007	Restriction requirement is mailed to applicant.
January 9, 2008	Response to restriction requirement is filed, electing invention I, claims 1-7 and 14.
March 4, 2008	Non-final office action in response to elected invention is mailed.
September 4, 2008	Response to non-final action is filed including amendments to the claims, drawings, abstract and specification.
December 17, 2008	Examiner mails Notice of Non-Compliant Amendment (3 7 CFR 1.121, PTO-324). Notice indicated as remarks that "claim 4 is not underlined"

RULES AND REGULATIONS

In accordance with **MPEP §714**:

When claim text with markings is required. All claims being currently amended in an amendment paper shall be presented in the claim listing indicate a status of "currently amended" and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims.

The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended" or "withdrawn" if also being amended shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn - currently amended".

OPINION

A review of the file, particularly, claims according to amendment document filed on September 04, 2008 and claims as amendment according to preliminary amendment filed on August 19, 2003. The text of added subject matter is shown by underlining the added text and the text of deleted matter is shown by strike-through as required.

Accordingly, the petition is **GRANTED.**

The application will be forwarded to the Examiner to withdraw Notice of non-compliant amendment mailed December 17, 2008.

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
Network, Multiplexing, Cable and Security

12 FEB 2004

A5

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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James Oliff
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, Virginia 22320

In re Application of	:	
DE COOMAN et al.	:	
Application No.: 10/468,299	:	DECISION ON
PCT No.: PCT/IB02/00649	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 04 March 2002	:	
Priority Date: 08 March 2001	:	
Attorney Docket No.: 116857	:	
For: ELASTIC (METH) ACRYLIC ADHESIVE COMPOSITIONS (AS AMENDED)		

This decision is in response to the declaration filed 01 October 2003 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 04 March 2002, applicants filed international application PCT/IB02/00649, which claimed a priority date of 08 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 September 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 08 September 2003.

On 20 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee and a preliminary amendment.

On 01 October 2003, applicant filed a declaration and power of attorney executed by Ria De Cooman and Werner R. Meyer as inventor and Daniel Flury-Schafer on behalf of deceased inventor, Rene Flury.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by "all of the heirs" of the deceased inventor, where no legal representative has been appointed.

The declaration submitted on 01 October 2003 was executed by Daniel Flury-Schafer as "heir" to the deceased inventor Rene Flury. However, the declaration does not state that Daniel Flury-Schafer is the sole heir of the deceased inventor. Absent a statement that the signing heir is the sole heir of the deceased inventor, the declaration cannot be accepted under 37 CFR 1.42.

In addition, it is noted that revised 37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the signing heir. The declaration filed on 01 October 2003 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the heir or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is REFUSED.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by the either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and be addressed to the Assistant

Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

24 AUG 2004

#7

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James Oliff
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, Virginia 22320

In re Application of	:	
DE COOMAN et al.	:	
Application No.: 10/468,299	:	DECISION ON
PCT No.: PCT/IB02/00649	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 04 March 2002	:	
Priority Date: 08 March 2001	:	
Attorney Docket No.: 116857	:	
For: ELASTIC (METH) ACRYLIC ADHESIVE COMPOSITIONS (AS AMENDED)		

This decision is in response to the Renewed Submission under 37 CFR 1.42 filed 06 April 2004. No petition fee is required.

BACKGROUND

On 04 March 2002, applicants filed international application PCT/IB02/00649, which claimed a priority date of 08 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 September 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 08 September 2003.

On 20 August 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee and a preliminary amendment.

On 01 October 2003, applicants filed a declaration and power of attorney executed by Ria De Cooman and Werner R. Meyer as inventor and Daniel Flury-Schafer on behalf of deceased inventor, Rene Flury. In a decision dated 12 February 2004, applicants' petition under 37 CFR 1.42 was dismissed without prejudice.

On 06 April 2004, applicants filed the present renewed submission under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by "all of the heirs" of the deceased inventor, where no legal representative has been appointed.

The declaration filed 06 April 2004 is executed by Daniel Flury-Schafer as the sole heir of Rene Flury and provides his residence, post office address and country of citizenship. In addition, the declaration provides the residence, post office address and country of citizenship of the deceased inventor. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

The submission of the declaration executed by all of the heirs of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

The renewed submission under 37 CFR 1.42 is **GRANTED**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-30-08

TO SPE OF : ART UNIT 1751

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/468303 Patent No.: 7306469

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should COCC be Approved

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Chris Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] Approved — All changes apply.
- [ ] Approved in Part — Specify below which changes do not apply.
- [ ] Denied — State the reasons for denial below.

Comments: _____

SPE

1796

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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STIENNON & STIENNON
612 W. MAIN ST., SUITE 201
P.O. BOX 1667
MADISON WI 53701-1667

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NOV 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Pasi Rajala, et al.	:	
Application No. 10/468,309	:	DECISION GRANTING PETITION
Filed: August 19, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. TURPAT-15	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 15, 2006, 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 4, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 1762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiners
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.*

30 JUN 2004

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www.uspto.gov

Muserlian, Lucas and Mercanti, LLP
600 Third Avenue
New York, NY 10016

In re Application of	:	DECISION ON
LANGERAK, Alfred	:	
Application No.: 10/468,311	:	
PCT No.: PCT/NL02/00096	:	
Int. Filing Date: 14 February 2002	:	PETITION UNDER
Priority Date: 14 February 2001	:	
Attorney's Docket No.: 310.1035	:	
For: FLUORESCENT LIFE HAMMER	:	37 CFR 1.10 (d)

This decision is in response to applicant's "PETITION UNDER 37 C.F.R. §1.10(d)" faxed on 06 February 2004 requesting that the filing date of 16 August 2003 be changed to 14 August 2003 for the national stage submission for the above identified international application. No fee is required for this petition.

BACKGROUND

This petition is to correct the filing date accorded the national stage submission for the above international application that was purported to have been filed on 14 August 2003 and claims an earliest priority date of 14 February 2001.

On 10 December 2003, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned because applicant has failed to provide the full U.S. Basic National Fee by 30 months since application was accorded a filing date of 16 August 2003.

On 06 February 2004, petitioner filed a petition under 37 CFR 1.10(d) requesting that the application be granted the correct filing date of August 14, 2003.

DISCUSSION

37 CFR 1.10(d) provides:

Where the "date in" on the Express Mail mailing label is believed to be in error, applicants may file a petition under 37 CFR 1.10(d) to have the correspondence accorded a filing date as of the date of the correspondence is shown to have been deposited with the USPS. The requirements under 37 CFR 1.10(d) are:

> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Petitioner has satisfied items (1)-(3) above.

The petition was filed promptly. 37 CFR 1.10(d)(1). In addition, a review of the application papers reveals that "Express Mail" Label No. EL992575541US was placed on the certification of mailing. CFR 1.10(d)(2).

Finally, the showing under 37 CFR 1.10(d)(3) is also satisfactory. Petitioner has provided evidence from the USPS, i.e., the "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post," which indicates that the Express Mail package having Express Mail number EL992575541US was picked up by a USPS employee at petitioner's place of business on 14 August 2003 at 4:15.

Accordingly, the requirements under 37 CFR 1.10(d) have been satisfied.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.10(d) is **GRANTED.**

Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is **GRANTED**. The NOTIFICATION OF ABANDONMENT, mailed 12 October 2003 has been **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision that is, for mailing a Notification of Missing Requirements requiring an Oath or Declaration in compliance with 37 CFR 1.497(a)-(b).

Boris Milef
PCT Legal Examiner
PCT Legal Office

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459

01 DEC 2003

#9

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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of	:	
Kosshizen	:	
Application No. 10/468,316	:	DECISION ON
PCT No.: PCT/JP02/00878	:	
Int. Filing Date: 04 February 2002	:	PETITION UNDER
Priority Date: 05 February 2001	:	
Atty. Docket No.: 20911-08153	:	37 CFR 1.137(b)
For: Agent Learning Apparatus,	:	
Method, And Program	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 15 August 2003.

BACKGROUND

This international application was filed on 04 February 2002, claimed an earliest priority date of 05 February 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 15 August 2002. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 05 August 2003. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by the basic national fee.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the

international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the filing of an executed oath or declaration of the inventors and a processing fee under 37 CFR 1.492(f).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

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OFFICE OF PETITIONS

In re Application of :
Takahiro Kudo et al :
Application No. 10/468,317 : ON PETITION
Filed: December 19, 2003 :
Attorney Docket No. 1503.68259

This is a decision on the petition, filed June 28, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 31, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2858 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).

10 MAR 2004

#5

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RATNERPRESTIA
P O BOX 980
VALLEY FORGE, PA 19482-0980

In re Application of CHESNEY, Antony et al. Application No.: 10/468,340 PCT No.: PCT/GB02/00527 Int. Filing Date: 07 February 2002 Priority Date: 16 February 2001 Attorney's Docket No.: JMYS-106US For: CATALYSTS	:	DECISION ON REQUEST UNDER 37 CFR 1.42

This decision is in response to applicants' response to the Notification of Missing Requirements filed on 12 January 2004 with the United States Patent and Trademark Office. A review of the declaration reveals an indication that joint inventor Antony Chesney is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 07 February 2002, applicants filed international application PCT/GB02/00527, which claimed a priority date of 16 February 2001. A copy of international application was transmitted to the Office by the International Bureau on 29 August 2002. On 05 September 2002, a demand for international preliminary examination was filed within nineteen months from the priority date. The deadline for entry into the national stage in the United States was 18 August 2003 (16 August 2003 was a Saturday).

On 18 August 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 02 December 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 12 January 2004, applicants submitted a response to the Notification of Missing Requirements, accompanied by a declaration.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

Graeme Bradford signed the declaration as "Legal Representative." The declaration must list the citizenship, residence and postal address for the legal representative and the citizenship of the deceased inventor Chesney. See 37 CFR 1.497 and 37 CFR 1.63. The declaration lists the necessary information for the legal representative, but does not list the citizenship of the deceased inventor.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

28 FEB 2005

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VALLEY FORGE, PA 19482-0980

In re Application of	:	
CHESNEY, Antony et al.	:	
Application No.: 10/468,340	:	DECISION ON
PCT No.: PCT/GB02/00527	:	
Int. Filing Date: 07 February 2002	:	REQUEST
Priority Date: 16 February 2001	:	
Attorney's Docket No.: JMYS-106US	:	UNDER 37 CFR 1.42
For: CATALYSTS	:	

This decision is in response to applicants' "Response to Decision On Request Under 37 C.F.R. §1.42," filed on 13 September 2004 with the United States Patent and Trademark Office.

BACKGROUND

On 07 February 2002, applicants filed international application PCT/GB02/00527, which claimed a priority date of 16 February 2001. A copy of international application was transmitted to the Office by the International Bureau on 29 August 2002. On 05 September 2002, a demand for international preliminary examination was filed within nineteen months from the priority date. The deadline for entry into the national stage in the United States was 18 August 2003 (16 August 2003 was a Saturday).

On 18 August 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 02 December 2003, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 12 January 2004, applicants submitted a response to the Notification of Missing Requirements, accompanied by a declaration.

On 10 March 2004, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicants' request.

On 13 September 2004, applicants filed this renewed submission, accompanied by the fee for a four month extension of time and a certificate of first class mailing, indicating the submission was deposited on 10 September 2004.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The declarations submitted on 13 September 2004 and 12 January 2004, in combination, satisfy the requirements of 37 CFR 1.497(a)-(b) and 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application has a date of 13 September 2004 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Enrique Martinez-Force	: DECISION ON REQUEST FOR
Patent Number	: 7569712	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/468,341	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **623** 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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WENDEROTH, LIND & PONACK, L.L.P.
2033 K Street, N. W.
Suite 800
Washington, DC 20006-1021

AUG - 3 2005

In re Application of:
SENDA *et al.*
Serial No.: 10/468,357
Filed: August 19, 2003
Attorney Docket No.: **2003-1033A**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed December 14, 2004, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due (Notice of Allowance) mailed on July 22, 2004. A Notice of Abandonment was mailed on December 02, 2004.

Petitioner asserts that the Notice of Allowance mailed on July 22, 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 Notice of Allowance was not received. Included with the statement are with copies of the docket records where the Notice of Allowance would have been entered were also included.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The petition is accompanied by a showing that establishes non-receipt of the Notice of Allowance mailed July 22, 2004. As such, the petition satisfies the above-stated requirements. Accordingly, 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 examiner for further consideration.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

In re Application of	:	
Arrhenius et al.	:	
Application No. 10/468,378	:	ON PETITION
Filed: August 19, 2003	:	
Attorney Docket No. 19128-0011US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 6, 2009, 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 AU 1616 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of
Heinrich Reutter
Application No. 10/468,400
Filed: August 29, 2003
Attorney Docket No. 302-041

: DECISION GRANTING PETITION

This is a decision on the petition filed November 27, 2007 under 37 CFR 1.137 (b) to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed January 18, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on March 21, 2006. *See* MPEP 1215.04.

Comes now petitioner with the instant petition to revive and an Appeal Brief under 37 CFR 41.37.

This application is being forwarded to Technology Center 3727 for review of the Appeal Brief filed November 27, 2007.

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

11 APR 2006

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32801
DARBY & DARBY
P.O. Box 5257
New York, NY 10150-5257

In re Application of BARON, John A. U.S. Application No.: 10/468,415 PCT No.: PCT/US02/05214 Int. Filing Date: 14 February 2002 Priority Date: 16 February 2001 Attorney Docket No.: 0630/11256US1 For: CALCIUM SUPPLEMENTATION TO REDUCE PROSTATE CANCER RISK	:	**DECISION**

Applicants' "Third Request for Corrected Filing Receipt and Notice of Acceptance" filed via facsimile on 29 March 2006 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

A review of the subject application shows that the Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) and filing receipt mailed 19 December 2003 did not indicate a priority claim for the international application. However, PCT/US02/05214 claimed priority to U.S. Provisional application No. 60/269,256 filed 16 February 2001.

Accordingly, the Form PCT/DO/EO/903 and filing receipt mailed 19 December 2003 contain erroneous information and are both **VACATED**.

This application is being forwarded to the national stage division for further processing in accordance with this decision.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

17 DEC 2003

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Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of BERNHARD et al	:	
U.S. Application No.: 10/468,418	:	
PCT Application No.: PCT/EP02/11494	:	
Int. Filing Date: 15 October 2002	:	DECISION
Priority Date Claimed: 15 December 2001	:	
Attorney Docket No.: 11839/26	:	
For: ELECTRIC SERVO-ASSISTED STEERING	:	
SYSTEM FOR MOTOR VEHICLES	:	

This is in response to applicant's "Petition and Statement Under 37 C.F.R. 1.6(e)" filed 18 August 2003.

BACKGROUND

On 15 October 2002, applicant filed international application PCT/EP02/11494, which claimed priority of an earlier Germany application filed 15 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 26 June 2003. The thirty-month period for paying the basic national fee in the United States expires on 15 June 2004.

On 18 August 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present petition under 37 CFR 1.6(e).

DISCUSSION

37 CFR 1.6(e) provides:

> If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is: (1) promptly filed after the ending of the designated interruption or emergency; and (2) accompanied by a statement indicating that

> such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service.

On 15 August 2003, the USPTO designated the interruption in USPS service due to a widespread power outage in the Northeast and Midwest as a postal service interruption and emergency within the meaning of 35 U.S.C. 21(a). Although the petition states that the correspondence in question would have been timely filed on 15 August 2003 but for the designated interruption, the petition must specify that the correspondence was ready for mailing at the time the interruption occurred.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.6(e) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.6(e).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

08 JUN 2004

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New York, NY 10004

In re Application of BERNHARD et al	:	
U.S. Application No.: 10/468,418	:	
PCT Application No.: PCT/EP02/11494	:	
Int. Filing Date: 15 October 2002	:	DECISION
Priority Date Claimed: 15 December 2001	:	
Attorney Docket No.: 11839/26	:	
For: ELECTRIC SERVO-ASSISTED STEERING	:	
SYSTEM FOR MOTOR VEHICLES	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Due to U.S.P.T.O. Error Under 37 C.F.R. 1.181(a)" filed 03 May 2004.

BACKGROUND

On 15 October 2002, applicant filed international application PCT/EP02/11494, which claimed priority of an earlier Germany application filed 15 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 26 June 2003. The thirty-month period for paying the basic national fee in the United States expires on 15 June 2004.

On 18 August 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a petition under 37 CFR 1.6(e).

On 17 December 2003, this Office mailed a decision dismissing the 18 August 2003 petition.

On 21 April 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the decision mailed 17 December 2003.

On 03 May 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The decision mailed 17 December 2003 did not state that the application would become abandoned if a response to the decision was not filed within the time period set therein. Furthermore, applicant timely filed the requisite basic national fee on 18 August 2003.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 21 April 2004 is hereby VACATED.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which should indicate that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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P.O. Box 1450
Alexandria, VA 22313-1450
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CHRISTINE C. O'DAY
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

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DEC 0 9 2005

OFFICE OF PETITIONS

In re Application of :
HONG :
Application No. 10/468,421 :
Filed: August 18, 2003 :
Attorney Docket No. 59731 (71970) :

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 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 May 4, 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 in a timely manner. Accordingly, the application became abandoned on August 5, 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 in Response to Non-Final Office Action; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final action of May 4, 2004 is accepted as having been unintentionally delayed.

While the file does not contain an official request to change the correspondence address (e.g., PTO/SB/122), the petition submitted on November 3, 2005 has been construed as such a request. In particular paragraph 2 under Background of the Additional Sheets Containing Statements Establishing Unintentional Delay submitted with the petition makes reference to a previously submitted change of correspondence address. Since the petitioner is an attorney of record, the correspondence address of record has been has been changed to the above address. See 37 CFR 1.33(a)(2).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 1654.

Denise Pothier

Denise Pothier
Petitions Examiner
Office of Petition

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.
10/468,426	12/10/2003	David Woodhouse	981/03292	3517

24118 7590 07/15/2009
HEAD, JOHNSON & KACHIGIAN
228 W 17TH PLACE
TULSA, OK 74119

EXAMINER
ANDRAMUNO, FRANKLIN S

ART UNIT	PAPER NUMBER
2424	

MAIL DATE	DELIVERY MODE
07/15/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Mark G. Kachigian
Head, Johnson & Kachigian
228 W 17th Place
Tulsa OK 74119

In re Application of:
David Woodhouse et al.
Application No. 10/468,426
Filed: December 10, 2003
For: Broadcast Data Receiver System

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed April 07, 2008 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed March 26, 2008.

The petition is **DISMISSED AS MOOT**.

On April 07, 2008, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner in relation to the Final Office action mailed March 26, 2008. In the petition, applicant's counsel alleged that the Examiner's rejections of claims 1-20 were directed to the originally filed claims instead of claims previously amended during PCT prosecution. In short, the petition indicates that an incorrect set of claims were examined.

On April 03, 2009, a non-final office action was mailed out in response to the petition. This non-final office action is an indication that the finality of the March 26, 2008 action has been withdrawn.

Accordingly, the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-7294.

Christopher Grant
Workgroup Quality Assurance Specialist
Technology Center 2400
Networks, Multiplex, Cable and Security

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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MAY 28 2010

OFFICE OF PETITIONS

In re Application of Liggesmeyer et al. :
Application No. 10/468,427 : Decision on Petition
Filing Date: August 19, 2003 :
Attorney Docket No. 1454.1489 :

This is a decision on the petition under 37 CFR 1.181 filed January 19, 2010, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a Notice of Allowance on September 16, 2009, requiring the submission of the issue fee and publication. The Notice set a statutory period for reply of three (3) months.

The Office did not receive a reply to the Notice of Allowance. As a result, a Notice of Abandonment was mailed December 30, 2009.

The petition asserts the Notice of Allowance was never received at the address of record.

The Office has reviewed the record and determined the showing of record is sufficient to establish 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 September 16, 2009. Since petitioner did not receive the Notice of Allowance, the Office has assumed petitioner did not receive the Notice of Allowability.

A new Notice of Allowance and Fee(s) Due and a new Notice of Allowability will be mailed and the period for reply will be re-started.

Technology Center Art Unit 2114 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new Notice of Allowance and 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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BARRY E. BRETSCHNEIDER
MORRISON & FOERSTER
SUITE 300
1650 TYSONS BOULEVARD
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Patent No. 7,018,439	:	ON PETITION
Issue Date: March 28, 2006	:	
Application No. 10/468,442	:	
Filed: August 20, 2003	:	
Attorney Docket No. 424662006700	:	

This is a decision on the petition filed July 14, 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

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

0 9 JAN 2004

#3

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of	:	DECISION
HAWKINS	:	
Application No.: 10/468,459	:	
PCT No.: PCT/EP01/09024	:	
Int. Filing Date: 02 August 2001	:	
Priority Date: 08 September 2000	:	
Attorney Docket No.: 038819.526961US	:	
For: METHOD OF ENHANCING THE	:	
EFFICIENCY OF DATA FLOW IN	:	
COMMUNICATION SYSTEMS	:	

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN UNINTENTIONALLY-ABANDONED PATENT APPLICATION UNDER 37 C.F.R. 1.137(b)" filed 14 July 2003.

BACKGROUND

On 02 August 2001, applicants filed international application PCT/EP01/09024, which designated the United States and claimed a priority date of 08 September 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 14 March 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 10 March 2003 (08 March 2003 being a Saturday).

On 20 August 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the instant "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR § 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the

reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 20 August 2003

As to item (2), applicant submitted the petition fee on 20 August 2003.

As to item (3), petitioner's statement that "[t]he entire delay in submitting the requirements for entry into the U.S. National Stage was unintentional" has been construed as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

18 APR 2006

#5

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Jonathan Bockman
Morrison & Foerster, LLP
1650 Tysons Blvd., Suite 300
McLean, Virginia 22102

In re Application of	:	
KHAMAR, et al.	:	
Serial No.: 10/468,467	:	
PCT No.: PCT/IB02/00097	:	DECISION ON PETITION
Int. Filing Date: 17 January 2002	:	
Priority Date: 17 January 2001	:	UNDER 37 CFR 1.137(b)
Atty Docket No.: 574152000100	:	
For: USE OF MYCOBACTERIUM FOR THE	:	
TREATMENT OF HUMAN IMMUNO-	:	
DEFICIENCY VIRUS (HIV) DISEASE	:	
INFECTION	:	

This is a decision on applicant's petition to revive under 37 CFR 1.137(b) filed on 20 January 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 January 2002, applicant filed international application PCT/IB02/00097, which claimed priority of an earlier application filed 17 January 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 25 July 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was set to expire 30 months from the priority date, 17 July 2003.

On 20 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a declaration signed by inventor Ambalal Indravadan Modi.

On 15 December 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide payment of $290.00 for multiple dependent claim surcharge. Applicant was afforded two months to file the proper response.

On 20 January 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the proper response was the payment of the remaining fees in the application. Applicant has provided authorization to charge all required fees along with the present petition.

As to Item (2), applicant has provided the $1500.00 petition fee along with the present petition.

With regard to Item (3), applicant's statement that, "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b), was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

It is noted that the applicant's filing of 20 August 2003 was after expiration of the 30 month deadline for entering the National stage in the United States and the Form PCT/DO/EO/905 was mailed in error.

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.

CONCLUSION

Applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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Morrison & Foester LLP
1650 Tysons Boulevard
Suite 400
McClean, VA 22102

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OFFICE OF PETITIONS

In re Application of

Bakulesh Mafatial Khamar et al.
Application No. 10/468,467
Filed: January 20, 2006
Attorney Docket No. 574152001000

DECISION ON PETITION
TO WITHDRAW
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 April 13, 2007.

The request is **APPROVED**.

A review of the file record indicates that Peter J. Davis of the firm Morrison & Foester LLP: (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, all the attorneys associated with customer number 25227 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Applicant is reminded that there is no attorney of record at this time.

There are no outstanding office actions in this case.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Bakulesh Mafatlal Khamar
201, Ashadha, Vasundhara Colony
Gulbai Tekra, Ahmedabad
Gujarat, India 380006

cc: Raj S. Dave
Darby & Darby PC
1500 K Street, NW
Suite 250
Washington, DC 20005-1714

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/468,467	01/20/2006	Kabulesh Mafatlal Khamar	574152000100

CONFIRMATION NO. 1961

OC000000026060670

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 09/28/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/13/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

K. Grabinet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

16 NOV 2004

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Harness, Dickey & Pierce, P.L.C.
Post Office Box 8910
Reston, Virginia 20195

In re Aplication of	DECISION ON
LIND et al	
PCT No.: PCT/DK02/00122	
Application No: 10/468,481	
Int. Filing Date: 22 February 2002	PETITION UNDER
Priority Date: 22 February 2001	
Attorney's Docket No.: 45900-000812/US	
For: METHOD FOR PRODUCTION OF AN	
OPTICAL DISC WITH A DETACHABLE MODULE	37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR §§1.42-1.47 FOR ACCEPTANCE OF AN APPLICATION MISSING AN INVENTOR" filed on 25 August 2004. The petition fee of 130.00 has been charged to Deposit Account No: 08-0750 as indicated in the petition.

BACKGROUND

On 22 February 2002, petitioner filed international application PCT/DK02/00122, which claimed priority to an earlier application filed 22 February 2001. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 29 August 2002. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 22 August 2003.

On 20 August 2003, petitioner filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee. No executed oath or declaration accompanied the above papers.

On 12 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date." The notice indicated that all of the items set forth must be submitted within two (2) months from the date of this Notice or by 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment.

On 12 July 2004, petitioner filed the present petition, a declaration in support of filing on behalf of omitted deceased inventor Soren Feder accompanied, inter alia, an executed

Declaration without the signatures of Mr. Henning Sogaard the legal representative of Soren Feder's estate.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

> When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied requirements (1) and (3) under of 37 CFR 1.47(a) but not requirements (2) and (4).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h).

Regarding requirement (2), in this case, Mette Neistskov Jensen has not sufficiently demonstrated that a copy of the application papers were presented to the non-signing legal representative, Mr. Henning Sogaard, of the deceased inventor, Soren Feder. Petitioner has not stated that the application papers (specification, including claims, drawings, and oath or declaration) were sent to the Mr. Feder's legal representative and that the legal representative, Mr. Sogaard, refused to sign the required papers as stipulated under MPEP 409.03(d). The declaration by Jensen is silent with regards to sending a copy of application to Mr. Henning because it only mentions the Declaration and Assignment were sent to his last known address, note ¶ 5 and attachment B. In fact, Jensen's declaration only indicates that a copy of the above-identified application was sent to Tele-CD Company, note ¶ 3.

Therefore the current record does not sufficiently establish Mr. Sogaard refusal to join in the application because no evidentiary documents have been submitted to show that a *bona fide* attempt was made to deliver the complete application to him and that he refused to sign the required papers.

Regarding requirement (3), petitioner has provided a statement of the last known address of the legal representative.

Regarding requirement (4) because the inventor Soren Feder is deceased, the legal representative for the deceased inventor must follow the requirements set forth under 37 C.F.R. §1.497(b)(2) which indicates that "[i]f the person making the oath or the declaration or any supplemental or oath or declaration is not the inventor (§§1.42, 1.43, or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state (the inventors citizenship and so on). If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall <u>also</u> state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative." (see MPEP § 409.01)

In this instance, the name, residence and citizenship of the legal representative have not been provided as required under 37 C.F.R. §1.497(b)(2) in the declaration.

Consequently, the petition does not satisfy all the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

23 AUG 2005

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Reston, Virginia 20195

In re Application of	DECISION ON
LIND et al	
PCT No.: PCT/DK02/00122	
Application No: 10/468,481	
Int. Filing Date: 22 February 2002	PETITION UNDER
Priority Date: 22 February 2001	
Attorney's Docket No.: 45900-000812/US	
For: METHOD FOR PRODUCTION OF AN	
OPTICAL DISC WITH A DETACHABLE MODULE	37 CFR 1.47(a)

This is in response to the "RENEWED PETITION UNDER 37 CFR 1.47(a) FOR ACCEPTANCE OF AN APPLICATION MISSING AN INVENTOR," filed on 18 January 2005.

BACKGROUND

In a decision from this Office on 16 November 2004, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that requirements (2) and (4) under 37 CFR 1.47(a) were not met because the petition did not sufficiently demonstrated that a copy of the application papers were presented to the non-signing legal representative Mr. Sogaard and that the declaration was improper.

On 18 January 2005, submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 16 November 2004. Petitioner indicates that a copy of the application papers has been sent to the last known address of the executor and that a declaration has been provided.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of 18 January 2005 satisfies requirement (4) but does not satisfy requirement (2) under 37 CFR 1.47(a).

Mr. Jensen's averments do not sufficiently demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing legal representative for his signature as stipulated under MPEP 409.03(d) since he has no first hand knowledge of these act. For example, ¶ 7 indicates that Mr. Vendelbjerg telephoned Mr. Sogaard and that he informed Mr. Vendelbjerg that the application papers were received and he did not intend to sign the documents. Since Mr. Jensen was not the person who performed the actions listed in paragraph 7, petitioner will need to submit statements, with specific facts on the actions referred to by paragraph 7 by Mr. Vendelbjerg who has first-hand knowledge of those facts.

In addition, no documentary evidence to support the mailing and receiving of the application papers mailed on 19 March 2004 has been provided such as postal receipt and a cover letter referring to the application papers.

Consequently, the current record does not sufficiently establish Mr. Sogaard's refusal to join in the application because no proper evidentiary document has been submitted to show that a *bona fide* attempt was made to deliver the complete application to him and that he refused to sign the required papers.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3267
Facsimile: (571) 273-0459

07 APR 2006

#12

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Harness, Dickey & Pierce, P.L.C.
Post Office Box 8910
Reston, Virginia 20195

In re Application of	:	DECISION ON
LIND et al	:	
PCT No.: PCT/DK02/00122	:	
Application No: 10/468,481	:	
Int. Filing Date: 22 February 2002	:	PETITION UNDER
Priority Date: 22 February 2001	:	
Attorney's Docket No.: 45900-000812/US	:	
For: METHOD FOR PRODUCTION OF AN	:	
OPTICAL DISC WITH A DETACHABLE MODULE	:	37 CFR 1.47(a)

This is in response to the " SECOND RENEWED PETITION UNDER 37 C.F.R. §1.47(a) FOR ACCEPTANCE OF AN APPLICATION MISSING AN INVENTOR" filed on 06 January 2006.

BACKGROUND

In a decision from this Office on 23 August 2005, the petition under 37 CFR 1.47(a) was dismissed. The decision stated that Mr. Jensen's averments did not sufficiently demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing legal representative for his signature as stipulated under MPEP 409.03(d) since he has no first hand knowledge of these act.

On 06 January 2006, petitioner submitted a "Second Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 23 August 2005 with respect to accepting the above application without the signature of nonsigning legal representative, Mr. Henning Sogaard, of deceased inventor Soren Feder.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of 06 January 2006 has satisfied requirement 2 under 37 CFR 1.47(a). Thus satisfying all the requirements under 37 CFR 1.47(a).

Mr. Vendelbjerg and Mr. Jensens' averment do sufficiently demonstrate that a *bona fide* attempt was made to obtain the signature of Mr. Henning Sogaard and that he refused to sign the required papers. The application papers were mailed to him on 19 March 2004 but he has not returned the required papers. Accordingly, the conduct of Mr. Sogaard is interpreted based on the evidentiary copies of the papers submitted as a refusal to sign the required papers. Consequently, the current record does sufficiently establish that Mr. Sogaard refusal to join in the application.

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **06 January 2006.**

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

07 APR 2006

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Mr. Henning Sogaard
(Legal Representative of Soren Feder)
Boulevarden 21, DK-9000
Aslborg, Denmark

In re Application of	:	DECISION ON
LIND et al	:	
PCT No.: PCT/DK02/00122	:	
Application No: 10/468,481	:	
Int. Filing Date: 22 February 2002	:	PETITION UNDER
Priority Date: 22 February 2001	:	
Attorney's Docket No.: 45900-000812/US	:	
For: METHOD FOR PRODUCTION OF AN	:	
OPTICAL DISC WITH A DETACHABLE MODULE	:	37 CFR 1.47(a)

Dear Mr. Sogaard:

Mr. Soren Feder is named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, he will be designated as an inventor.

As a named inventor, you, as his legal representative since he is deceased, are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Harness, Dickey & Pierce, P.L.C.
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18 MAR 2004

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CHRISTENSEN, O'CONNOR, JOHNSON,
KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

In re Application of	:	
CROTEAU et al.	:	
Application No.: 10/468,488	:	DECISION ON
PCT No.: PCT/US01/02567	:	
Int. Filing Date: 19 January 2001	:	PETITION UNDER
Priority Date: 20 January 2000	:	
Attorney Docket No.:WSUR121565	:	37 CFR 1.137(b)
For: PLANT OIL GLAND NUCLEIC ACID	:	
MOLECULES AND METHODS OF USE	:	

This decision is in response to applicants' submission filed 06 August 2003.

BACKGROUND

On 19 January 2001, applicant filed international application PCT/US01/02657, which claimed a priority date of 20 January 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 July 2001. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2002 (20 July 2002 being a Saturday).

On 16 July 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the basic national fee; the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date; an assertion of small entity status; authorization to charge any additional fees or credit any overpayment to Deposit Account No. 03-1740; and a preliminary amendment. **These papers were assigned application number 10/181,331.** The preliminary amendment amends the first line of the specification to state "[t]his is a United States national stage application of International Application No. PCT/US01/02567, filed January 19, 2001, the benefit of the filing date of which is hereby claimed under 35 U.S.C. § 120, ..."

On 13 September 2002, the United States Designated/Elected Office mailed **in application number 10/181,331** a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 08 November 2002, applicant submitted **in application number 10/181,331** a response to the NOTIFICATION OF MISSING REQUIREMENTS, which was accompanied by, *inter alia*, a declaration of the inventors.

On 18 March 2003, the USPTO mailed **in application number 10/181,331** a notification indicating, *inter alia*: that since applicant gave conflicting instructions, the papers filed 16 July 2002 should have been considered as having been filed under 35 U.S.C. 111(a); that the original papers deposited on 16 July 2002 were improperly accepted as a submission under 35 U.S.C. 371; that the NOTIFICATION OF MISSING REQUIREMENTS mailed 13 September 2002 was VACATED; that because the original papers were filed under 35 U.S.C. § 111(a) and the original papers filed on 16 July 2002 did not include a specification, the instant application has not been accorded a filing date; and that applicant may wish to consider filing a petition under 37 CFR 1.137(b) to revive the international application as being unintentionally abandoned in order to establish copendency.

On 24 June 2003, applicant filed a submission **in application number 10/181,331**, which was accompanied by a copy of "PETITION UNDER 37 C.F.R. § 1.181, OR IN THE ALTERNATIVE, § 1.183, AND PURSUANT TO MANUAL OF PATENT EXAMINING PROCEDURE § 1002.02(p)." The submission requested that the copy of this petition be accepted as having been received in the USPTO on 03 April 2003.

On 24 July 2003, the USPTO mailed a decision in **in application number 10/181,331** indicating, *inter alia*: (1) that the petition under 37 CFR 1.181 to accept the copy of the petition filed 24 June 2003 as received in the USPTO on 03 April 2003 was granted; (2) that the petition under 37 CFR 1.181 to accept the application as having been filed under 35 U.S.C. 371 was dismissed without prejudice; (3) that the petition under 37 CFR 1.183 to accept the application as having been filed under 35 U.S.C. 371 was dismissed without prejudice; and that the application was being forwarded to the Office of Initial Patent Examination for processing as a national application filed under 35 U.S.C. 111(a) in which no specification was filed.

On 06 August 2003, applicants filed the instant submission which included, a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the basic national fee; the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date; an assertion of small entity status; a copy of the international application as filed; and an authorization to charge any additional fees or credit any overpayment to Deposit Account No. 03-1740. These application papers were assigned application number **10/468,488**. The papers were also accompanied by a "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 06 August 2003

As to item (2), applicant submitted the petition fee on 06 August 2003.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

31 DEC 2003

#6

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW YORK, NY 10017-2023

In re Application of DOCHERTY et al. Application No.: 10/468,493 PCT No.: PCT/GB02/00853 Int. Filing: 27 February 2002 Priority Date: 01 March 2001 Attorney Docket No.: 03480/HG For: HALOGENATED PHOSPHINES	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "Response to the Notification of Missing Requirements" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 02 December 2003. The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 18 August 2003, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 01 October 2003, applicants filed a declaration executed by the inventors, in compliance with 37 CFR 1.497(a) & (b) along with a $130 check for the surcharge for filing the declaration after the 30 month period.

On 28 November 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), was required.

On 02 December 2003, in response to the Notification of Missing Requirements, applicant filed a copy of the declaration and an itemized USPTO date-stamped postcard indicating that an executed declaration was filed on 01 October 2003.

DISCUSSION

The original declaration filed on 01 October 2003 is not located in the application file. A review of the finance records for 10/468,493 indicates that the $130 surcharge for filing the declaration after the thirty month period was paid.

As stated in section 503 of the Manual of Patent Examining Procedure (8th Ed., August 2001)(MPEP):

> A postcard receipt which itemizes and properly identifies the papers

which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the combined declaration and power of attorney was deposited with the USPTO on 01 October 2003.

The evidence submitted is sufficient to establish that a declaration this application was received in the USPTO on 01 October 2003. The communication filed 02 December 2003 includes a copy of the executed declaration. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 01 October 2003. The evidence submitted by applicant, the postcard receipt date stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself.

A review of the declaration reveals that the declaration identifies the inventors, and states the citizenship and mailing address of the inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The copy of the declaration originally submitted on 01 October 2003 and resubmitted on 02 December 2003 is acceptable and meets the requirements of 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371 date is **01 October 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

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Our Ref. No.: 003364.P119

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

Jong-Moon Jung, et al.

Serial No. 10/468,500

Assigned Filing Date: August 18, 2003

For: FUNCTIONAL AGENT FOR DECOMPOSING NICOTINE AND METHOD OF PREPARING THE SAME

PETITION PURSUANT TO RULE 1.10(c)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions to receive a filing date of August 15, 2003 instead of August 18, 2003 as specified on the Official Filing Receipt.

In support of this Petition, Applicant notes that the Official Filing Receipt was received by Applicant's representative on December 29, 2003 showing a filing date of the subject application of August 18, 2003 (Exhibit A hereto). The number of the "Express Mail" mailing label was placed on the application which constitutes the correspondence for which a corrected filing date is requested prior to the original mailing by "Express Mail."

The requested filing date is the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day as evidenced by this "date in" on the "Express Mail" label.

Attached as Exhibit B is a copy of the Express Mail receipt for EV339906037US showing a "date in" of August 15, 2003.

Applicant further requests that the Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 be reissued to reflect a date of receipt of all 35 USC 371 requirements of August 15, 2003.

In the event any fee is required for correction of the petition, please charge deposit account 02-2666 in the name of Blakely, Sokoloff, Taylor & Zafman. If any fee is so charged, Applicant requests refund thereof since the need for this petition was not due to any fault of Applicant.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Dated: 3/4 2004

Eric S. Hyman, Reg. No. 30,139

12400 Wilshire Blvd., 7th Floor
Los Angeles, California 90025-1026
(310) 207-3800
Enclosures

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 3-5 2004

Melissa Stead 3-5-04

Melissa Stead Date

You Me Patent & Law Firm
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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
10/468,500	08/18/2003	1614	1060	3364P119	29	6	2

CONFIRMATION NO. 3465

FILING RECEIPT

OC000000011552597

Blakely Sokoloff
Taylor & Zafman
7th Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

RECEIVED
DEC 2 9 2003
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
LOS ANGELES

Date Mailed: 12/23/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jong-Moon Jung, Kyungki-do, KOREA, REPUBLIC OF;
Ji-Hoon Kim, Taejeon, KOREA, REPUBLIC OF;
Eun-Ju Kim, Chungcheongnam-do, KOREA, REPUBLIC OF;
Myoung-Gyu Park, Chungcheongnam-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/KR02/00280 02/21/2002

Foreign Applications

REPUBLIC OF KOREA 2001/8602 02/21/2001
REPUBLIC OF KOREA 2002/9104 02/20/2002

Projected Publication Date: 04/01/2004

Non-Publication Request: No

Early Publication Request:

Date 2/18/2004 **Client:** You Me Patent & Law Firm
Docket Initials _____ 3364.p119
Dock. Sup. Initials _____
Atty Initials _____ ESH
Pat/Ser/Reg 468500
Description: 23

Title

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2/13/2004 Michelle Edmund

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Functional agent for decomposing nicotine and method of preparing the same

Preliminary Class

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NOT GRANTED

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Gary Abelev
Baker Botts, LLP
30 Rockefeller Plaza
New York, New York 10112-0228

In re Application of:	
Tuzhilin et al.	DECISION ON
Application No.: 10/468,509	PETITION
PCT No.: PCT/US02/04127	UNDER 37 CFR 1.137(b)
Int. Filing Date: 12 February 2002	
Priority Date: 12 February 2001	
Docket No.: A34009-PCT-USA-067691.0188	

For: SYSTEM, PROCESS AND SOFTWARE ARRANGEMENT FOR PROVIDING MULTIDIMENSIONAL RECOMMENDATIONS/SUGGESTIONS

This is in response to the petition filed 16 August 2003 under 37 CFR 1.137 (b) to revive the above-identified abandoned application for "unintentional" delay.

BACKGROUND

On 12 February 2002, applicants filed international application PCT/US02/04127, which claimed priority to an earlier application, filed 12 February 2001. A Demand for international preliminary examination was timely filed. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 12 August 2003.

On 16 August 2003, the present petition was submitted with the petition fee of $650.00 based on the applicants' claimed small entity status. A transmittal letter for entry into the national stage in the United States (Form PTO-1390), along with the $662.00 basic national fee, was concurrently filed with the petition, including an authorization to charge Deposit Account No. 02-4377 to charge any additional fees. A declaration executed by the inventors required by 35 U.S.C.371 (c)(4) was also filed.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition fee required by 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, and (4) a terminal disclaimer with disclaimer fee (only for utility and plant applications filed before 08 June 1995).

Regarding items (1) and (2), applicants furnished the U.S. Basic National Fee of $662.00 and petition fee of $650.00.

Application No.: 10/468,509

Regarding item (3), the petition includes a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Regarding item (4), because applicants' filing date of 12 February 2002 is after 08 June 1995, the requirement of a terminal disclaimer with disclaimer fee is not applicable in this case.

Accordingly, applicants have satisfied each of the requirements of 37CFR1.137(b). A surcharge of $65.00 for submitting the declaration later than the 30 months of the priority date will be charged to the counsel's Deposit Account 02-4377.

CONCLUSION

The request to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further review and processing in accordance with this communication.

Shih-yung Hsieh
PCT Legal Detailee
PCT Legal Office
Telephone: (703) 308-6162
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

24 AUG 2004

#4

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Jeffrey M. Greenman
BAYER PHARMACEUTICALS
CORPORATION
Law & Patents Department
400 Morgan Lane
Westhaven, Connecticut 06516

In re Application of	:	
Ulrich NIEWÖHNER (deceased, et al.	:	
Application No.: 10/468,511	:	DECISION
PCT No.: PCT/EP02/01392	:	ON
Int. Filing Date: 11 February 2002	:	RENEWED PETITION
Priority Date: 23 February 2001	:	UNDER 37 CFR 1.42
Attorney Docket No.: Le A 35 226	:	
For: NOVEL SUBSTITUTED	:	
IMIDAZOTRIAZINONES	:	

This is a decision on the papers filed 27 July 2004 in the present application in response to an Office decision of 15 June 2004.

The Office decision of 15 June 2004 objected to the declaration of the inventors submitted previously on 23 February 2004 as not to be in compliance with 37 CFR 1.42 because no papers have been filed establishing that Maria Theresia Niewöhner is the only heir or the legal representative of deceased joint inventor Ulrich Niewöhner.

Applicants' submission of a copy of the Certificate of Inheritance provided by the Local Court of Wermelskirchen indicating that Maria Theresia Niewöhner is the sole heir of deceased joint inventor Ulrich Niewöhner overcomes the objection mentioned above.

CONCLUSION

With the submission of the Certificate of Inheritance on 27 July 2004, the above application and papers have been reviewed and found to be in compliance with 37 CFR 1.42.

The papers filed under 37 CFR 1.42 are ACCEPTED.

The application has an international filing date of **11 February 2002** under 35 U.S.C. 363 and a date of **23 February 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing. The declaration is acceptable under 37 CFR 1.497.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/LES:hn

Tel: (703) 308-6508

03 MAR 2004

#3

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Joseph R. Robinson
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York, 10150-5257

In re Application of	:	
Penteado et al	:	
Application No.: 10/468,521	:	
PCT No.: PCT/BR02/00022	:	
Int. Filing Date: 07 February 2002	:	DECISION
Priority Date: 15 February 2001	:	
Attorney's Docket No.: 4304/0N108US0	:	
For: A WATER LEVEL INDICATING DEVICE	:	
FOR A DISHWASHER	:	

This is in response to applicant's "PETITION TO ACCEPT DELAYED FILING UNDER PCT RULE 82.2," which is being treated as a petition under 37 C.F.R. 1.6(e).

BACKGROUND

On 07 February 2002, applicant filed international application PCT/BR02/00022, which claimed priority of an earlier application filed 15 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 22 August 2002. The thirty-month period for paying the basic national fee in the United States expires on 15 August 2003.

On 18 August 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present petition under 37 CFR 1.6(e).

DISCUSSION

37 CFR 1.6(e) provides:

> If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is: (1) promptly filed after the ending of the designated interruption or emergency; and (2) accompanied by a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service.

On 15 August 2003, the USPTO designated the interruption in USPS service due to a widespread power outage in the Northeast and Midwest as a postal service interruption and emergency within the meaning of 35 U.S.C. 21(a). Although the petition states that the power outage occurred on Thursday, August 14, 2003 and power was not restored to the area until Friday, August 15, 2003, the petition must specify that the correspondence was ready for mailing at the time the interruption occurred.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.6(e) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.6(e).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

05 AUG 2004

#5

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Joseph R. Robinson
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York,10150-5257

In re Application of	:	
Penteado et al	:	
Application No.: 10/468,521	:	
PCT No.: PCT/BR02/00022	:	
Int. Filing Date: 07 February 2002	:	DECISION
Priority Date: 15 February 2001	:	
Attorney's Docket No.: 4304/0N108US0	:	
For: A WATER LEVEL INDICATING DEVICE	:	
FOR A DISHWASHER	:	

This is in response to applicant's "RENEWED PETITION TO ACCEPT DELAYED FILING UNDER 37 C.F.R. 1.6(E) AND ALTERNATELY PCT RULE 82.2 (INTERRRUPTION IN THE MAIL SERVICE)," filed on 03 May 2004.

BACKGROUND

In a decision from this Office, the petition filed on 18 August 2003 under 37 CFR 1.6(e) was dismissed. The decision indicated that the petition must specify that the correspondence was ready for mailing at the time the interruption occurred.

On 03 May 2004, applicants filed a renewed petition under 37 CFR 1.6(e).

DISCUSSION

On 15 August 2003, the USPTO published on its website designating the refusal of certain post offices to accept the deposit of mail for delivery by Express Mail as a postal service interruption and emergency within the meaning of 35 U.S.C. 21(a) from Thursday, August 14, 2003 through Saturday, August 16, 2003. This was as a result of the power outage on Thursday, August 14, 2003, which affected post offices throughout the Northeast and Midwest United States being closed or not accepting mail.

The renewed petition is accompanied by a statement indicating that the application was ready for mailing on August 15, 2003 and would have been deposited with the USPS but for the interruption or emergency in "Express Mail" service. Applicants have stated that the USPS refused to deliver the Express Mail package identified above to Alexandria, VA, 22313 because

of suspension of Express Mail service due to the power outage that occurred on Thursday, August 14, 2003 at 4:11 p.m. and that power was not restored until Friday, August 15, 2003 at 9:03 p.m. Thus, it has been established that applicants were subject to a designated postal service interruption and emergency on 15 August 2003.

Accordingly, the request to accord the above application a filing date of 15 August 2003 is granted.

CONCLUSION

For reasons above, the petition under 37 CFR 1.6(e) is **GRANTED.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903) and a filing receipt. The 35 USC 371(c1), (c)(2), and (c)(4) date of this application is **15 August 2003.**

Richard Cole
PCT Legal Examiner
PCT Legal Office

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

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HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

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FEB 16 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Hisayasu Kaneshiro et al	:
Application No. 10/468,524	:
Filed: August 18, 2003	:
Attorney Docket No: 89227.0004	:

This is a decision on the petition, filed February 16, 2007, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of continuing Application No. 11/674,620 filed February 13, 2007.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

12 NOV 2004

#7

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Ronald I. Eisenstein
Nixon Peabody, LLP
100 Summer Street
Boston, MA 02110

In re Application of HIRAI, et al U.S. Application No.: 10/468,527 PCT No.: PCT/JP02/01411 Int. Filing Date: 19 February 2002 Priority Date: 20 February 2001 Attorney's Docket No.: 700938-54310 For: PYRAZOLE DERIVATIVE, ITS INTERMEDIATE, PROCESSES FOR THE PREPARATION THEREOF, AND HERBICIDE CONTAINING THE SAME AS ACTIVE INGREDIENT	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to applicant's petition under 37 CFR 1.182 filed 24 May 2004 in the United States Patent and Trademark Office.

BACKGROUND

On 30 March 2004, applicant was mailed a communication informing applicant that the combined declaration and power of attorney filed on 02 March 2004 did not comply with 37 CFR 1.497 (a)-(b) as the sixth listed inventor was listed and executed as "Hiroshi SAKURAI" whereas the International Application lists the sixth inventor as "Hiroshi ITO." Applicant was afforded two months to file a proper reply.

On 24 May 2004, applicant filed the present petition under 37 CFR 1.182 to change the inventor's name to Hiroshi Sakurai in the National stage in the United States. The petition included payment of the $130.00 petition fee.

DISCUSSION

Accompanying the present petition applicant has included a declaration signed by the relevant inventor Hiroshi Sakurai. This declaration details the procedure whereby the change of name was effected, namely by cancellation of the inventor's adoption as an heir to the Ito family. The declaration is signed by the inventor using both names. This declaration is an acceptable form of documentation.

CONCLUSION

For the reasons above, applicant's "Petition Under 37 CFR 1.182" is **GRANTED**.

The application has an international filing date of 19 February 2002 and will be given a date of **02 March 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision, i.e. recording the subject joint inventor as Hiroshi Sakurai.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

23 NOV 2004

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William A. Drucker
Attorney at Law
1901 L Street NW
Washington, D.C. 20036-3508

In re Application of		
ETIEVANT et al.	:	
U.S. Application No. 10/468,552	:	
PCT No.: PCT/FR02/00578	:	
Int. Filing Date: 14 February 2002	:	DECISION ON PETITION
Priority Date: 19 February 2001	:	
Attorney Docket No.: CETHBOO13	:	
For: COMPOSITE STRUCTURE AND MEMBRANES THAT ARE SELECTIVELY PERMEABLE TO HYDROGEN AND COMBUSTIBLE GAS PROCESSORS USING SAME	:	

The petition to revive under 37 CFR 1.137(b) filed 16 November 2004 in the above-captioned application is hereby GRANTED as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted a proper response to the Notification of Missing Requirements dated 04 December 2003 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Deposit Account No. 04-1675 will be charged a $685.00 petition fee under 37 CFR 1.17(m).

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **16 November 2004**.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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William Anthony Drucker
Suite 800
1901 L Street NW
Washington DC 20036-3506

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OFFICE OF PETITIONS

In re Application of

Claude Etievant et al.
Application No. 10/468,552
Filed: November 16, 2004
Attorney Docket No. CETHBOO13

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 January 26, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Claude Etievant**
44 rue Saint Charles
78000 Versailles
France

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ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Jose Ignacio Andres-Gil et al. :
Application No. 10/468,555 :
Filed: August 21, 2003 :
Attorney Docket No. JANS0036 :

ON PETITION

This is a decision on the petition filed November 20, 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 April 13, 2006 for failure to timely pay the issue fee on or before April 12, 2006. Accordingly, a Notice of Abandonment was mailed October 27, 2006.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

25 JUN 2004

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Duane C. Ulmer
DOW CHEMICAL COMPANY
Intellectual Property
P.O. Box 1967
Midland, MI 48641-1967

In re Application of
SAM, Felix O. *et al*
U.S. Application No.: 10/468,556
PCT No.: PCT/EP02/01898
Int. Filing Date: 22 February 2002
Priority Date: 22 February 2001
Attorney Docket No.: 62125
For: ISOCYANATE COMPOSITION . . .

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition Under 37 CFR 1.47(a)" ("Pet.") filed on 12 April 2004.

BACKGROUND

On 10 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond.

On 12 April 2004, applicants submitted a response which was accompanied by, *inter alia*, the instant petition under 37 CFR 1.47(a); the $130.00 petition fee; a $130.00 surcharge fee; a declaration signed by one of the two listed co-inventors; a two-month extension of time and a $420.00 fee; and a declaration of Renato Paludetto ("Decl.").

DISCUSSION

The 37 CFR 1.47(a) applicant claims that one of the two joint inventors, Felix Okon Sam, refuses to cooperate in the above-captioned application.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the nonsigning inventor refuses to execute the application; (3) a statement of the last known address of the nonsigning inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor.

Concerning item (1), the $130.00 petition fee has been paid.

Regarding item (3), the address of Mr. Felix Okon Sam is listed as:

Via Bologna 60
35020 Ponte San Nicola (Padova)
Italy

With regards to item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two joint inventors on behalf of the nonsigning joint inventor. All of the inventors' names, residences, post office addresses and citizenship are typed on this declaration as required by section 409.03(a) of the Manual of Patent Examining Procedure (MPEP). The declaration is also in compliance with 37 CFR 1.497(a) & (b). Thus, item (4) is satisfied.

Regarding item (2) of 37 CFR 1.47(a), section 409.03(d) of the MPEP explains what is required to prove a refusal by an inventor and states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney . . .
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . .
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts . . .
>
> If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

In this case, the 37 CFR 1.47(a) submitted a declaration by Renato Paludetto who claims that he:

> personally spoke with Felix Okon Sam several times over the course of 2003. These conversations were initiated by me via telephone . . . I was

> able to confirmed [*sic*] that he had in fact received the application and corresponding application papers. Moreover, during these conversations I was able to confirm that Felix Okon Sam refused to execute the application papers including the inventor's declaration.

Decl. at ¶ 5.

The declaration by Mr. Paludetto meets the requirements of an express oral refusal outlined in the MPEP. However, petitioner did not provide any documentary evidence showing that Mr. Sam received a copy of the application as indicated in the declaration above. A copy of the cover letter sent to the nonsigning joint inventor referencing that the application was included would be sufficient. In addition, if a reason for Mr. Sam's refusal is known, it should be listed in the renewed petition.

For these reasons, item (2) is not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

The surcharge fee of $130.00 was previously submitted and has been credited back to Deposit Account No. 04-1512

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

23 NOV 2004

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Duane C. Ulmer
DOW CHEMICAL COMPANY
Intellectual Property
P.O. Box 1967
Midland, MI 48641-1967

In re Application of SAM, Felix O. *et al* U.S. Application No.: 10/468,556 PCT No.: PCT/EP02/01898 Int. Filing Date: 22 February 2002 Priority Date: 22 February 2001 Attorney Docket No.: 62125 For: ISOCYANATE COMPOSITION . . .	**DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)**

This is a decision on applicants' "Second Petition Under 37 CFR 1.47(a)" filed on 19 October 2004.

BACKGROUND

On 25 June 2004, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to satisfy item (2) of 37 CFR 1.47(a). Applicants were given two months to respond.

On 19 October 2004, applicants filed the renewed petition which was accompanied by, *inter alia*, a two-month extension and authorization to charge the $430.00 fee to counsel's Deposit Account; a "Declaration of Renato Sgarbi . . . " ("Decl."); and exhibits 1-2.

DISCUSSION

Petitioner failed to satisfy item (2) of 37 CFR 1.47(a) with their initial petition. The decision mailed 25 June 2004 noted that while the declaration of Mr. Paludetto meets the requirements of an express oral refusal, petitioner must also provide documentary evidence showing that Mr. Sam received a complete copy of the application. Section 409.03(d) of the Manual of Patent Examining Procedure discusses this requirement and states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers

> should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

In the renewed petition, the 37 CFR 1.47(a) applicant provided a declaration of Renato Sgarbi who states that a "copy of the above noted application, an Assignment of Invention and Declaration, a Subscribing Witness form and instructions (in Italian)" were mailed to the nonsigning inventor via DHL Courier on 08 March 2004. Decl. at ¶ 4. Mr. Sgarbi declares that he contacted Mr. Sam via telephone on 31 March 2004, where he claims that "[h]e confirmed having received the above-noted correspondence and documents and having previously discussed the signing of such documents by Mr. Paludetto. At this time he was not prepared to sign the . . . Declaration." Id. at ¶ 6.

As indicated above, petitioner needed only to show that Mr. Sam received a complete copy of the application to satisfy item (2) of 37 CFR 1.47(a). The prior decision indicated that a copy of the cover letter referencing that the application was included would be sufficient to demonstrate this. In the renewed petition, the 37 CFR 1.47(a) applicant submitted a copy of an letter that was purportedly mailed to Mr. Sam with the above-captioned application to provide the requisite documentary evidence. However, the letter submitted as exhibit 1 is in Italian without an accompanying English translation.

It is noted that the USPTO does not accept as evidence any foreign language document without an accompanying English translation. Nevertheless, counsel argues that "[e]ven though most of the letter is written in Italian, from c) page 1, it is readily apparent a copy of the present PCT/EP02/01898 was sent to Mr. Sam. Furthermore, on page 2, it is given in English the additional documents sent to Mr. Sam."

This claim has been carefully considered and rejected.

A review of exhibit 1 clearly shows that it is not readily apparent that a complete copy of the above-captioned application was provided to the nonsigning inventor. The documents listed in English on page 2 does not include a copy of the above-captioned application. Petitioner must provide an English translation of exhibit 1. If this letter does not clearly indicate that a complete copy of the subject application was sent to Mr. Sam, petitioner must provide additional documentary evidence (with an accompanying English translation) to show that a complete copy of the application was received by the nonsigning inventor for a grantable petition under 37 CFR 1.47(a). Item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

17 FEB 2005

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Duane C. Ulmer
DOW CHEMICAL COMPANY
Intellectual Property
P.O. Box 1967
Midland, MI 48641-1967

In re Application of
SAM, Felix O. *et al*
U.S. Application No.: 10/468,556
PCT No.: PCT/EP02/01898
Int. Filing Date: 22 February 2002
Priority Date: 22 February 2001
Attorney Docket No.: 62125
For: ISOCYANATE COMPOSITION . . .

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed on 25 January 2005.

BACKGROUND

On 23 November 2004, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants failed to satisfy item (2) of 37 CFR 1.47(a). Applicants were given two months to respond.

On 25 January 2005, applicants filed a renewed petition which was accompanied by, *inter alia*, an English translation of a letter previously submitted dated 08 March 2004.

DISCUSSION

Petitioner failed to satisfy item (2) of 37 CFR 1.47(a) with the renewed petition filed 14 October 2004 due to the failure to show that a complete copy of the above-captioned application was sent to the nonsigning joint inventor.

Petitioner had claimed that a letter to Mr. Felix Okon Sam dated 08 March 2004 filed with the renewed petition on 19 October 2004 indicated that a copy of the application was sent to Mr. Sam. However, the letter was in Italian with no accompanying English translation. A translation of this letter was requested.

Here, the 37 CFR 1.47(a) applicant has provided an English translation of the letter sent to Mr. Sam on 08 March 2004. The letter states that a copy of the above-identified international application was provided to the nonsigning inventor. This evidence is sufficient to satisfy item (2) of 37 CFR 1.47(a).

All the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 22 February 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 12 April 2004.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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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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JOSEPH S TRIPOLI
THOMSON MULTIMEDIA LICENSING INC
PO BOX 5312
PRINCETON, NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of	:	
Carolynn Rae JOHNSON et al.	:	
Application No. 10/468, 561	:	DECISION ON PETITION
Filed: August 21, 2003	:	
Attorney Docket No. PU010037	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 03, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 28, 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 29, 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; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2623 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

OCT 26 2007

In re Application of
Christine Beck et al
Serial No.: 10/468,564
Filed: August 21, 2003
Attorney Docket No.: 52186

: PETITION DECISION

This is in response to the petition under 37 CFR 1.181, filed September 27, 2007, requesting withdrawal of the Finality of the Office action mailed July 27, 2007.

BACKGROUND

A review of the relevant file history shows that the examiner mailed a Final Office action to applicants on February 24, 2006. The examiner rejected claims 1 and 5-19 under 35 U.S.C. 112, second paragraph, as indefinite. Claims 1-2 and 5-19 were also rejected under 35 U.S.C. 103(a) as unpatentable over Hikichi et al in view of Baigori et al, Bargeman et al, Ekanayake et al, Bellamy et al, Mani et al and Kawachi et al.

Applicants replied by filing a Notice of Appeal on May 24, 2006, followed by an amendment on September 21, 2006. The examiner mailed an Advisory Action to applicants on October 2, 2006, indicating entry of the amendments to the claims, but that most of the rejections were not overcome.

Applicants filed an Appeal Brief on October 24, 2006. A Notice of Defective Appeal Brief was mailed to applicants on December 18, 2006, setting a one month period for submitting a corrected Brief. Applicants submitted a compliant Appeal Brief on January 12, 2007.

The examiner mailed an Examiner's Answer to applicants on March 30, 2007. The Answer contained a new ground of rejection (page 10) under 35 U.S.C. 103(a) over Yocum et al in view of several secondary references. The application was returned to the examiner on May 25, 2007, because the Answer lacked a paragraph outlining applicants' prosecution options in view of the new ground of rejection.

On May 30, 2007, applicants filed an IDS, an amendment to the specification and remarks in effect requesting reopening of prosecution. The examiner mailed a revised Examiner's Answer to applicants on June 4, 2007, unaware of applicants' amendment having been submitted. The application was again returned to the examiner by the Board for consideration of the IDS filed May 30, 2007. In view of this and applicants' remarks the examiner reopened prosecution.

On July 27, 2007, the examiner mailed a Final Office action to applicants rejecting claims 1 and 5-19 under 35 U.S.C. 102(f) because the applicants did not invent the subject matter sought to be patented. All other rejections were withdrawn, however, the oath or declaration was objected to as not naming all of the inventors.

Applicants filed this petition on September 27, 2007, requesting withdrawal of the finality of the last Office action in view of the new ground of rejection set forth therein.

DISCUSSION

Applicants request withdrawal of the finality of the Office action of June 27, 2007, on the basis that the examiner's making of the above identified new rejection under 35 U.S.C. 102(f), was not necessitated by applicants' amendments. A review of applicants' amendments shows that in response to the new ground of rejection set forth in the Examiner's Answer, applicants filed no amendments to the claims, but did file a statement of joint research agreement with regard to the Yocum et al reference applied in the Examiner's Answer in order to remove the reference and the rejection. Applicants' actions were clearly successful, as evidenced by the examiner's reopening of prosecution and mailing a new Office action which sets forth only an objection to the oath/declaration and a new rejection under 35 U.S.C. 102(f). However, the new rejection is based on applicants' actions in removing the reference under 35 U.S.C. 103(a) by submitting the joint research agreement statement which directly caused a question of the naming of the correct inventorship to be raised.

However, since the reasoning the examiner has used for withdrawing the rejections of record and in setting forth the new rejection is, in part, based on a decision by the Board of Patent Appeals and Interferences in a related application and this reasoning is new, the rejection should be considered as a new rejection not wholly necessitated by applicants' amendment or actions. In view of this the finality of the Office action mailed June 27, 2007, was premature and is withdrawn.

DECISION

The petition is **GRANTED.** The Finality of the Office action mailed June 27, 2007, is withdrawn.

Applicants remain under obligation to reply to the Office action mailed June 27, 2007, within the time period specified therein, or as extended under 37 CFR 1.136(a). The reply will be considered a reply to a non-Final Office action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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HELLER EHRMAN LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON, DC 20036-3001

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OFFICE OF PETITIONS

In re Application of

Neumann, et al.

Application No. 10/468,565

Filed: August 21, 2003

Attorney Docket No. 37637-0009

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed October 24, 2006.

The petition is **granted**.

This application was held abandoned June 18, 2006, after no reply was received to the final Office mailed March 17, 2006. The notice set forth a shortened statutory period of reply of three-months from its mailing date. No response was received within the allowable period and the application became abandoned on June 18, 2006. Petitioner maintains that the final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 1700, GAU 1771 for further processing, including re-mailing of the final Office and resetting of the time period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

03 DEC 2003

#3

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Jordan and Hamburg LLP
122 East 42nd Street
New York, NY 10168

In re Application of ISHIGAKI et al	:	
U.S. Application No.: 10/468,568	:	
PCT Application No.: PCT/JP02/00446	:	
Int. Filing Date: 22 January 2002	:	
Priority Date Claimed: 24 January 2001	:	DECISION
Attorney Docket No.: F-7922	:	
For: CERAMIC INSULATION COATED	:	
ELECTRIC WIRE, SELF-FUSING	:	
CEREMIC INSULATION COATED	:	
ELECTRIC WIRE, COATING	:	
COMPOSITION, AND COIL AND VOICE	:	
COIL FOR SPEAKER	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 21 August 2003.

BACKGROUND

On 22 January 2002, applicant filed international application PCT/JP02/00446, which claimed priority of an earlier Japan application filed 24 January 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 01 August 2002. The thirty-month period for paying the basic national fee in the United States expired on 24 July 2003.

International application PCT/JP02/00446 became abandoned as to the United States for failure to timely pay the basic national fee.

On 21 August 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 22 January 2002, and a date under 35 U.S.C. 371(c) of 21 August 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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66 E. Main Street
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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Reiner Class, et al.	:	
Application No. 10/468,579	:	
Filed: August 21, 2003	:	
Attorney Docket No. MCP-0198	:	

This is a decision on the petition under 37 CFR 1.182, filed February 8, 2005, to change the name of one of the inventors.

The petition is **GRANTED**.

The names of the second and third named inventors have been changed from Gerald Sosiau to **Gerald Soslau** and Michael Zeppeznuer to **Michael Zeppezauer**, respectively.

A Corrected Filing Receipt reflecting the correction of the inventors' names is attached herewith.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of	:	
Rodolfo Gaudenzi	:	
Application No. 10/468,613	:	ON PETITION
Filed: 24 September, 2003	:	
Atty Docket No. 37719-1853	:	

This is a decision on the petition under 1.137(b),[1] filed on 2 May, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 28 April, 2005, for failure to timely submit the issue and publication fees as required by the Notice of Allowance and Issue Fee Due mailed on 27 January, 2005, which set a three (3) month statutory period for reply.

---

[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 filing of the present petition precedes the mailing of Notice of Abandonment.

The application file is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

20 APR 2004

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Koppel, Jacobs, Patrick & Heybl
555 St. Charles Drive
Suite 107
Thousand Oaks CA 91360

In re Application of	:	
ST. ONGE et al.	:	
Application No.: 10/468,619	:	DECISION
PCT No.: PCT/US02/04893	:	
Int. Filing Date: 20 February 2002	:	
Priority Date: 23 February 2001	:	
Attorney Docket No.: 012-26-021	:	
For: HIGH EFFICIENCY OZONE GENERATOR	:	

This is a decision on applicants' "PETITION TO PROCEED WITHOUT THE SIGNATURE OF A JOINT INVENTOR" filed in the United States Patent and Trademark Office (USPTO) on 08 March 2004, which has been treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 20 February 2002, applicants filed international application PCT/US02/04893, which designated the United States and claimed priority of an earlier application filed on 23 February 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 06 September 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 25 August 2003 (23 August 2003 being a Saturday).

On 18 August 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 15 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 08 March 2004, applicants filed the instant "PETITION TO PROCEED WITHOUT THE SIGNATURE OF A JOINT INVENTOR", which has been treated as a petition under 37 CFR 1.47(a). The petition was accompanied by a declaration of inventors, the surcharge under

37 CFR 1.492(e), a copy of a returned envelope sent via the USPS, and a petition/fee for a one month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1), (3), and (4) have been satisfied.

Item (2) has not been satisfied. It is being alleged that the nonsigning inventor, Mark D. Goodley, cannot be reached after diligent effort. A copy of a returned envelope addressed to Mr. Goodley sent via USPS containing a stamp indicating that the correspondence was ". . . UNDELIVERABLE AS ADDRESSED" was provided with the petition. (The petition refers to the address as 3120 Ryan Court rather than Ryan Drive, however, Ryan Drive appears to be the address intended.) Although a statement regarding this envelope is provided by two of the signing inventors, it is not clear that either of these persons have first-hand knowledge of the mailing of this envelope. See MPEP 409.03(d). Additionally, it is unclear what was in the envelope. Copies of documentary evidence such as cover letters of instruction that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. See MPEP 409.03(d). Also, no other efforts, aside from the mailing of one letter, appear to have been made to locate Mr. Goodley. Other efforts might include, but not be limited to, finding a forwarding address or telephone number through one of the Internet services that provide such information or calling Mr. Goodley's last known place of employment for this information.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

15 JUL 2004

#6

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Koppel, Jacobs, Patrick & Heybl
555 St. Charles Drive
Suite 107
Thousand Oaks CA 91360

In re Application of	:	
ST. ONGE et al.	:	
Application No.: 10/468,619	:	DECISION
PCT No.: PCT/US02/04893	:	
Int. Filing Date: 20 February 2002	:	
Priority Date: 23 February 2001	:	
Attorney Docket No.: 012-26-021	:	
For: HIGH EFFICIENCY OZONE GENERATOR	:	

This is a decision on applicants' "RESPONSE TO DECISION" filed in the United States Patent and Trademark Office (USPTO) on 06 May 2004.

BACKGROUND

On 20 February 2002, applicants filed international application PCT/US02/04893, which designated the United States and claimed priority of an earlier application filed on 23 February 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 06 September 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 25 August 2003 (23 August 2003 being a Saturday).

On 18 August 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 15 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 08 March 2004, applicants filed the instant "PETITION TO PROCEED WITHOUT THE SIGNATURE OF A JOINT INVENTOR", which has been treated as a petition under 37 CFR 1.47(a). The petition was accompanied by a declaration of inventors, the surcharge under 37 CFR 1.492(e), a copy of a returned envelope sent via the USPS, and a petition/fee for a one month extension of time.

On 20 April 2004, a decision was mailed dismissing applicants' petition under 37 CFR

1.47(a). Specifically, it was noted that sufficient factual proof that the missing joint inventor refused to execute the application or could not be reached after diligent effort had not been provided.

On 06 May 2004, applicants submitted the instant "RESPONSE TO DECISION" which was accompanied by, *inter alia*, a copy of a declaration signed by all of the inventors.

DISCUSSION

The declaration filed 06 May 2004 is in compliance with 37 CFR 1.497(a)-(b). Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the renewed petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

Mr. Goodley is identified in the international application as Mark D. Goodley but is identified in the declaration filed 06 May 2004 as Mark Goodley. As to the middle initial of Mr. Goodley, the difference in names is presumed not to be a name change or a change of inventors or a typographical error. The name Mark Goodley is presumed to be a shortened version of the name Mark D. Goodley and these names are construed to designate the same person. (If this interpretation is incorrect, applicants are required to provide a written notification of this fact to the Office of PCT Legal Administration *immediately*.)

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including processing of the application in accordance with this decision.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066; Facsimile: (703) 308-6459

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JUL 11 2008

BRACHER RAWLINS LLP
Fox Court
14 Gray's Inn Road
London WC1X 8HN

Enclosure: February 13, 2008 letter, requesting registration of a "Freezing Injunction"

For: U.S. Patent Nos. 6,818,033; 6,849,094; 6,936,095; 7,207,197 and 7,300,482; and U.S. Patent Application Publication Nos. 2003/0159412; 2004/0103785; 2004/0083773; 2004/0244438; 2005/0092032; 2005/0194295 and 2006/0162299	**DECISION DISMISSING REQUEST**

This is a decision on the letter, dated February 13, 2008, requesting registration of a "Freezing Injunction," issued In The High Court of Justice, Chancery Division, against (a) U.S. Patent Nos. 6,818,033, 6,849,094, 6,936,095, 7,207,197, 7,300,482, any other U.S. patents for which John Herbert North is the applicant, and (b) U.S. Patent Application Publication Nos. 2003/0159412, 2004/0103785, 2004/0083773, 2004/0244438, 2005/0092032, 2005/0194295 and 2006/0162299. The letter is taken as written requests for both (a) a citation of information under 35 U.S.C. § 301 in multiple patents, and (b) a citation of information under 35 U.S.C. § 122(b) in multiple published patent applications.

This request is before the Office of Patent Legal Administration for decision.

The present request for citation of the Freezing Injunction in the above-captioned U.S. patents and patent application publications has been fully considered. The request is **dismissed**, for the reasons set forth below.

RELEVANT STATUTES, REGULATIONS, AND EXAMINING PROCEDURE

37 CFR 1.4(c) provides:

> "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."

35 U.S.C. § 122(b) provides:

> (c) PROTEST AND PRE-ISSUANCE OPPOSITION.— The Director shall establish appropriate procedures to ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication of the application without the express written consent of the applicant.

The Manual of Patent Examining Procedure (MPEP) § 1134 provides (in part):

> Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) that does not comply with the requirements of 37 CFR 1.99 will be disregarded and not entered into the application file.

35 U.S.C. § 301 provides:

> Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential.

The Manual of Patent Examining Procedure (MPEP) § 2205 provides (in part):

> The prior art which may be submitted under 35 U.S.C. 301 is limited to "written prior art consisting of patents or printed publications."
>
> If the prior art citation contains any issue not directed to patents and printed publications, it should not be entered into the patent file, despite the fact that it may otherwise contain a complete submission of patents and printed publications with an explanation of the pertinency and applicability. Rather, the prior art citation should be returned to the sender as described in MPEP § 2206.

DISCUSSION

The instant written request for citation of the Freezing Injunction is improper, because 37 CFR 1.4(c) provides that "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." In

this instance, a third party has provided written requests for both (a) a citation of information under 35 U.S.C. § 301 in a patent, and (b) a citation of information under 35 U.S.C. § 122(b) in a published patent application. Accordingly, the request is improper, and is dismissed.

It is additionally noted as follows:

1. The request for "any other U.S. patents for which John Herbert North is the applicant" is indefinite and does not identify a specific patent to which the request may be applied. Further, 37 CFR 1.4(b) requires that "a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical," and requestor clearly has not provided copies for all the above-captioned patents, published patent applications, and any other patents for which John Herbert North is the applicant.

2. The prior art which may be submitted under 35 U.S.C. § 301 is limited to patents or printed publications. The present information citation (submission) contains an issue not directed to patents and printed publications, as well as comments on the information submitted. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 301 and MPEP 2205.

3. Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) must comply with the requirements of 37 CFR 1.99. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 122(b) and MPEP 1134.

CONCLUSION

Accordingly, the written request under 35 U.S.C. § 301 and 35 U.S.C. § 122(b) for citation of prior art is **dismissed**

The citation (submission) of information will not be entered into any file, and it is returned herewith to the sender.

Any questions concerning this communication should be directed to Nicole D. Dretar, Legal Advisor, at 571-272-7717.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

June 24, 2008

22 DEC 2003

#3

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Jordan and Hamburg LLP
122 East 42nd Street
New York, NY 10168

In re Application of HAESSLER Serial No.: 10/468,623 PCT No.: PCT/EP02/01057 Int. Filing Date: 01 February 2002 Priority Date: 02 February 2001 Attorney's Docket No.: F-7933 For: IMPLANT SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 August 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $900 was provided. The required petition fee of $1300 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that the oath or declaration, in compliance with 37 CFR 1.497(a) & (b), and an English translation of the international application, along with the $130 surcharge for filing the oath or declaration and $130 processing fee for filing the English translation after the thirty month period, is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of Patent Cooperation Treaty
Legal Administration Office

Telephone: (703) 306-5467
Facsimile : (703) 308-6459

25 MAY 2005

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Gregory M Doudnikoff
IBMCorp
3039 Cornwallis Road
T81/503
Research Triangle Park,NC 27709

In re Application of LEYMANN et al. Serial No.: 10/468,636 PCT No.: PCT/EP02/00710 Int. Filing Date: 24 January 2002 Priority Date: 22 February 2001 Attorney's Docket No.:DE920010029US1 For: CONTROLLING THE CREATION OF PROCESS INSTANCES IN WORKFLOW MANAGEMENT SYSTEMS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on applicants' "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)", which is being treated as a request to withdraw the holding of abandonment in the above referenced application. The petition was filed on 19 May 2005 in the United States Patent and Trademark Office (USPTO). For the reasons set forth below, the petition to revive is **MOOT**.

BACKGROUND

On 10 December 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that the oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 22 December 2003, applicants responded to the Notification of Missing Requirements with an executed declaration. The $130 surcharge for filing the declaration after the thirty month period had previously been paid.

On 23 November 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants indicating that applicants had failed to respond to said Notification of Missing Requirements.

On 19 May 2005, applicant submitted the instant petition to revive, with a copy of the declaration allegedly deposited on 22 December 2003. The petition is considered a request to withdraw the holding of abandonment.

DISCUSSION

A review of the USPTO application file for 10/468,636 reveals that Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants on 10 December 2003.

A review of the finance records for 10/468,636 indicates that the surcharge for filing the declaration after the thirty month period ($130) was paid on 20 August 2003. Upon a review of the application file for 10/468,636, the declaration for 10/468,636 was located. The declaration was dated-stamped by the USPTO on 22 December 2003. Accordingly, it is

appropriate to docket the declaration in 10/468,636 with a deposit date of 22 December 2003.

Thus, the petition under 37 CFR 1.137(b) is considered moot, as a declaration executed by the inventors was submitted on 22 December 2003, in response to the 10 December 2003 Notification of Missing Requirements.

With regard to the acceptance of the declaration, the declaration submitted on 22 December 2003 identifies each inventor and states the citizenship, residency and mailing address of each of the inventors. Thus, the requirements of 37 CFR 1.497(a) and (b) have been met.

CONCLUSION

For the reasons stated above, the petition to revive under 37 CFR 1.137(b) filed 19 May 2005 in the above-captioned application is **DISMISSED AS MOOT**.

The 23 November 2004 Notification of Abandonment (Form PCT/DO/EO/909) is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 (c)(1)(c)(2) and (c)(4) date is 22 **December 2003.**

Cynthia M. Kratz

/Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Holger Plote	: DECISION ON REQUEST FOR
Patent Number	: 7647764	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/468,662	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **249** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

15 FEB 2005

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Douglas P. Mueller
Merchant & Gould
Po Box 2903
Minneapolis MN 55402-0903

In re Application of SATOU et al. Application No.: 10/468,663 PCT No.: PCT/JP02/01342 Int. Filing Date: 18 February 2002 Priority Date: 21 February 2001 Attorney's Docket No.: 10873.1267USWO For: LIGHT-EMITTING ELEMENT AND PRODUCTION THEREOF	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's 14 June 2004 "Communication Regarding Notice of Missing Requirements" to accept a copy of a declaration in lieu of the original declaration filed United States Patent and Trademark Office (USPTO) on 10 November 2003 and treated as a petition under 37 CFR 1.181. This is also responsive to applicant's 13 December 2004 "Request to Withdraw Holding of Abandonment"or in the alternative, petition under 37 CFR 1.137(b) . No petition fee is required.

BACKGROUND

On 21 August 2003, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee. On 10 November 2003, *sua sponte*, applicant allegedly filed a declaration, the surcharge for filing oath or declaration after the thirty month period and Information Disclosure Statement.

On 12 December 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), was required.

On 18 October 2004, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements mailed on 12 December 2003 within the time period set therein.

On 13 December 2004, in response to the Notification of Abandonment, applicant filed the instant response with, *inter alia*, a copy of 14 June 2004 "Communication re: Notice of Missing Requirements, copies of: transmittal sheet, declaration, IDS Form 1449, check for $130 (all originally filed November 10, 2003) and a copy of PTO receipt acknowledged postcard [an itemized USPTO date-stamped postcard indicating that these papers were filed on 10 November 2003]". In the alterative, applicant requests consideration under 37 CFR 1.137(b).

DISCUSSION

The original declaration filed on 10 November 2003 is not located in the application file. A review of the finance records for 10/468,663 indicates that on 10 November 2002, the $130 surcharge for filing the declaration after the thirty month period was paid.

As stated in section 503 of the Manual of Patent Examining Procedure (Rev. 2, May 2004)(MPEP):

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the declaration and $130 surcharge were deposited with the USPTO on 10 November 2003.

The evidence submitted is sufficient to establish that a declaration for this application was received in the USPTO on 10 November 2003. The communications filed on 14 June 2004 and 13 December 2004 includes a copy of the executed declaration. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 10 November 2003. The evidence submitted by applicant, the postcard receipt date stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself.

A review of the declaration reveals that the declaration identifies the inventors, and states the citizenship, residency and mailing address of the inventors. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**. The 18 October 2004 Notification of Abandonment is hereby **VACATED**. The petition under 37 CFR 1.137(b) is **MOOT**.

The copy of the declaration originally submitted on 10 November 2003 and resubmitted on 14 June 2004 is acceptable and meets the requirements of 37 CFR 1.497(a) & (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) & (c)(4) date is **10 November 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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July 24, 2006

FILE COPY

Patent No. : 6,991,666 B2
Ser. No. : 10/468676
Inventor(s) : Organ
Issued : January 31, 2006
Title : **COLLECTING CHAMBER FOR A VACUUM CLEANER**
Docket No. : **424662006900**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

Barry E Bretschmeider
Morrison & Foerster
Suite 300
1650 Tysons Boulevard
McLean VA 22102

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Barry E. Bretschmeider
Morrison & Foerster
Suite 300
1650 Tysons Boulevard
McLean, VA 22102

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OFFICE OF PETITIONS

In re Patent No. 6,991,666 :

Issue Date: January 31, 2006 :

Application No. 10/468,676 : ON PETITION

Filed: August 21, 2003 :

Attorney Docket No. 424662006900

This is a decision on the petition filed July 14, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The 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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Marshall Gerstein & Borun
Sears Tower 6300
233 South Wacker Drive
Chicago, IL 60606-6357

Mail Date: 04/21/2010

Applicant	: Paul Leslie Burn	: DECISION ON REQUEST FOR
Patent Number	: 7632576	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/468,681	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **583** 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.

24 FEB 2006

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DARBY & DARBY
P.O. Box 5257
New York, NY 10150-5257

In re Application of	:	
SANCHEZ, Connie *et al*	:	
U.S. Application No.: 10/468,685	:	
PCT No.: PCT/DK02/00281	:	**DECISION**
Int. Filing Date: 01 May 2002	:	
Priority Date: 01 May 2001	:	
Attorney Docket No.: 05432/000M919-US0	:	
For: THE USE OF ENANTIOMERIC PURE	:	
ESCITALOPRAM	:	

Applicants' "Second Request for Corrected Filing Receipt" filed via facsimile on 26 May 2005 and again on 07 February 2006 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 06 July 2004 recorded only two inventors. A third inventor listed on the declaration and international publication was not listed.

Accordingly, the filing receipt mailed 06 July 2004 is incorrect and hereby **VACATED**.

A corrected filing receipt will be mailed with this decision.

This application will then be forwarded to Technology Center 1600 for examination.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

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In re Application of	:	
Connie Sanchez, et. al.	:	
Application No. 10/468,685	:	ON PETITION
Filed: June 8, 2004	:	
Attorney Docket No. 5432/0M91US0	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on September 14, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely respond to the non-final Office action mailed on March 13, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

In response to the non-final Office action mailed on March 13, 2006, the Office acknowledges receipt of an Amendment filed on September 13, 2006, and the instant petition and request for a three (3) month extension on time filed on September 14, 2006. However, in the Office action the Examiner made a nonstatutory double patenting rejection, which would require petitioner to file a terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) along with the $130 fee. Therefore, revival of the above application cannot occur until a complete response to the non-final Office action has been received.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,020 extension of time submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Connie SANCHEZ et al. :
Application No. 10/468,685 : ON PETITION
Filed: June 8, 2004 :
Attorney Docket No. 5432/0M91USO :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 13, 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) was obtained. Accordingly, the above-identified application became abandoned on June 14, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 14, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 1618 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
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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FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Sanchez et al.	:	
Application No. 10/468685	:	DECISION ON
Filing or 371(c) Date: 06/08/2004	:	PETITION
Attorney Docket Number: 5432/0M91US0	:	

This is a decision in response to the Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a)," and on the "Conditional Petition Under 37 CFR 1.182," both filed September 12, 2007.

This Petitions are hereby **dismissed as moot**.

The above-identified application was revived in a Decision granting a petition to revive the application, mailed January 9, 2007. The application, at the filing of the present petition to revive, was not abandoned. As such, the petition to revive involves a moot issue.

The Conditional Petition notes that the Decision granting a petition to revive the application, mailed January 9, 2007 "may not have properly revived the application. However, as noted supra, the application, at the filing of the present petition, was not abandoned. As such, the petition also involves a moot issue.

The application was subsequently expressly abandoned by Applicant on July 7, 2008.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

23 SEP 2004

#4

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Samuel H. Dworetsky
AT&T Corporation
PO Box 4110
Middletown, NJ 07748-4110

In re Application of	:	
WARD, Andrew Martin Robert et al.	:	
Application No.: 10/468,690	:	DECISION ON
PCT No.: PCT/GB02/00718	:	
Int. Filing Date: 19 February 2002	:	PETITION UNDER
Priority Date: 21 February 2001	:	
Attorney Docket No.: 1999-0457	:	37 CFR 1.47(a)
For: LOCATION SYSTEM AND	:	
COMMUNICATION SYSTEM	:	

This is a decision on applicants' "Petition Under 37 C.F.R. §1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 18 June 2004.

BACKGROUND

On 19 February 2002, applicants filed international application PCT/GB02/00718, which claimed a priority date of 21 February 2001. A copy of the international application was transmitted to the Office on 29 August 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 August 2003.

On 21 August 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 16 December 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 18 June 2004, applicants submitted the instant petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration and the fee for a four month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (3) and (4) have been met. (1) The petition fee of $130 has been paid. (3) Applicants state the last known addresses of the non-signing inventors. Mr. Stephen Edward Hodges' address is 80 Mawson Road; Cambridge; Cambridgeshire; CB1 2EA; Great Britain. Mr. Peter Steggles' address is 70

Melvin Way; Histon; Cambridge; Cambridgeshire; CB4 9HZ; Great Britain. Mr. Rupert William Meldrum Curwen's address is Church Farm; High Street; Fowlmere; Royston; SG8 7ST; Great Britain. Mr. Joseph Francis Newman's address is 47 Padget Road; Trumpington; Cambridgeshire; CB2 2JF; Great Britain. (4) The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47.

Item (2) has been satisfied as to Mr. Steven Hodges. It has not been satisfied as to Steggles, Curwen or Newman. It is unclear whether the non-signing inventors have refused to sign or cannot be located after a diligent effort.

Steggles and Newman are being treated as alleged refusals to sign, while Curwen is being treated as an allegedly not able to be located. If the claim is refusal to sign, the petition must supply proof that applicant refused to sign after being presented with the application papers (specification, including claims, drawings, and oath or declaration). MPEP §409.03(d). Documentary evidence of the presentation with a full copy of the application papers and subsequent refusal must be furnished. It appears from the records that the inventors were not sent a copy of the application. The circumstances of the presentation of the application papers should be set forth in a statement of facts, signed by someone with first hand knowledge of the facts recited therein. MPEP 409.03(d). Mr. John Robinson does not claim to have personally prepared either the letters that were sent to the inventors, nor does he claim to have written the emails. As such, he lacks first hand knowledge. If applicants allege that the inventors cannot be located, documentary evidence of attempts to locate a current address for the inventors should be submitted, including *e.g.* internet searches.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration. As of 01 October 2004, the undersigned may be reached at 571-272-3292 and PCT Legal Administration's facsimile number will be 571-273-0459.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

01 MAY 2006

#7

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Samuel H. Dworetsky
AT&T Corporation
PO Box 4110
Middletown, NJ 07748-4110

In re Application of	:	
WARD, Andrew Martin Robert et al.	:	
Application No.: 10/468,690	:	DECISION ON
PCT No.: PCT/GB02/00718	:	
Int. Filing Date: 19 February 2002	:	PETITION UNDER
Priority Date: 21 February 2001	:	
Attorney Docket No.: 1999-0457	:	37 CFR 1.47(a)
For: LOCATION SYSTEM AND	:	
COMMUNICATION SYSTEM	:	

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. §1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 22 December 2004.

BACKGROUND

On 28 June 2004, applicants provided a declaration of the inventors executed by inventor Stephen Hodges.

On 23 September 2004, the Office mailed Decision on Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 22 December 2004, applicants submitted the instant renewed petition, accompanied by declarations executed by two of the three previously non-signing inventors.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (3) and (4) were previously satisfied.

Item (2) has been satisfied. On 28 June 2004, applicants supplied a declaration executed by Steven Hodges. Applicants have now supplied a declaration executed by inventors Newman

and Curwen. Applicants allege that inventor Steggles has refused to execute the declaration after presentation with a complete copy of the application papers. The emails and declarations adequately support the allegation.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **22 December 2004**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

01 MAY 2006

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Peter Steggles
70 Melvin Way
Histon, Cambridge
Cambridgeshire CB4 9HZ
Great Britain

In re Application of
WARD, Andrew Martin Robert et al.
Application No.: 10/468,690
PCT No.: PCT/GB02/00718
Int. Filing Date: 19 February 2002
Priority Date: 21 February 2001
Attorney Docket No.: 1999-0457
For: LOCATION SYSTEM AND COMMUNICATION SYSTEM

Dear Mr. Steggles:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Samuel H. Dworetsky
AT&T Corporation
PO Box 4110
Middletown, NJ 07748-4110

10 DEC 2003

#3

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Scott A McCollister
FAY, SHARPE, FAGAN, MINNICH & MCKEE
1100 Superior Avenue, Seventh Floor
Cleveland, Ohio 44114-2579

In re Application of: ELIASHEVICH, Ivan U.S. Application No.: 10/468,694 PCT No.: PCT/US02/00310 International Filing Date: 08 January 2002 Priority Date: 09 January 2001 Attorney's Docket No.: GLOZ 2 00177 For: ELECTRODE STRUCTURES FOR P-TYPE NITRIDE SEMICONDUCTORIES AND METHODS OF MAKING SAME	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 21 August 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS, MI 49501

COPY MAILED

JUL 17 2006

OFFICE OF PETITIONS

In re Application of
Bruce A. Haataja :
Application No. 10/468,698 :
Filed: August 21, 2003 : NOTICE
Attorney Docket Number: STR14P-308 :

This is a notice regarding your request to change your entity status to large.

In accordance with 37 CFR 1.28, said notice is hereby accepted. Office records have been corrected to indicate loss of small entity status in the above-identified application.

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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SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

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MAR 1 2 2007

OFFICE OF PETITIONS

In re Patent No. 7,028,572 :
Issue Date: April 18, 2006 :
Application No. 10/468,709 : NOTICE
Filed: August 21, 2003 :
Attorney Docket No. GRHK4348 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MAR 1 2 2007
OFFICE OF PETITIONS

In re Patent No. 7,028,572	:	
Issue Date: April 18, 2006	:	
Application No. 10/468,709	:	NOTICE
Filed: August 21, 2003	:	
Attorney Docket No. GRHK4348	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Marshall Gerstein & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6357

Mail Date: 04/21/2010

Applicant	: Paul Leslie Burn	: DECISION ON REQUEST FOR
Patent Number	: 7592074	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/468,716	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1226** 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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Marshall Gerstein & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6357

Mail Date: 05/18/2010

Applicant : Paul Leslie Burn
Patent Number : 7592074
Issue Date : 09/22/2009
Application No : 10/468,716
Filed : 02/13/2004

: 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 **1260** 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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08 OCT 2003

Erika Singleton Wilson
ExxonMobil Research and
Engineering Company
1545 Route 22 East
P.O. Box 900
Annandale, NJ 08801-0900

In re Application of CHESTER ET AL Application Serial No.: 10/468718 PCT No.: PCT/US00/01448 Int. Filing Date: 21 January 2000 Priority Date: 21 January 1999 Attorney Docket No.: F-10218(1999 For: CATALYTIC CRACKING PROCESS USING AN MCM-68 CATALYST	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)", filed 20 August 2003.

On 21 January 2000, applicants filed international application PCT/US00/01448 which claimed priority to an earlier application filed on 21 January 1999.

On 20 August 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required under 35 USC 371(c)(1), a transmittal letter, and a Change of Correspondence Address (Form PTO/SB/122).

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after applicant becomes aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (2) the petition fee required by law, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional and (4) a terminal disclaimer (for applications filed before 08 June 1995).

As to item (1), the petition is accompanied by the required reply in the form of a check for the basic national filing fee.

As to item (2), the petition is accompanied by the required petition fee.

As to item (3), the petition is accompanied by applicant's statement that "the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional."

As to item (4), a terminal disclaimer is not required in the present case.

CONCLUSION

The petition under 37 CFR 1.137(b) to revive the application abandonment under 35 USC 371(d) is **GRANTED** as to the national stage in the United States of America..

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a Notification of Missing Requirements Under 35 USC 371, for submission of an oath or declaration as required by 35 USC 371(c)(4), and the surcharge for filing the oath or declaration later than thirty months from the priority date as required by 37 CFR 1.492(e).

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Wanda G. Banks
Paralegal Specialist
PCT Legal Office
Tel: (703) 308-6513

WGB/LES:wgb

17 MAR 2004

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EXXONMOBIL RESEARCH AND ENGINEERING COMPANY
P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE, NJ 08801-0900

In re Application of CHESTER et al	:	
U.S. Application No.: 10/468,718	:	
PCT Application No.: PCT/US00/01448	:	
Int. Filing Date: 21 January 2000	:	DECISION
Priority Date Claimed: 21 January 1999	:	
Attorney Docket No.: F-10218 (P1999J089)	:	
For: CATALYTIC CRACKING PROCESS	:	
USING AN MCM-68 CATALYST	:	

This is in response to applicant's "Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor (37 CFR 1.47)" filed 05 March 2004.

BACKGROUND

On 06 November 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 05 March 2004, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors, each on his/her own behalf and on behalf of the nonsigning inventor Timothy Mason.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

Applicant has sufficiently demonstrated that inventor Mason cannot be located. Specifically, the affidavit of Shannon Maiocchi provides a firsthand account of several attempts to reach Mason by postal mail, electronic mail, telephone, and through Mason's associates. Thus, it can be concluded with reasonable certainty that Mason cannot be found.

With regard to item (3) above, the requisite petition fee will be charged to Deposit Account No. 05-1330 as authorized in the Transmittal Letter filed 20 August 2003.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 21 January 2000, and a date under 35 U.S.C. 371(c) of 05 March 2004.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

17 MAR 2004

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Timothy Mason
53 Adams Street
Swedesboro, NJ 08085

In re Application of CHESTER et al
U.S. Application No.: 10/468,718
PCT Application No.: PCT/US00/01448
Int. Filing Date: 21 January 2000
Priority Date Claimed: 21 January 1999
For: CATALYTIC CRACKING PROCESS
USING AN MCM-68 CATALYST

Dear Timothy Mason:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Bryan Tung
PCT Legal Examiner
PCT Legal Office
Telephone: 703-308-6614
Facsimile: 703-308-6459

EXXONMOBIL RESEARCH AND ENGINEERING COMPANY
P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE, NJ 08801-0900

Attorney Docket No.: F-10218 (P1999J089)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/17/08

TO SPE OF : ART UNIT ~~1717~~ 1796 Zimmer, Marc

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/468719 Patent No.: 7125952

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**. Claim 37, line 30

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

H. Riley
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: the change does not modify the scope in any fashion but instead serves to remove mention of a variable definition because that variable did not exist in the corresponding formula

SPE

1796
Art Unit

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Robert E Krebs
Thelen Reid & Priest
PO Box 640640
San Jose CA 95164-0640

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MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Ivan Miramontes :
Application No. 10/468,721 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket Number: 034300-000482

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of April 14, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 15, 2005. A Notice of Abandonment was mailed on December 16, 2005.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

18 DEC 2003

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#3

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STEINBERG & RASKIN
1140 Avenue Of The Americas
15th Floor
New York, New York 10036-5803

In re Application of	:	
SHIPOV, et al.	:	
U.S. Application No.: 10/468,724	:	COMMUNICATION
PCT No.: PCT/RU02/00061	:	REGARDING SUBMISSION
International Filing Date: 20 February 2002	:	UNDER 37 CFR 1.42
Priority Date: 21 February 2001	:	
Attorney's Docket No.: 9056.1001	:	
For: ANTICANCER AGENT	:	

This communication is issued in response to applicants' submission on 21 August 2003 of a declaration executed on behalf of the deceased inventor, which has been treated as a submission under 37 CFR 1.42.

BACKGROUND

On 20 February 2002, applicants filed international application PCT/RU02/00061 which claimed a priority date of 21 February 2001 and which designated the United States. On 29 March 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

Based on the priority date, the deadline for payment of the basic national fee was 21 August 2003 (thirty months from the priority date).

On 21 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and a declaration executed by the four surviving applicant/inventors and on behalf of the deceased inventor Valery Afanasievich Trofimov by his "heiress" Nadezhda Vasilievna Trofimova.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

37 CFR 1.497(b)(2) requires that citizenship, mailing address, and residence information be provided for **both** the deceased inventor and the legal representative. The regulation expressly requires the inclusion of this information for the legal representative. As for the deceased inventor, such information is required because the legal representative must declare to all the facts which the inventor would have been required to state, and citizenship, residence and mailing address are among the facts which the inventor would have been required to set forth pursuant to 37 CFR 1.497(a) and 37 CFR 1.63.

Here, as noted above, the declaration submitted on 21 August 2003 was executed by Nadezhda Vasilievna Trofimova as "heiress" of the deceased inventor Valery Afanasievich Trofimov. However, the declaration does not state that Nadezhda Vasilievna Trofimova is the sole heir of the deceased inventor, nor has applicant submitted supplemental materials showing that the listed heir is the sole heir of the deceased inventor. Accordingly, at this time the declaration cannot be accepted as having been signed by all the heirs to the deceased inventor.

In addition, the declaration does not comply with revised 37 CFR 1.497(b)(2), discussed above, in that it does not include citizenship, mailing address, and residence information for the deceased inventor (such information is provided for the heir, as also required).

Because it is not apparent whether the declaration filed on 21 August 2003 has been executed by all the heirs of the deceased inventor, and it does not provide all the information required by 37 CFR 1.497(b)(2), the declaration cannot be accepted under 37 CFR 1.42.

CONCLUSION

The 21 August 2003 submission under 37 CFR 1.42 is **REFUSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment.

A proper response must include an acceptable declaration properly executed under 37 CFR 1.42, that is, a declaration which on its face or through supplemental materials indicates that the executing person(s) are all the heirs of the deceased inventor. In addition, the declaration must otherwise comply with 37 CFR 1.497 and include all required information, including the citizenship, post office address, and residence information for the deceased inventor and the heirs, as discussed above.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

23 FEB 2004

#5

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STEINBERG & RASKIN
1140 Avenue Of The Americas
15th Floor
New York, New York 10036-5803

In re Application of	:	
SHIPOV, et al.	:	
U.S. Application No.: 10/468,724	:	COMMUNICATION
PCT No.: PCT/RU02/00061	:	REGARDING SECOND
International Filing Date: 20 February 2002	:	SUBMISSION UNDER
Priority Date: 21 February 2001	:	37 CFR 1.42
Attorney's Docket No.: 9056.1001	:	
For: ANTICANCER AGENT	:	

In a communication mailed on 18 December 2003, this Office rejected the declaration filed by applicant on 21 August 2003 for failure to satisfy 37 CFR 1.42 and 1.497. Specifically, it was not clear whether the declaration filed on 21 August 2003 had been executed by all the heirs of the deceased inventor, and the declaration did not provide all the information required by 37 CFR 1.497(b)(2).

On 17 February 2004, applicants filed a response to the decision which included a revised declaration. This declaration includes the information required under 37 CFR 1.497, and it expressly states that the person signing on behalf of the deceased inventor is the "Sole Heir" of the deceased inventor.

The submission of the declaration executed by heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect, applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

Based on the above, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**. The revised declaration filed on 17 February 2004 is accepted as complying with 37 CFR 1.497.

Deposit Account No. 50-0518 will be charged $65 as the small entity surcharge for filing the declaration later than thirty months after the priority date.

The application will be forwarded to the United States Designated/Elected Office (US/DO/EO) for further processing. The application's date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 17 February 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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MAY 01 2007

OFFICE OF PETITIONS

WOLF BLOCK SCHORR AND SOLIS-COHEN LLP
250 PARK AVENUE
NEW YORK, NY 10177

In re Application of :
Valery Pavlovich Shipov, et al. :
Application No. 10/468,724 : ON PETITION
Filed: February 17, 2004 :
Attorney Docket No. 9056.1001 :

This is a decision in response to the petition, filed November 30, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed January 31, 2006. A Notice of Abandonment was mailed on August 21, 2006. In response, on November 30, 2006, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 1616 for consideration of the amendment filed November 30, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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DeWitt Ross & Stevens
Intellectual Property Department
Firstar Financial Centre
8000 Excelsior Drive Suite 401
Madison WI 53717-1914

MAIL

SEP 3 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Edward N. Fisher :
Application No. 10/468,751 :
Filed: August 22, 2003 :
For: HANDWRITTEN CHARACTER RECORDING :
AND RECOGNITION DEVICE :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed March 4, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination. This decision is also responsive to the supplemental statement filed July 20, 2004.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

21 SEP 2004
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ALEXANDRIA, VA 22313-1450
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Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of	:	
Bittman et al.	:	
Application No.: 10/468,766	:	DECISION
PCT No.: PCT/US02/04972	:	
Int. Filing Date: 21 February 2002	:	UNDER
Priority Date: 21 February 2001	:	
Attorney Docket No.: 033388-571	:	37 CFR 1.497(d)
For: Enantiometers Of Unsaturated Alkyllysophosphonocholines And Use As Anti-Neoplastics	:	

This is a decision on applicants' "Petition To Correct Inventorship Under 37 C.F.R. § 1.497(d)" filed on 07 July 2004.

BACKGROUND

This international application was filed on 21 February 2002 and claimed a priority date of 21 February 2001, and designated the U.S. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 21 August 2003. On 21 August 2003, applicants filed *inter alia* the basic national fee.

On 09 December 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

DISCUSSION

The declaration of the inventors filed on 07 July 2004 lists an inventor (Hoe-Sup Byun) whose name does not appear in the published international application, and the published international application lists an inventor (Richard Frank) whose name does not appear in the declaration of the inventors filed on 07 July 2004. Counsel requests correction of the inventorship of the application under 37 CFR 1.497(d).

A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.). The papers satisfy requirements (1), (2) and (3).

Regarding requirement (1), applicants have provided a statement signed by the inventor (Hoe-Sup Byun) sought to be added as an inventor attesting that the error in inventorship occurred without deceptive intent, and another statement signed by "Richard Franck" stating that "he should not have

been included as an inventor in the above-identified application" and that the error arose without deceptive intent. It is not clear whether "Richard Franck" is the same person listed as an inventor in the published international application, namely Richard Frank. However, the instant submission includes a copy of a Notification of the Recording of a Change (Form PCT/IB/306) reflecting the removal of Richard Frank as an inventor of the international application. Therefore, the request under 37 CFR 1.497(d) is moot with regard to Mr. Frank. Requirement (1) has been satisfied with regard to Hoe-Sup Byun.

Regarding requirement (2), the instant submission was accompanied by the required processing fee.

Regarding requirement (3), the instant submission states that "this application has not been assigned and, thus, Applicants believe that the consent of the Assignee requirement under 37 C.F.R. § 1.49(d)(3) (sic) does not apply to this case." Based on this assertion by counsel, requirement (3) is considered to have been satisfied.

CONCLUSION

The declaration filed on 07 July 2004 is **ACCEPTED** under 37 CFR 1.497 (d).

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **07 July 2004**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

30 JUN 2004

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McKenna Long & Aldridge LLP
1900 K Street, N.W.
Washington, DC 20006

In re Application of RYU	:	
U.S. Application No.: 10/468,778	:	
PCT Application No.: PCT/KR02/02459	:	
Int. Filing Date: 27 December 2002	:	DECISION
Priority Date Claimed: 28 December 2001	:	
Attorney Docket No.: 9988.045.00-US	:	
For: REAR COVER ASSEMBLY FOR	:	
WASHING MACHINE AND DRYER AND	:	
WASHING SYSTEM USING THE SAME	:	

This is in response to applicant's "Petition and Submission of Declaration" filed 21 August 2003, which is being treated under 37 CFR 1.47(b).

BACKGROUND

On 27 December 2002, applicant filed international application PCT/KR02/02459, which claimed priority of an earlier Korea application filed 28 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 10 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 28 June 2004.

On 21 August 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the

application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite fee will be charged to Deposit Account No.50-0911 as authorized in the petition.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that the sole inventor Chang Won Ryu cannot be located. However, petitioner has not adequately established that a diligent effort was made to locate Ryu. The affidavit of Jung Won Yoon states that Mr. Yoon made a personal visit to Ryu's last known address and called Ryu's last known telephone number without success. However, Mr. Yoon's affidavit does not provide details of any additional attempts to reach Ryu such as (1) mailing correspondence to Ryu's last known address, (2) searching telephone and Internet directories for a forwarding address, current telephone number, or email address, or (3) contacting Ryu through his former employer, co-workers, or family/friends. Therefore, it would be unreasonable to conclude at the present time that Ryu cannot be found.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventors has not been provided. Applicant is advised that when an assignee files an application under 37 CFR 1.47(b), ownership of the application must be established. Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f). In the present case, petitioner has not made the requisite showing.

With regard to item (6) above, petitioner has not made any showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

CONCLUSION

Because the petition fails to satisfy items (2), (4), (5), and (6) above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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Alexandria, VA 22313-1450
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DRW Oct-08

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of	:	
Hovell et al.	:	DECISION ON PETITION TO
Application Number: 10/468780	:	WITHDRAW HOLDING OF
Filing Date: 08/21/2003	:	ABANDONMENT
Attorney Docket Number: 36-1722	:	

This is a decision on the "PETITION UNDER RULES 181-183 AND/OR FOR REVIVAL UNDER 37 C.F.R. § 1.137(b)," filed on August 22, 2008, which is treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the non-final Office action mailed on October 4, 2007, which set a three (3) month period for reply.[1] Notice of Abandonment was mailed on August 19, 2008.

Petitioner asserts that a response to the non-final Office action mailed on October 4, 2007 was timely filed on January 4, 2008. In support, petitioners have supplied a copy of an amendment asserted to have been filed in response to the Office action mailed on October 4, 2007. Petitioner notes that the amendment filed on October 4, 2007, miscaptioned the application number as "10/468,78**9**".

Under current Office procedure, a response that has an incorrect serial number is handled in accordance with M.P.E.P. § 508.03. If a paper having an incorrect serial number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers which were submitted, it is

[1] The Office action mailed on January 9, 2007, was remailed on August 13, 2007, and on October 4, 2007.

concluded that there was sufficient information thereon to associate the papers with the present application file.

The papers filed on January 4, 2008, have been located in the Office. A copy of the papers has been placed in the file of the subject application.

As petitioner has provided convincing evidence that a reply to the non-final Office action mailed on October 4, 2007 was timely filed, there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

No fee is due and none has been charged.

The application is being referred to Technology Center Art Unit 2154 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas Belling	:	
Application No. 10/468,783	:	DECISION ON PETITION
Filed: August 21, 2003	:	TO WITHDRAW
Attorney Docket No. 449122061900	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on September 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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APR 2 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Kasai et al.	:	
Application No. 10/468,796	:	ON APPLICATION FOR
Filed: August 22, 2003	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
024918-0106	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed on November 21, 2008. Applicant requests that the determination of patent term adjustment be increased by the number of days in excess of three (3) years after the date the application was filed. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met.

Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

Applicant states that the application is not subject to a terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Patent No. 7,541,037	: DECISION ON REQUEST
Kasai et al.	: FOR
Issue Date: 06/02/2009	: RECONSIDERATION OF
Application No. 10/468,796	: PATENT TERM ADJUSTMENT
Filed: 08/22/2003	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
024918-0106	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 29, 2009, which is being treated as a request for reconsideration under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred fifty-four (754) days. As clarified below, the petition will be treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred forty-eight (748) 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 seven hundred forty-eight (748) days is **GRANTED to the extent indicated herein**.

The "B" delay period is 372 days, not 378 days. This application was filed pursuant to 35 U.S.C. 371(b), and the national stage commenced on August 27, 2003, not on August 22, 2003 as indicated by patentees. Further, the period from the date the Request for Continued Examination was filed to the issue date of the patent is not included in the "B" delay period. See 35 U.S.C. 154(b)(1)(B)(i). Thus, "B" delay is 372 days, counting the number of days beginning on August 28, 2006, the day after the date three years after the national stage commenced, and ending on September 3, 2007, the day before the date the Request for Continued Examination was filed. See 1.703(b). Considering the overlap of 21 days, the non-overlapping period of adjustment is 351 (372 – 21) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,**

whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred forty-eight (748)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,541,037 B2

DATED : **Jun. 2, 2009** **DRAFT**

INVENTOR(S) : Kasai et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 397 days.

Delete the phrase "by 397 days" and insert – by 748 days--

12 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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James A. Oliff
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of KATO, et al. Application No.: 10/468,817 PCT No.: PCT/JP02/01626 Int. Filing Date: 22 February 2002 Priority Date: 23 February 2001 Attorney Docket No.: 116893 For: PHOTOMULTIPLIER	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Request For Correction of Notice of Acceptance" filed 05 May 2006, requesting that the United States Patent and Trademark Office (USPTO) correct the receipt date for the above captioned application to 28 August 2003. The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 22 February 2002, applicant filed international application PCT/JP02/01626, which claimed a priority date of 23 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 August 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 August 2003.

On 25 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, an Information Disclosure Statement, a preliminary amendment and an English translation of the international application.

On 28 February 2005, applicant filed and executed combined declaration and power of attorney.

On 16 February 2006, applicant was mailed a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) indicating an date of receipt of the power of attorney as 29 December 2003.

On 05 May 2006, applicant filed the petition considered herein.

DISCUSSION

Applicant has provided a legible copy of the PTO receipt for filing papers which shows a USPTO date stamp, "OIPE JC141 Patent & Trademark Office AUG 28 2003" and clearly identifies in part: "DEC" as well as listing the applicant and attorney docket number. The evidence is sufficient to establish that combined declaration and power of attorney was received in the USPTO on 28 August 2003. As such, it is proper to **GRANT** applicant's petition at this time.

The application will be given an international filing date of 22 February 2002 under 35 U.S.C. 363 and a date of **28 August 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) mailed 16 February 2006 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) indicating that the power of attorney was filed on 28 August 2003.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

06 MAY 2004

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GREGORY J. GORE
70 WEST OAKLAND AVENUE, SUITE 316
DOYLESTOWN, PA 18901

In re Application of FRANCO et al. Application no.: 10/468,853 PCT No.: PCT/US02/11378 Int. Filing Date: 12 April 2002 Priority Date: 20 April 2001 Attorney Docket No.: 86 For: HYBRID PANEL FASTENER WITH SNAP ON CAP	DECISION ON REQUEST FOR OF REFUND

This is a decision on applicant's "REQUEST FOR REFUND PURSUANT TO 37 CFR 1.26, filed in the United States Patent and Trademark Office (USPTO) on 04 February 2004, requesting refund.

On 25 August 2003, applicant filed a transmittal letter to enter national stage along with the basic national fee indicating the amount of fee $720.

On 04 February 2004, applicant filed a request for refund of an $180 overcharge in the $900 basic national fee paid for filing with an European Patent Office (EPO) or Japanese Patent Office (JPO) search report, when, in fact, this application was filed with a USPTO search report where the basic national fee is $720.

A review of the application file reveals that the USPTO did prepare the search report. A review of the finance records for this application reveals that applicant was charged $900 for the basic national fee, the fee for filing with a EPO or JPO search report. The appropriate basic national fee in the above referenced application for filing with a USPTO search report is $720.

For the reasons above, applicants' request for refund of $180, filed 04 February 2004, is **GRANTED**. Applicant's deposit account No.07-1733 will be refunded in the amount of $180 so that the full basic national fee of $720 (fee code 1690) will be paid. The refund of the $25 service charge will also be refunded.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467

70 West Oakland Avenue, Suite 316
Doylestown, PA 18901
USA
Tele: 01-215-348-1442
Fax: 01-215-348-7643

GREGORY J. GORE
ATTORNEY AT LAW

Fax

TO: USPTO – PCT Legal Division

FAX NO.: (703) 308-6459

FROM: Gregory J. Gore, Esq.

DATE: February 4, 2004

SUBJECT: **U.S. Patent Application Serial No. 10/468,853**

COMMENTS:

RECEIVED
04 FEB 2004
Legal Staff
International Division

Number of pages (Including cover sheet): 3

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS:	James S. Franco William P. McDonough	ART UNIT:	3679
SERIAL NO.:	10/468,853	FILED:	08/25/2003
FOR:	HYBRID PANEL FASTENER WITH SNAP-ON CAP		

Gregory J. Gore
Attorney at Law
70 West Oakland Avenue, Suite 316
Doylestown, PA 18901

REQUEST FOR REFUND PURSUANT TO 37 C.F.R. § 1.26

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop PCT
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Dear Sir:

Applicant respectfully requests that pursuant to Rule 1.26 it be refunded $205.00 which was charged to Deposit Account 071733 in the above-captioned case.

The Deposit Account was charged $180 under Fee Code 1613 for filing with an EPO or JPO search report, however the applicant filed with a search report carried out by the USPTO. In addition, this charge brought the Deposit Account balance below the minimum, therefore applicant was charged an additional $25.00 service charge for not maintaining the minimum balance.

Thus, it is respectfully requested that the $205.00 in fees charged to the Deposit Account in this case be refunded in due course, either by check for $205.00 payable to applicant's undersigned attorney, or by credit to its attorney's Deposit Account No. 071733.

Respectfully submitted,

Gregory J. Gore
Registration No. 30,057
Attorney for Applicants
70 West Oakland Avenue, Suite 316
Doylestown, PA 18901
Telephone No. (215) 348-1442
Facsimile No. (215) 348-7643

DATE: 2/5/04

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 308-6459, on February 4, 2004.

GREGORY J. GORE, ESQ.

Depositor's Name: Melanie Ryan

Signature: Melanie Ryan

Date: 2·4·04

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	6023
RECIPIENT ADDRESS	215 348 7643
DESTINATION ID	
ST. TIME	02/04 10:19
TIME USE	01'21
PGS.	3
RESULT	OK

30 JUL 2004

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GREGORY J. GORE
70 WEST OAKLAND AVENUE, SUITE 316
DOYLESTOWN, PA 18901

In re Application of FRANCO et al. Application no.: 10/468,853 PCT No.: PCT/US02/11378 Int. Filing Date: 12 April 2002 Priority Date: 20 April 2001 Attorney Docket No.: 86 For: HYBRID PANEL FASTENER WITH SNAP ON CAP	DECISION ON REQUEST FOR OF REFUND

This is a decision on applicant's "REQUEST FOR REFUND PURSUANT TO 37 CFR 1.26", filed in the United States Patent and Trademark Office (USPTO) on 09 October 2003 and refaxed 22 June 2004, requesting refund of $620 of the $720 total paid in basic national fees.

On 25 August 2003, prior to the expiration of the thirty month period (or 20 October 2003), applicant filed a transmittal letter to enter national stage along with the basic national fee of $720. The transmittal letter indicated that "this is an express request to begin national examination procedures (35 U.S.C. 371(f))". Applicant also submitted a copy of the international application and an executed declaration, fulfilling the requirements under 35 U.S.C. 371(c).

Thereafter, on 02 October 2003, prior to the expiration of the thirty month deadline for entry into the national stage in the United States, a favorable International Preliminary Examination Report (IPER) was mailed.

On 09 October 2003, applicant filed a request for refund of $620 overcharge in the $720 basic national fee paid for filing with an International Preliminary Examination Report prepared by the United States International Preliminary Examination Authority, which satisfied the provisions of PCT Article 33(1)-(4).

On 09 January 2004, a Notification of Acceptance was mailed indicating that applicant had fulfilled the requirements under 35 U.S.C. 371(c) on 25 August 2003.

DISCUSSION

A review of the USPTO record indicates that on 25 August 2003, applicant expressly requested commencement of national examination procedures, providing the appropriate basic national filing fee of $720 (fee for filing with a USPTO Search Report) and fulfilled all the requirements under 35 U.S.C. 371(c).

Thereafter, on 02 October 2003, the United States International Preliminary Examination

Authority (IPEA/US) established a favorable IPER, after the completion of the requirements under 35 U.S.C. 371 for this application, but prior to the deadline for entering national stage on 20 October 2003. Thus, applicant completed the requirements for national stage entry pursuant to 35 U.S.C. 371(c) and 37 CFR 1.491(b) on 25 August 2003, prior to issuance of a favorable IPER on 02 October 2003 and prior to the expiration of the thirty month period on 20 October 2003.

The basic national fee is calculated at the time of filing of the request to enter national stage; in this application, on 25 August 2003. Since the IPER had not yet been established, and applicant expressly requested commencement of national examination procedures and fulfilled all the requirements under 35 U.S.C. 371(c) on 25 August 2003, the appropriate filing fee at that time was $720. Thus, the request for consideration of the reduced payment of the basic national fee under 37 CFR 1.492(a)(4) and for refund of any excess fee paid is dismissed.

DECISION

As construed above, the request for refund is **DISMISSED without prejudice**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467

06 MAY 2004

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GREGORY J. GORE
70 WEST OAKLAND AVENUE, SUITE 316
DOYLESTOWN, PA 18901

In re Application of FRANCO et al. Application no.: 10/468,853 PCT No.: PCT/US02/11378 Int. Filing Date: 12 April 2002 Priority Date: 20 April 2001 Attorney Docket No.: 86 For: HYBRID PANEL FASTENER WITH SNAP ON CAP	DECISION ON REQUEST FOR OF REFUND

This is a decision on applicant's "REQUEST FOR REFUND PURSUANT TO 37 CFR 1.26, filed in the United States Patent and Trademark Office (USPTO) on 04 February 2004, requesting refund.

On 25 August 2003, applicant filed a transmittal letter to enter national stage along with the basic national fee indicating the amount of fee $720.

On 04 February 2004, applicant filed a request for refund of an $180 overcharge in the $900 basic national fee paid for filing with an European Patent Office (EPO) or Japanese Patent Office (JPO) search report, when, in fact, this application was filed with a USPTO search report where the basic national fee is $720.

A review of the application file reveals that the USPTO did prepare the search report. A review of the finance records for this application reveals that applicant was charged $900 for the basic national fee, the fee for filing with a EPO or JPO search report. The appropriate basic national fee in the above referenced application for filing with a USPTO search report is $720.

For the reasons above, applicants' request for refund of $180, filed 04 February 2004, is GRANTED. Applicant's deposit account No.07-1733 will be refunded in the amount of $180 so that the full basic national fee of $720 (fee code 1690) will be paid. The refund of the $25 service charge will also be refunded.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467

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James P Zeller
Marshall Gerstein & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago IL 60606-6357

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APR 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,537,842	:	
Issue Date: May 26, 2009	:	
Application No. 10/468,863	:	ON PETITION
Filed: January 5, 2004	:	
Attorney Docket No. 30698/CDT424	:	

This is a decision on the petition filed February 3, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-2991. 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.

Terri Johnson
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

22 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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Benoit Castel
Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of	:	
TZE et al.	:	DECISION ON
Application No.: 10/468,892	:	PAPERS UNDER 37 CFR 1.42
PCT No.: PCT/EP02/02351	:	
Int. Filing Date: 26 February 2002	:	
Priority Date: 26 February 2001	:	
Attorney Docket No.: 2001-1282	:	
For: COMPOSITION COMPRISING MATRINE AND DICTAMNINE FOR TREATING OR PREVENTING CANCER	:	

. . .

This decision is in response to the declaration filed 27 February 2004 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 26 February 2002, applicants filed international application PCT/EP02/02351, which claimed a priority date of 26 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 19 September 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 26 August 2003.

On 26 August 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of an international application; and a preliminary amendment.

On 29 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e).

On 27 February 2003, applicants filed a declaration and power of attorney executed by: Peizhong Lin; Stephan Lam; Joseph Tai; Friso Hobbe Smit; Adrianus Lambertus Bertholdus Van Helvoort; ad Robert Johan Joseph Hageman as inventors and Theresa Chiang Tze on behalf of deceased inventor, John Wah Tze.

DISCUSSION

A. Request under 37 CFR 1.42

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration submitted on 27 February 2004 was executed by Theresa Chiang Tze as "legal representative" of the deceased inventor, John Wah Tze. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

B. Name Change

Petitioner states that the correct name of the fifth-named inventor is Friso Hobbe Smit. As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, petitioner's explanation of the difference in the spelling of the fifth- named inventor's name is accepted and noted for the record.

CONCLUSION

The papers filed under 37 CFR 1.42 are ACCEPTED.

The application has an international filing date of 26 February 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **27 February 2004**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

31 MAR 2004
UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & THOMPSON
745 South 23rd Street
Arlington, VA 22202

In re Application of: TZE, John, Wah, et al.	:	
U.S. Application No.: 10/468,894	:	
PCT No.: PCT/EP02/02350	:	DECISION ON PAPERS
International Filing Date: 26 February 2002	:	SUBMITTED UNDER
Priority Date: 26 February 2001	:	37 CFR 1.42
Attorney's Docket No.: 2001-1283	:	
For: A PROCESS FOR THE MANUFACTURE OF A	:	
HERBAL COMPOSITION	:	

This decision is issued in response to the 06 February 2004 submission of a declaration executed on behalf of deceased inventor John Wah TZE by legal representative Theresa Chiang TZE, treated herein as a submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 26 August 2003, applicants filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. The Transmittal Letter was accompanied by, among other materials, payment of the basic national fee.

On 08 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements requiring submission of a declaration in compliance with 37 CFR 1.497.

On 06 February 2004, applicants filed the response considered herein, which included a declaration executed by the surviving inventors and a declaration executed on behalf of deceased inventor John Wah TZE

DISCUSSION

Pursuant to 37 CFR § 1.42, first sentence:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath

> or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

The declaration submitted on 06 February 2004 identifies the deceased inventor and states the inventor's country of citizenship and residence, as required for compliance with 37 CFR 1.497(a)(3). The declaration is signed by the "legal representative" of the deceased inventor, states the relationship to the deceased (i.e., legal representative), and provides the legal representatives country of citizenship and residency. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2).

Based on the above, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**. The declaration filed on 06 February 2004 is accepted as complying with 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office (US/DO/EO) for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 06 February 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

15 SEP 2004

UNITED STATES PATENT and TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Young & Thompson
Second Floor
745 South 23rd Street
Arlington, VA 22202

In re Application of	:	
TZE (deceased) et al	:	
Application No.: 10/468,896	:	
PCT No.: PCT/CA02/00222	:	
Int. Filing Date: 26 February 2002	:	DECISION
Priority Date: 26 February 2001	:	
Atty. Docket No.: 2001-1285	:	
For: THERAPEUTIC METHODS	:	
USING HERBAL COMPOSITIONS	:	

This is a decision on applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS" filed in the Patent and Trademark Office (PTO) on 27 February 2004, which has been treated as a request that the application be accepted under 37 CFR 1.42 as filed on behalf of a deceased joint inventor, John Wah Jun Tze. The request was accompanied by, *inter alia,* declarations executed by the remaining inventors and the legal representative of the deceased inventor. The request is **GRANTED** as discussed below.

A review of application file, and specifically the declarations, reveals that the signature of Theresa Chiang Tze on the declaration filed 27 February 2004, is being offered as that of the legal representative of the deceased joint inventor. Therefore, the application papers have been found to be in compliance with 37 CFR 1.42 and 1.497.

In that the declaration of the inventors is acceptable under 37 CFR 1.42 and 1.497, the application satisfies the requirements for entry into the national stage in the U.S. under 35 U.S.C. 371. The papers filed under 37 CFR 1.42 are **ACCEPTED**.

The application has an international filing date of **26 February 2002**, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (2), and (4) date of **27 February 2004**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing in accordance with this decision.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(703)305-6639
(571) 272-3281 (after 9/30/04)
RRC:rrc

25 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Laura A. Coruzzi
Jones Day
222 East 41st Street
New York, NY 10017-6702

In re Application of	:	
MORRE, et al.	:	
Application No.: 10/468,911	:	DECISION ON PETITION
Filing Date: 22 August 2002	:	
Atty. Docket No.: 8951-132-999	:	UNDER 37 CFR 1.10(c)
For: COMPOSITIONS BASED ON PROANTHO-	:	
CYANADINCATECHIN SYNERGIES FOR	:	
PREVENTION AND TREATMENT OF CANCER	:	

This decision is in response to applicant's "Request to Correct Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 or, in The Alternative, Petition Under 37 C.F.R. § 1.10(d)" filed on 19 April 2004 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.10(c).

BACKGROUND

On 22 February 2002, applicant filed international application PCT/US02/05294 which claimed priority to an earlier application filed 22 February 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 August 2003.

On 22 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1). The USPTO assigned a date of receipt of 25 August 2003.

On 11 February 2004, applicant filed an executed declaration of the inventors.

On 15 March 2004, applicant was mailed a "Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) indicating a 371 date of 11 February 2004. The form also indicated a priority date of 27 February 2001 and a receipt date of the U.S. Basic National Fee of 25 August 2001.

On 19 April 2004, applicant filed the present request for a corrected "Notice of Acceptance."

DISCUSSION

37 CFR 1.10(c) states: Any person filing correspondence under this section that was

received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm database shows a date of acceptance of 22 August 2003. Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 15 March 2004 is hereby **VACATED**

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating the correct priority date as 22 February 2001 and a receipt date for the copy of the International Application, International Search Report, IPE Report, U.S. Basic National Fee and Priority Documents as 22 August 2003.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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P.O. Box 1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

JUN 05 2009

OFFICE OF PETITIONS

In re Application of :
Ibrahim :
Application No. 10/468,915 :
Filed: August 25, 2003 :
Attorney Docket No. 2590-75 :
For: DEVICE FOR PACKAGING AN OXALIPLATIN SOLUTION

ON PETITION

This is a decision on the petition entitled, "PETITION TO REVIVE ERRONEOUSLY ABANDONED APPLICATION," filed February 11, 2009. As the petition was not accompanied by a petition fee, the petition will be treated as a feeless petition under 37 CFR 1.181, to withdraw the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned as a result of applicant's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 4, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 5, 2008. *See* MPEP 1215.04. A Notice of

A final Office action was mailed on October 4, 2007 and set a three (3) month statutory period for reply. A petition for a three month extension of time and required fee and an amendment after final were filed on April 1, 2008. On April 4, 2008, applicant filed a Notice of Appeal. No follow-up submission was filed within two months of the filing of the Notice of Appeal.

Petitioner requests withdrawal of the holding of abandonment because petitioner argues the examiner withdrew the finality of the October 4, 2007 Office action during telephone conversations with petitioner during unspecified dates in 2008 and because the Office action summary states that the Office action is a non-final. Therefore, petitioner contends the April 1,

2008 amendment and the April 4, 2008 Notice of Appeal should be a sufficient response to avoid abandonment.

The first page of the October 4, 2007 Office Action Summary states that the Office action is mailed in response to a communication filed July 9, 2007 and the action is non-final. However, page 6 of the Detailed Action, ***Conclusion***, states, in pertinent part, " **THIS ACTION IS MADE FINAL....**"

The examiner of record allegedly withdrew the finality of the October 4, 2007 Office action during telephone conversations that took place on unspecified dates in 2008. However, there is no evidence of the conversations in the record.

Petitioner is reminded that official communication with the Office must be carried out in writing. 37 CFR 1.2. Oral advice from Office employees is not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985). An Office employee's alleged statements made during telephone conversations cannot nullify the finality of the October 4, 2007 Office action.

After a final action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE. To be a proper reply, an amendment after final must eliminate all of the examiner's rejections, and thus place the case in *prima facie* condition for allowance.

The examiner of record has indicated that the amendment after final, filed April 1, 2008, does not place this application in *prima facie* condition for allowance. The examiner of record will mail an Advisory action shortly.

The Notice of Appeal, filed April 4, 2008, was timely filed. However, applicant did not file a follow-up submission within an extendable two month period of the filing of the Notice of Appeal. Therefore, contrary to what the February 4, 2009 Notice of Abandonment states, the application became abandoned for failure to timely file an Appeal brief or other appropriate follow-up submission.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is DISMISSED. No petition fee has been or will be charged in connection with this petition.

Petitioner is encouraged to file a petition to revive under the unintentional delay standard of 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
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries 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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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of :
Ibrahim :
Application No. 10/468,915 : ON PETITION
Filed: August 25, 2003 :
Attorney Docket No. 2590-75 :
For: DEVICE FOR PACKAGING AN OXALIPLATIN SOLUTION

This is a decision on the reconsideration petition under 37 CFR 1.181, to withdraw the holding of abandonment in the above-identified application. The petition was filed on August 3, 2009.

The reconsideration petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned as a result of applicant's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 4, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 5, 2008. *See* MPEP 1215.04.

A final Office action was mailed on October 4, 2007 and set a three (3) month statutory period for reply. A petition for a three month extension of time and required fee and an amendment after final were filed on April 1, 2008. On April 4, 2008, applicant filed a Notice of Appeal. No follow-up submission was filed within two months of the filing of the Notice of Appeal.

Petitioner requests withdrawal of the holding of abandonment because the Office action summary states that the Office action is a non-final and the USPTO Pair system lists the Office action as a non-final. Petitioners states that a Notice of Appeal was filed in case the Office action was somehow treated as a final Office action. However, when the USPTO Pair system listed the Office action as a non-final, petitioner had no reason to file an Appeal Brief. Petitioner believed the examiner would either allow the case or issue another Office action in reply to the

amendment filed on April 1, 2008. Therefore, petitioner contends the filing of an Appeal Brief was unnecessary because the Office action was a non-final.

The Office's position is that the Office action in question is a final. The first page of the October 4, 2007 Office Action Summary states that the Office action is mailed in response to a communication filed July 9, 2007 and the action is non-final. However, page 6 of the Detailed Action, ***Conclusion***, states, in pertinent part, " **THIS ACTION IS MADE FINAL**...."

After a final action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE. To be a proper reply, an amendment after final must eliminate all of the examiner's rejections, and thus place the case in *prima facie* condition for allowance.

The examiner of record has indicated that the amendment after final, filed April 1, 2008, does not place this application in *prima facie* condition for allowance.

The Notice of Appeal, filed April 4, 2008, was timely filed. However, applicant did not file a follow-up submission within an extendable two month period of the filing of the Notice of Appeal. Therefore, the application became abandoned for failure to timely file an Appeal brief or other appropriate follow-up submission. The fact that the February 4, 2009 Notice of Abandonment lists the incorrect reason for the abandonment is unfortunate, but it does not change the fact that the application went abandoned by operation of law for applicant's failure to file a follow-up submission within the extendable two month period of the filing of the Notice of Appeal.

Petitioner argues that the Office action in question was a non-final. Even if this argument were persuasive, the application would still be abandoned.

5 U.S.C. 134. Appeal to the Board of Patent Appeals and Interferences provides:.

(a) PATENT APPLICANT. — An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

Several of the claims in this application have been twice rejected. A notice of appeal may be filed after any of the claims has been twice rejected, regardless of whether the claims have been finally rejected MPEP 1204. Therefore, the filing of the Notice of Appeal on April 4, 2008 was permissible. It was petitioner's responsibility to file an appropriate follow-up submission.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is DISMISSED. No petition fee has been or will be charged in connection with this petition.

Petitioner is encouraged to file a petition to revive under the unintentional delay standard of 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
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/468,915	08/25/2003	Houssam Ibrahim	2590-75	3000

23117 7590 05/28/2010
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
ROBERTS, LEZAH

ART UNIT	PAPER NUMBER
1612	

MAIL DATE	DELIVERY MODE
05/28/2010	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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MAY 28 2010

NIXON & VANDERHYE, PC
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ARLINGTON VA 22203

In re Application of: Ibrahim et al. Serial No.: 10/468,915 Filed: August 25, 2003 Attorney Docket No.: **2590-75**	: : : : :	DECISION ON PETITION FOR RECONSIDERATION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition technically under 37 CFR § 1.181(a) filed on January 6, 2010, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action of October 4, 2007.

A review of the file history shows that applicants filed an amendment on April 1, 2008. On February 4, 2009, the examiner mailed a notice of abandonment for failure to timely file an amendment.

Applicants state that the amendment was timely filed. In view of this evidence, applicants are considered to have submitted a timely reply. It is also noted that while the Office action of October 4, 2007 was indicated as "Final" on page 6 of the Office action, it is pointed out the cover sheet PTOL-326 indicated the Office action as non-final. Due to this discrepancy, the action is, in fact, considered as "non-final", which status was confirmed by the examiner.

Applicants' petition is **GRANTED**. The application is restored to pending status with the mailing date of this decision and will be forwarded to the examiner for consideration of the amendment of April 1, 2008.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

COPY MAILED

NOV 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
MEULENBERG, et al.	:	
Application No. 10/468,926	:	DECISION ON PETITION
Filed: August 21, 2003	:	TO WITHDRAW
Attorney Docket No. 4662-238	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on September 15, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Patricia Volpe at (571) 272-6825.

Volpe for

David Bucci
Petitions Examiner
Office of Petitions

cc: NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

5 SEP 2004

#5

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ALEXANDRIA, VA 22313-1450
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LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON, MA 02109

In re Application of VONSOVICI et al	:	
U.S. Application No.: 10/468,938	:	
PCT Application No.: PCT/GB02/00773	:	DECISION
Int. Filing Date: 22 February 2002	:	
Priority Date Claimed: 22 February 2001	:	
Attorney Docket No.: BTW-062US	:	
For: ELECTRO-OPTIC MODULATOR	:	

This is in response to applicant's "Petition Under 37 C.F.R. §1.47(a)" filed 15 July 2004.

BACKGROUND

On 22 February 2002, applicant filed international application PCT/GB02/00773, which claimed priority of an earlier United Kingdom application filed 22 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 06 September 2002. The thirty-month period for paying the basic national fee in the United States expired on 22 August 2003.

On 22 August 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 December 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 15 July 2004, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be

reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventor on his own behalf and on behalf of the nonsigning inventor Adrian Vonsovici.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that Adrian Vonsovici refuses to sign the application papers. Petitioner has adequately shown that a bona fide attempt was made to present a copy of the application papers to Vonsovici for signature (see Exhibit B). However, although the petition states that Vonsovici expressed his unwillingness to sign, the petition is not accompanied by an affidavit signed by the person to whom any express oral refusal was made or a copy of the document evidencing any express written refusal. Therefore, it would not be reasonable to conclude at the present time that Vonsovici refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available

under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

28 JAN 2005

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON, MA 02109

In re Application of VONSOVICI et al	:	
U.S. Application No.: 10/468,938	:	
PCT Application No.: PCT/GB02/00773	:	DECISION
Int. Filing Date: 22 February 2002	:	
Priority Date Claimed: 22 February 2001	:	
Attorney Docket No.: BTW-062US	:	
For: ELECTRO-OPTIC MODULATOR	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.47(a)" filed 18 January 2005.

BACKGROUND

On 22 February 2002, applicant filed international application PCT/GB02/00773, which claimed priority of an earlier United Kingdom application filed 22 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 06 September 2002. The thirty-month period for paying the basic national fee in the United States expired on 22 August 2003.

On 22 August 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 December 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 15 July 2004, applicant filed a petition under 37 CFR 1.47(a).

On 15 September 2004, this Office mailed a decision dismissing the 15 July 2004 petition.

On 18 January 2005, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Petitioner has previously satisfied items (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The renewed petition states that Adrian Vonsovici refuses to sign the application papers. Petitioner has adequately shown that a bona fide attempt was made to present a copy of the application papers to Vonsovici for signature (see Exhibit B). Furthermore, the renewed petition sufficiently demonstrates that Vonsovici refuses to sign. Specifically, petitioner has made at least four attempts to secure Vonsovici's signature (see Exhibits A and B; see also Appendix A). Notably, Vonsovici failed to unconditionally execute and return a declaration in response to the letter mailed 03 December 2004. Thus, it is reasonable to conclude that Vonsovici refuses to join in the application.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 22 February 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 15 July 2004.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette.*

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

28 JAN 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

Adrian Vonsovici
59 Runnymede, Merton Abbey
London, SW19 2PG
United Kingdom

In re Application of VONSOVICI et al
U.S. Application No.: 10/468,938
PCT Application No.: PCT/GB02/00773
Int. Filing Date: 22 February 2002
Priority Date Claimed: 22 February 2001
For: ELECTRO-OPTIC MODULATOR

Dear Adrian Vonsovici:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Bryan Tung
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON, MA 02109
Attorney Docket No.: BTW-062US

26 MAR 2004

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

GIFFORD, KRASS, GROH, SPRINKLE
ANDERSON & CITKOWSKI
280 N. OLD WOODWARD AVENUE, SUITE 400
BIRMINGHAM, MI 48009

In Re Application of RICHARDS et al. Application No.: 10/468,943 PCT No.: PCT/GB02/00761 Int. Filing Date: 21 February 2002 Priority Date: 22 February 2001 Attorney Docket No.: CAF-31802/03 For: IMPROVED TUBING COUPLING	DECISION ON PETITION

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This is a decision on applicant's "PETITION TO CORRECT RECEIPT OF 35 U.S.C. 371 REQUIREMENTS DATE" filed, via facsimile in the United States Patent and Trademark Office (USPTO) on 18 March 2004.

BACKGROUND

On 21 February 2002, applicant filed international application No. PCT/GB02/00761, which claimed a priority date of 22 February 2001 and which designated the United States. Thereafter, on 22 August 2003, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

Applicant filed an executed declaration on 07 October 2003. On 02 February 2004, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) erroneously indicating an international filing date of 22 August 2003 and 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 08 October 2003.

On 04 March 2004, applicant filed a request for a corrected filing receipt. On 18 March 2004, applicant filed the present request with a copy of the Notification of Acceptance, an USPTO date-stamped itemized postcard receipt and the Customer Copy Express Mail label. Applicant urges that the Form 903 and filing receipt be corrected to indicate a filing date of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) filing date of 07 October 2003.

DISCUSSION

Applicant filed the present request, which included a copy of the Customer Copy of the "Express Mail" mailing label #EL983170163US. The Express Mailing label shows a "Date In" of "10/07/03". A review of the USPTO date-stamped, itemized postcard receipt indicates that the combined declaration and power of attorney was deposited with the USPTO on 07 October 2003.

The evidence of record is sufficient to establish with reasonable certainty that the combined declaration and power of attorney was deposited with the USPS as an "Express Mail" Mailing on 07 October 2003. The "Express Mail" number is the same number that appears on the transmittal letter found in the application file. The "Express Mail" certificate ties the declaration/power of attorney and the "Express Mail" label together such that it is clear that the

combined declaration and power of attorney was deposited on 07 October 2003. Applicant requests a filing date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 07 October 2003 be accorded application 10/468,943.

The actual filing date of the present application is considered to be the international filing date, 21 February 2002. The application file indicates that applicant completed the requirements set forth in 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) on 07 October 2003. The Notification of Acceptance (FORM PCT/DO/EO/903) mailed on 04 February 2004 indicated the improper international filing date and 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date and is vacated. (Note MPEP section 1893.03(b).)

CONCLUSION

Applicant's request that 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 07 October 2003 be accorded application 10/468,943 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 04 February 2004 is hereby **VACATED**.

This application is being forwarded the US Designated/Elected Office for issuance of a corrected Notification of Acceptance (FORM PCT/DO/EO/903) indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **07 October 2003** and international filing date of **21 February 2002**. A new filing receipt will also be issued.

The application will then be forwarded to Art Unit 3679 for examination in due course.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703)306-5467

GIFFORD, KRASS, GROH, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
280 North Old Woodward Avenue, Suite 400
Birmingham, Michigan 48009-5394

---

(248) 647-6000
FACSIMILE (248) 647-5210
info@patlaw.com

FACSIMILE TRANSMISSION

Sender's Initials LLH

TO: PCT Legal

RECEIVED
18 MAR 2004
Legal Staff
International Division

FACSIMILE NO.: 703-308-6459

FROM: Judith M. Riley

PAGES TRANSMITTED (INCLUDING COVER SHEET): 9

ORIGINAL DOCUMENTS WILL ☐ WILL NOT ☒ FOLLOW BY MAIL

RE: U.S. Patent Application SN 10/468,943

MESSAGE:

Information contained in this facsimile may be PRIVILEGED and CONFIDENTIAL. It is intended only for the use of the person or entity named above. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is neither intended nor permissible. If this facsimile has been received in error, please notify us immediately (call collect) and return the facsimile to us.

Attorney Docket No. CAF-31802/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Andrew Richards et al. Confirmation No. 6160

Serial No.: 10/468,943

Receipt Date: October 7, 2003

For: IMPROVED TUBING COUPLING

PETITION TO CORRECT RECEIPT OF
35 U.S.C. 371 REQUIREMENTS DATE

MAIL STOP PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully petitions to obtain the Date of Receipt of 35 U.S.C. 371 Requirements of October 7, 2003 for the above-referenced application.

The above-referenced application is a 371 of PCT/GB02/00761, filed August 22, 2003. The executed Declaration and $65 surcharge were filed on October 7, 2003 as indicated on the attached PTO stamped return receipt postcard and the USPS Express Mail receipt. Also attached is a copy of the Transmittal mailed with the Declaration and fee which clearly indicates that the document was mailed via Express Mail No. EV 983170163 US. However, the Notice of Acceptance and Filing Receipt indicate a 371(c) date of October 8, 2003.

For the reasons set forth above, and because Applicant did meet all of the requirements as set forth under 35 U.S.C. 371, Applicant's attorney requests that a corrected Filing Receipt be issued with the date of October 7, 2003.

If there should be any fees associated with this Petition please charge them to Deposit Account No. 07-1180.

Respectfully submitted,

Judith M. Riley
Registration No. 31,561
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward, Suite 400
Birmingham, MI 48009
(248) 647-6000

Dated: March 18, 2004

/llh

CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being sent to the United States Patent Office via facsimile (703-308-6459) 3/18/04.

Lynn Hill

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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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/468,943	Andrew Richards	CAF-31802/03

INTERNATIONAL APPLICATION NO.	
PCT/GB02/00761	
I.A. FILING DATE	PRIORITY DATE
08/22/2003	02/22/2001

Judith M Riley
Gifford Krass Groh Sprinkle Anderson & Citkowski
Suite 400
280 N Old Woodward Avenue
Birmingham, MI 48009

CONFIRMATION NO. 6160
371 ACCEPTANCE LETTER
OC000000011825070

Date Mailed: 02/04/2004

NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

10/08/2003	10/08/2003
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF COMPLETION OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** *The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).* Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Copy of the International Application filed on 08/22/2003
- Copy of the International Search Report filed on 08/22/2003
- Copy of IPE Report filed on 08/22/2003
- Preliminary Amendments filed on 08/22/2003
- Oath or Declaration filed on 10/08/2003
- Request for Immediate Examination filed on 08/22/2003
- U.S. Basic National Fees filed on 08/22/2003
- Assignment filed on 10/08/2003

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

TAMALA D HOLLAND
Telephone: (703) 305-5483

PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EO/903 (371 Acceptance Notice)

PATENT

The received copy of the U.S. Patent and Trademark Office indicated hereon acknowledges the filing of:

☒ Transmittal Letter ☐ New Patent Application

____ Page(s) Specifications ____ Page(s) Claims

____ Page(s) Abstract ____ Sheets of Drawings

☐ Small Entity Declaration ☒ Declaration & Power of Atty

☐ IDS, PTO 1449 & Patents ☒ Assignment & Recordation Cover Sheet

☐ Amendment/Response ☒ Check $170

Other: DT14 Rec'd PCT/PTO 07 OCT 2003

Inventor: Andrew Richards et al.

Serial/Reg. No. 10/468943 Atty Docket No. CAF-31802/03

Date: 10-7-03 Date Due: _____

~~☐ Cert. Of Mailing~~/Express Mail EL983170163US

JMR/LLH

Customer Copy
Label 11-F June 2002

EL 983170163 US

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Date In: 10 07 03 (Mo. Day Year)	☒ 12 Noon ☐ 3 PM	Postage: $ 13.65
Time In: 4:44 ☐ AM ☒ PM	Military: ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee
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No Delivery: ☐ Weekend ☐ Holiday	Acceptance Clerk Initials: EOB	Total Postage & Fees: $ 13.65

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☐ WAIVER OF SIGNATURE (CUSTOMER ONLY) Additional merchandise insurance is void if waiver of signature is requested. Proof of delivery to be made simply obtaining signature of addressee or addressee's agent (if signature employee judges that article can be left in secure location) and authorized delivery employee's signature constitutes valid proof of delivery.

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Federal Agency Acct. No. or Postal Service Acct. No.

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GIFFORD KRASS GROH & ASSOC PC
280 N OLD WOODWARD AVE STE 400
BIRMINGHAM MI 48009-5394

JCR/KLH
CAE-31802/03

TO: (PLEASE PRINT) PHONE ( )

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TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371

CAF-31802/03

U.S. APPLICATION NO. (IF KNOWN, SEE 37 CFR
10/468943

INTERNATIONAL APPLICATION NO.	INTERNATIONAL FILING DATE	PRIORITY DATE CLAIMED
PCT/GB02/00761	21 February 2002	22 February 2001

TITLE OF INVENTION
IMPROVED TUBING COUPLING

APPLICANT(S) FOR DO/EO/US
RICHARDS, Andrew; WEBSTER, George Nigel Parkinson

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☐ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☒ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (24) indicated below.
4. ☐ The US has been elected by the expiration of 19 months from the priority date (Article 31).
5. ☐ A copy of the International Application as filed (35 U.S.C. 371 (c) (2))
   a. ☐ is attached hereto (required only if not communicated by the International Bureau).
   b. ☐ has been communicated by the International Bureau.
   c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
   a. ☐ is attached hereto.
   b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3))
   a. ☐ are attached hereto (required only if not communicated by the International Bureau).
   b. ☐ have been communicated by the International Bureau.
   c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
   d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)).
10. ☐ An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)).
11. ☐ A copy of the International Preliminary Examination Report (PCT/IPEA/409).
12. ☐ A copy of the International Search Report (PCT/ISA/210).

Items 13 to 20 below concern document(s) or information included:

13. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
14. ☒ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
15. ☐ A **FIRST** preliminary amendment.
16. ☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
17. ☐ A substitute specification.
18. ☐ A change of power of attorney and/or address letter.
19. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825.
20. ☐ A second copy of the published international application under 35 U.S.C. 154(d)(4).
21. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
22. ☒ Express Mail Label No. EL983170163US
23. ☒ Other items or information:

    Return Receipt Postcard

10/468943	PCT/GB02/00761	CAF-31802/03

24. The following fees are submitted:.

BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)) :		CALCULATIONS	PTO USE ONLY
☐ Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO	$1080.00		
☐ International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO	$920.00		
☐ International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO	$770.00		
☐ International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4)	$730.00		
☐ International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4)	$100.00		
ENTER APPROPRIATE BASIC FEE AMOUNT =		$0.00	
Surcharge of $130.00 for furnishing the oath or declaration later than ☐ 20 months from the earliest claimed priority date (37 CFR 1.492 (e)).	☒ 30	$130.00	

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	- 20 =	0	x $18.00	$0.00	
Independent claims	- 3 =	0	x $86.00	$0.00	
Multiple Dependent Claims (check if applicable).			☐	$0.00	
TOTAL OF ABOVE CALCULATIONS =				$130.00	
☐ Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.				$0.00	
SUBTOTAL =				$130.00	
Processing fee of $130.00 for furnishing the English translation later than ☐ 20 months from the earliest claimed priority date (37 CFR 1.492 (f)).	☐ 30		+	$0.00	
TOTAL NATIONAL FEE =				$130.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31) (check if applicable).			☒	$40.00	
TOTAL FEES ENCLOSED =				$170.00	
				Amount to be: refunded	$
				charged	$

a. ☒ A check in the amount of $170.00 to cover the above fees is enclosed.

b. ☐ Please charge my Deposit Account No. _____ in the amount of _____ to cover the above fees.

c. ☒ The Director is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1180

d. ☐ Fees are to be charged to a credit card. 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.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

Judith M. Riley
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward Avenue, Suite 400
Birmingham, MI 48009
248-647-6000

SIGNATURE

Judith M. Riley
NAME

31,561
REGISTRATION NUMBER

October 7, 2003
DATE

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	6252
RECIPIENT ADDRESS	12486475210
DESTINATION ID	
ST. TIME	03/18 16:35
TIME USE	02'19
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#6

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ALEXANDRIA, VA 22313-1450
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Holly D. Kozlowski
Dinsmore & Shohl LLP
1900 Chemed Center
Cincinnati, Ohio 45202

In re Application of	:	
CARLSSON et al.	:	
Application No.: 10/468,949	:	DECISION ON
PCT No.: PCT/SE02/00313	:	PAPERS UNDER 37 CFR 1.43
Int. Filing Date: 22 February 2002	:	
Priority Date: 22 February 2001	:	
Attorney Docket No.: 25401-10	:	
For: IMMUNOLOGICAL DETECTION OF PROSTATE DISEASE AND PORTOSOME-RELATED CONDITIONS		

This decision is in response to the "Statement Regarding Incapacity of Inventor" filed 19 March 2004 which is being treated as a request under 37 CFR 1.43. No petition fee is required.

BACKGROUND

On 22 February 2002, applicants filed international application PCT/SE02/00313, which claimed a priority date of 22 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 September 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 22 August 2003.

On 22 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 16 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 19 March 2004, applicant filed the present petition and declaration. The declaration is executed by co-inventors, Lena Carlsson; Gunnar Ronquist; Anders Larsson and Irene Brann-Nilsson on behalf of incapacitated inventor, Ove Nilsson.

DISCUSSION

37 CFR 1.43 *When the Inventor is insane or legally incapacitated*, states, in part:

> In case of the death of the inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent

35 USC 117 *Death or Incapacity of Inventor*, states:

> Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

The declaration submitted on 19 March 2004 was executed by Irene Brann-Nilsson on behalf of incapacitated inventor, Ove Nilsson. However, the declaration does not state that Irene Brann-Nilsson is the legal representative of the incapacitated inventor. Absent a statement that the signer is the legal representative of the incapacitated inventor, the declaration cannot be accepted under 37 CFR 1.43.

In addition, it is noted that revised 37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the residence, citizenship, and post office address of the incapacitated inventor, the declaration must also provide this information (residence, citizenship, and post office address) for the signing legal representative. The declaration filed on 19 March 2004 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for Irene Brann-Nilsson or the incapacitated inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.43 is **REFUSED**.

Applicants are hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file either 1) an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) signed by all inventors or 2) a renewed petition satisfying all requirements under 37 CFR 1.43. Any reconsideration request should include a cover letter entitled, "Renewed Request Under 37 CFR 1.43." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 703-308-6314
Facsimile: 703-308-6459

13 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Holly D. Kozlowski
Dinsmore & Shohl LLP
1900 Chemed Center
Cincinnati, Ohio 45202

In re Application of	:	
CARLSSON et al.	:	
Application No.: 10/468,949	:	DECISION ON
PCT No.: PCT/SE02/00313	:	PAPERS UNDER 37 CFR 1.43
Int. Filing Date: 22 February 2002	:	
Priority Date: 22 February 2001	:	
Attorney Docket No.: 25401-10	:	
For: IMMUNOLOGICAL DETECTION OF PROSTATE DISEASE AND PORTOSOME-RELATED CONDITIONS		

This decision is in response to applicants' "Renewed Request under 37 CFR 1.43" filed 26 November 2004. No petition fee is required.

BACKGROUND

On 22 February 2002, applicants filed international application PCT/SE02/00313, which claimed a priority date of 22 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 September 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 22 August 2003.

On 22 August 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 16 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 19 March 2004, applicants filed the present petition and declaration. The declaration is executed by co-inventors, Lena Carlsson; Gunnar Ronquist; Anders Larsson and Irene Brann-Nilsson on behalf of incapacitated inventor, Ove Nilsson. Strauss. In a decision dated 20 September 2004, applicants request under 37 CFR 1.43 was refused.

On 26 November 2004, applicants filed "Renewed Request under 37 CFR 1.43."

DISCUSSION

37 CFR 1.43 *When the Inventor is insane or legally incapacitated*, states, in part:

> In case of the death of the inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent

35 USC 117 *Death or Incapacity of Inventor*, states:

> Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

The declaration submitted on 26 November 2004 was executed by Irene Brann-Nilsson as "legal representative" for the incapacitated inventor, Ove Nilsson. The declaration is acceptable under 37 CFR 1.43 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

The papers filed under 37 CFR 1.43 are **ACCEPTED**.

The application has an international filing date of 22 February 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **26 November 2004**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

30 JUL 2004

#6

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ALEXANDRIA, VA 22313-1450
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FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Application of	:	DECISION ON
Forsberg et al	:	
PCT No.: PCT/US02/05476	:	
Application No: 10/468,951	:	
Int. Filing Date: 21 February 2002	:	PETITION UNDER
Priority Date: 23 February 2001	:	
Attorney's Docket No.: 028040-5606	:	
For: CLONING OF TRANSGENIC ANIMALS	:	37 CFR 1.47(a)
COMPRISING ARTIFICIAL CHROMOSOMES	:	

This is in response to the "PETITION UNDER 37 CFR 1.47(a)" filed on 24 June 2004. The petition fee of 130.00 has been paid by check.

BACKGROUND

On 21 February 2002, petitioner filed international application PCT/US02/05476, which claimed priority to an earlier application filed 23 February 2001. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 06 September 2002.

On 25 August 2003, petitioner filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee. No executed oath or declaration accompanied the above papers.

On 26 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" and $130.00 surcharge for providing the oath or declaration later than 30 months from the priority date (37 CFR 1.492(e)) must be submitted within two months from its 26 January 2004 date of mailing, in order to avoid abandonment of the national stage application.

On 24 June 2004, petitioner filed the present petition by Mr. San Pietro in support of filing on behalf of omitted inventor Michael D. Bishop accompanied, inter alia, an executed Declaration without the signatures of Michael D. Bishop.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that

conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied requirements (1), and (4) of 37 CFR 1.47(a) but not requirements (2)- (3) under 37 CFR 1.47(a).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h).

Regarding requirement (2), the averments of Mr. San Pietro are not sufficient to support a finding that the nonsigning inventor, Mr. Bishop refuses to sign the required document because exhibit B does not have the evidence described by the petition. There is no copy of the registered mail return receipt in exhibit B confirming that the packages were delivered and unclaimed on November 17, 2003, November 22, 2003, and December 1, 2003 as asserted by Mr. San Pierto.

Moreover, it is unclear if the reason the packages were not received were because Mr. Bishop does not reside at the address that the packages were mailed to.

Accordingly, the steps enumerated by Mr. San Pietro are not sufficient to establish that the Mr. Bishop has refused to sign the declaration.

Regarding requirement 3, petitioner has not provided a statement of the last known address of the missing inventor, Mr. Bishop.

Regarding requirement 4, petitioner has provided an executed declaration signed by Erik J. Forsberg, Kelly S. Mallon, and Paul J. Golueke on their behalf and on the behalf of the nonsigning joint inventor Michael D. Bishop.

Consequently, the petition has not met the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

23 SEP 2004

#8

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P.O BOX 80278
SAN DIEGO CA 92138-0278

In re Application of	:	DECISION ON
Fo et al	:	
PCT No.: PCT/US02/05476	:	
Application No: 10/468,951	:	PETITION UNDER
Int. Filing Date: 21 February 2002	:	
Priority Date: 23 February 2001	:	
Attorney's Docket No.: 028040-5606	:	
For: CLONING OF TRANSGENIC ANIMALS	:	37 CFR 1.47(a)
COMPRISING ARTIFICIAL CHROMOSOMES	:	

This is in response to the "TRANSMITTAL OF RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 30 August 2004.

BACKGROUND

In a decision from this Office on 30 July 2004, the petition filed on 24 June 2004 was dismissed. The decision indicated that petitioner failed to meet requirements (2) and (3) under 37 CFR 1.47(a).

On 30 August 2004, petitioner submitted a renewed petition accompanied, inter alia, with a declaration from Line Gauthier and a certified mail receipt.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Petitioner has satisfied requirements (1) and (3) -(4) of 37 CFR 1.47(a) but not requirement (2).

Regarding requirement (2), the averments of Ms. Gauthier are not sufficient to support a finding that the nonsigning inventor, Bishop refuses to sign because it is unclear if 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, and that the inventor refused to accept delivery of the papers. Although, three attempts were made from November 17, 2003 to December 1, 2003 to delivery the application papers, this is a short time period (about two weeks) to make a determination that Mr. Bishop refuses to sign the papers because it could

be that he was on vacation or out of town during the delivery attempts and the reason the papers were not received.

Moreover, from the declaration, it appears that no further attempts were made to delivery the application papers so as to show that Mr. Bishop actually refused to accept the delivery of the papers. Where the Office is being asked to accept the silence of the nonsigning inventor's as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant. Absent further firsthand evidence that the application and request for signature were received by the nonsigning inventor, item (2) cannot be considered satisfied.

In addition, it is unclear if Mr. Bishop still resides in that address. If not, then petitioner is under an obligation to try to find or reach Mr. Bishop. Where there is an inability to find or reach a joint inventor "after diligent effort, " petitioner may file a statement of facts that fully describes the exact facts which are relied on to establish that a diligent effort was made under **37 CFR 1.47**.

Regarding requirement 3, petitioner has provided a statement of the last known address of the missing inventor.

Consequently, the petition does not satisfy all the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

30 AUG 2006

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

In re Application of: FORSBERG et al.	:	
Application No.: 10/468,951	:	
PCT Application No.: PCT/US02/05476	:	DECISION ON
Int. Filing Date: 21 February 2002	:	PETITIONS UNDER
Priority Date Claimed: 23 February 2001	:	37 CFR 1.181
Attorney Docket No.: 028040-5606	:	AND
For: CLONING OF TRANSGENIC ANIMALS	:	37 CFR 1.47(a)
COMPRISING ARTIFICIAL CHROMOSOMES	:	

This decision is in response to the petition under 37 CFR 1.181 filed on 02 August 2006 to withdraw the holding of abandonment. This decision is also in response to the renewed petition under 37 CFR 1.47(a) filed therewith to accept the application without the signature of inventor Michael D. Bishop. The petition to withdraw the holding of abandonment is **GRANTED**. The petition to accept the application without the signature of inventor Michael D. Bishop is **GRANTED.**

BACKGROUND

On 26 January 2004, a Notification of Missing Requirements (PCT/DO/EO/905) was mailed to the applicant, requiring, *inter alia,* the submission of an executed oath or declaration of the inventors.

On 24 June 2004, applicant filed a declaration and a petition under 1.47(a) requesting that the application be accepted without the signature of inventor Michael D. Bishop, who refuses to join in the application for patent.

On 30 July 2004, the petition was dismissed on the basis that the petitioner had failed to meet requirements (2) and (3) under 37 CFR 1.47(a).

On 30 August 2004, petitioner submitted a renewed petition accompanied, *inter alia,* with a declaration from Line Gauthier and a certified mail receipt.

On 23 September 2004, the renewed petition was dismissed on the basis that the petitioner had still failed to meet requirement (2) under 37 CFR 1.47(a). The decision set a time limit of two (2) months from the mail date of the decision for the applicant to file a request for reconsideration.

On 29 March 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to the applicant, indicating that this application had become abandoned with respect to the national stage in the United Sates for failure to timely reply to the decision of 23 September 2004.

On 02 August 2006, applicant filed the instant petition to withdraw the holding of abandonment accompanied by, *inter alia*, a "Renewed Petition under 37 CFR 1.47(a)."

DISCUSSION

37 C.F.R. § 1.10(e) provides that any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that (1) the petition be filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence; (2) the number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" (3) the petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and (4) the petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

With respect to item (1), the petition is deemed to be promptly filed. With respect to item (2), the submitted copy of the "Renewed Petition under 37 CFR 1.47(a)" lists "Express Mail" label number EV423971883US. With respect to item (3), the "date-in" on the "Express Mail" mailing label cannot be determined. In accordance with MPEP 513, if the USPS deposit date cannot be determined, the correspondence will be accorded the date of receipt in the Office as the filing date. Petitioner provides sufficient evidence that the correspondence with "Express Mail" label number EV423971883US was delivered on 26 November 2004. With regard to item

(4), the petitioner contains a statement from counsel indicating that the submitted items are true copies of the originally mailed correspondence. Accordingly, petitioner has provided sufficient evidence that a renewed petition under 37 CFR 1.47(a) was filed in the United Sates Patent and Trademark Office on 26 November 2004 via Express Mail. The receipt date of 26 November 2004 requires a one-month extension of time under 37 CFR 1.136(a) to be considered timely, since the submission received 26 November 2004 does not include a statement under 37 CFR 1.8(a) and the "date-in" under 37 CFR 1.10 has not been established. The "Renewed Petition under 37 CFR 1.47(a)" contains an authorization to charge applicant's previous counsel any required fees, and the fee of $60 for a one-month extension of time (small entity) is being charged to petitioner's Deposit Account No. 03-2095. Accordingly, it is concluded that applicant timely filed a renewed petition under 37 CFR 1.47(a) on 26 November 2004 via Express Mail in response to the decision of 23 September 2004.

With regard to the "Renewed Petition under 37 CFR 1.47(a)," the decision of 23 September 2004 dismissed the preceding petition under 37 CFR 1.47(a) on the basis that the petitioner had not provided sufficient evidence that the missing joint inventor either refuses to execute the application or cannot be reached after diligent effort. The renewed petition under 37 CFR 1.47(a) includes a declaration of Kathryn E. Cox attesting to the preparation and mailing to inventor Bishop of documents requesting his signature on 09 November 2004. The renewed petition provides evidence of the delivery of the documents on 10 November 2004. The declaration of Kathryn E. Cox further attests to receiving a call on 10 November 2004 from a man identifying himself as Michael Bishop and stating the he would not sign the documents. In view of the newly submitted evidence, applicant has provided sufficient evidence that inventor Michael D. Bishop refuses to join in the application for patent. Accordingly, the application will be accepted without the signature of inventor Michael D. Bishop.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**. The holding of abandonment is hereby **WITHDRAWN** and the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 29 March 2006 is hereby **VACATED**.

The copy of the "Renewed Petition under 37 CFR 1.47(a)" filed on 02 August 2006 is hereby accepted as though filed on 26 November 2004 in response to the decision of 23 September 2004. **A fee of $60 for a one-month extension of time (small entity) is being charged to petitioner's Deposit Account No. 03-2095**.

The renewed petition under 37 CFR 1.47(a) that the application be accepted without the signature of inventor Michael D. Bishop is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of the application will be forwarded to the non-signing inventor at his last known address of record, as set forth in the papers filed 26 November 2004, and a notice of the filing of the application will be published in the *Official Gazette*.

The application has an International Filing Date under 35 U.S.C. 363 of 21 February 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of **24 June 2004**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

John Chapman
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Dan Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

cc: Clark & Elbing LLP
101 Federal Street
Boston, MA 02110

30 AUG 2006

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Michael D. Bishop
W4628 Hall Road
Rio, Wisconsin 53960

In re Application of: FORSBERG et al.
Application No.: 10/468,951
PCT Application No.: PCT/US02/05476
Int. Filing Date: 21 February 2002
Priority Date Claimed: 23 February 2001
Attorney Docket No.: 028040-5606
For: CLONING OF TRANSGENIC ANIMALS
COMPRISING ARTIFICIAL CHROMOSOMES

Dear Mr. Bishop:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

John Chapman
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Dan Stemmer
PCT Legal Examiner
Office of PCT Legal Administration

cc: Clark & Elbing LLP
101 Federal Street
Boston, MA 02110

30 [illegible] 2006

OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of a national stage application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Michael D. Bishop) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.497. The international application number is PCT/US02/05476 and was filed on 21 February 2002, in the names of Eric J. Forsberg, Kelly S. Mallon, Paul J. Golueke and Michael D. Bishop for the invention entitled CLONING OF TRANSGENIC ANIMALS COMPRISING ARTIFICIAL CHROMOSOMES. The national stage application number is 10/468,951 and has a 35 U.S.C. 371(c) date of 26 November 2004.

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Alexandria, VA 22313-1450
www.uspto.gov

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
Forsberg, et al.	:	
Application No. 10/468,951	:	ON APPLICATION FOR
Filed: June 24, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 50195/037002	:	

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705," filed September 9, 2009. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR §1.705(b).

Applicants submit that the patent term adjustment to be indicated on the patent is one thousand and eighty-seven (1,087) days, not four hundred fifty-four (454) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent[1].

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 in this instance where a request for continued examination (RCE) was filed. The

[1] Applicants reference June 24, 2004 as the actual filing date upon which the 37 CFR 1.702(b) calculation is to be made. See p.4, petition. The reference to this date is unclear. The over three year delay will, in this instance, be calculated based on the application's commencement date, which is August 23, 2003. See 35 U.S.C. 371(b).

computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

---

[2] 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 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).

Applicants are reminded of their duty of candor to the Office.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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BOSTON, MA 02110

Mail Date: 04/20/2010

Applicant	: Eric J Forsberg	: DECISION ON REQUEST FOR
Patent Number	: 7652192	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/468,951	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1107** 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.

23 JUN 2004

#5

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Eric Hyman
BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN
12400 Wilshire Blvd, Suite 700
Los Angeles CA 90025

In re Application of	:	
Pierre Chambard	:	
Application No.: 10/468960	:	
PCT Application No.: PCT/FR01/00506	:	DECISION ON
International Filing Date: 21 February 2001	:	
Priority Date:	:	PETITION UNDER
Attorney Docket No.: 15675.P472	:	
For: METHOD AND VEHICLE FOR	:	37 CFR 1.137 (b)
PAVEMENT SURFACE DRESSING	:	

This is in response to applicants' petition under 37 CFR 1.137 (b) filed on 22 August 2003, to revive the above identified application.

BACKGROUND

On 21 February 2001, applicant filed international application number PCT/FR01/00506. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 22 August 2002.

On Midnight 21 August 2003, international application became abandoned with respect to the failure to pay national stage filing fee within 30 months from filing date of the international application.

On 22 August 2003, applicants submitted papers and fee to enter the United States National Phase along with a petition for revival.

On 03 February 2004, the United States Patent and Trademark Office issued a Notification of Missing Requirements, requesting an Oath or Declaration, in compliance with 37 CFR 1.497 (a) and (b), identifying the application by the International Application number and International filing date; and $130 Surcharge for providing the oath or declaration later than 30 months from the priority date (37 CFR 1.492 (e)).

DISCUSSION

A petition to revive under 37 CRF 1.137 (b) must be accompanied by: (1) a proper response, unless it has been previously submitted; (2) the requisite petition fee as required by 37 CFR 1.17 (m); (3) a statement that the " entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137 (c).

On 22 August 2003, applicant filed the present petition to revive the national stage application under 37 CFR 1.137 (b). Filed with the present petition were, inter alia: (1) the requisite $1,300 Petition fee; (2) a Transmittal Letter for entry into the national stage in the United States of America under 35 U.S.C. 371 and the requisite national fee; 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 was unintentional,".

The application and papers have been reviewed and have been found to be in compliance with 37 CFR 1.137 (b).

CONCLUSION

The petition to revive the international application under 37 CFR 1.137 (b) is GRANTED as to the National Stage in the United States of America.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 03 February 2004 requiring an oath or declaration of the inventors, in compliance with 37 CFR 1.497 (a) and (b), was mailed while the application was abandoned. As such the Notification was improper and hereby VACATED.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing a new Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 (a) and (b).

Michael Lebentritt
Detailee
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

20 MAY 2004

#6

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Jane M. Love
HALE AND DORE, LLP
300 Park Avenue
New York, NY 10022

In re Application of WARREN, Mary *et al* Application No.: 10/468,965 PCT No.: PCT/IB02/00589 Int. Filing Date: 28 February 2002 Priority Date: 01 March 2001 Attorney Docket No.: GEN-013-US2 (114827-151) For: METHODS FOR GLOBAL PROFILING GENE REGULATORY ELEMENT ACTIVITY	**DECISION**

This decision is in response to applicants' "Petition under 37 CFR 1.182 in Response to Notification of Defective Response" filed 20 April 2004.

BACKGROUND

On 16 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration in compliance with 37 CFR 1.497(a) and (b) and sequence listing must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 15 March 2004, applicants filed a response which included a declaration signed by all four inventors. The first joint inventor signed her name as Mary E. Warren (Harper). However, the international publication lists her name as Mary E. Harper. Applicants also claimed that a sequence listing was not required.

On 29 July 2002, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 15 March 2004 does not comply with 37 CFR 1.497(a) and (b) because the inventor's name was changed without supporting documentation. Applicants were given one month, or any time remaining in the Form PCT/DO/EO/905 to respond, whichever is longer.

On 20 April 2004, applicants filed the instant petition which was accompanied by, *inter alia*, a copy of a marriage certificate, a "Declaration of Mary E. Warren" ("Decl.") and a copy of a marriage license.

DISCUSSION

MPEP § 605.04(c) lists the procedures required to petition to change the name of an inventor and states, in part:

> The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Here, applicants provided a declaration recording the change of name of May E. Harper to May E. Warren and signed by the co-inventor using both names. Ms. Warren declares that the name change was as a result of marriage and that the designation of (Harper) on the declaration "was intended to indicate that my previous surname was Harper and that my present surname is Warren." Decl. at ¶ 6. A copy of a marriage certificate and license from San Diego County was provided. The petition fee of $130.00 has been charged to Deposit Account No. 08-0219 as authorized.

This is sufficient for a grantable petition.

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.182 to change the name of the inventor is hereby **GRANTED**.

The declaration filed 15 March 2004 now complies with the requirements of 37 CFR 1.497(a) and (b). The application has an international filing date of 28 February 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 15 March 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

15 JUL 2005

#5

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Foley & Lardner
777 East Wisconsin Avenue
Suite 3800
Milwaukee, WI 53202-5308

In re Application of
DRAKE et al.
U.S. Application No.: 10/468,972
PCT No.: PCT/GB02/00732
Int. Filing Date: 22 February 2002
Priority Date: 23 February 2001
Attorney Docket No.: 026032-4432
For: FOLDABLE VEHICLE SEAT FROM A USE POSITION TO A STOWED POSITION AND RELATED LAYOUT OF A SEAT ASSEMBLY

DECISION ON PETITION

This decision is in response to applicants' "Statement of Facts in Support of Declaration under 37 CFR 1.47(a)" filed 06 July 2004 to accept the application without the signature of joint-inventor, Alexander Drake. Additionally, this decision is in response to the declaration filed 01 September 2004.

BACKGROUND

On 22 February 2002, applicants filed international application PCT/GB02/00732 which claimed a priority date of 23 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 September 2002. Pursuant to 37 CFR 1.495, the thirty-month time period for submitting the requisite basic national fee in the United States of America was to expire 30 months from the priority date, 23 August 2003.

On 22 August 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and a copy of the international application.

On 03 December 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 06 July 2004, applicants filed the present petition under 37 CFR 1.47(a) which included declaration executed by Jeffrey Mark Huxter.

On 01 September 2004, applicants filed a declaration executed by Alexander Drake.

DISCUSSION

A. Petition under 37 CFR 1.47(a)

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 01 September 2004 was executed by the named inventor, the previous non-signing inventor, Alexander Drake. For the reasons above, the petition under 37 CFR 1.47 is dismissed as moot.

B. Defective Declaration

The declaration filed on 06 July 2004 is defective and is insufficient to satisfy the oath or declarations requirement of 35 CFR 371(c)(4) for entry into the national stage in the United States of America. Specifically, the declaration executed by Jeffrey Mark Huxter includes alterations that have not been initialed and dated by the inventor.

37 CFR 1.52(c) states:

(c) Any interlineation, erasure, cancellation or other alteration of the application papers filed should be made before the signing of any accompanying oath or declaration pursuant to § 1.63 referring to those application papers and should be dated and initialed or signed by the applicant on the same sheet of paper . . .

Therefore, the declaration executed by Jeffrey Mark Huxter cannot be accepted at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** as moot.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision and must include a declaration in compliance with 37 CFR 1.497(a)-(b) executed by Jeffery Mark Huxter. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box

1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

22 NOV 2005

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Foley & Lardner
777 East Wisconsin Avenue
Suite 3800
Milwaukee, WI 53202-5308

In re Application of :
DRAKE et al. :
U.S. Application No.: 10/468,972 :
PCT No.: PCT/GB02/00732 : DECISION ON PETITION
Int. Filing Date: 22 February 2002 :
Priority Date: 23 February 2001 :
Attorney Docket No.: 026032-4432 :
For: FOLDABLE VEHICLE SEAT FROM A USE POSITION TO A STOWED POSITION AND RELATED LAYOUT OF A SEAT ASSEMBLY :

This decision is in response to applicants' "Response to Decision on Petition" filed 15 November 2005 to accept the application without the signature of joint-inventor, Alexander Drake.

As stated in the previous Decision on Petition mailed 15 July 2005, the petition for status under 37 CFR 1.47(a) is moot since the declaration filed 01 September 2004 was executed by the named inventor, the previous non-signing inventor, Alexander Drake. However, the declaration filed on 06 July 2004 was defective, in that, the declaration executed by Jeffrey Mark Huxter included alterations that had not been initialed and dated by the inventor.

The declaration submitted 15 November 2005 complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into the national stage under 35 U.S.C. 371(c) were completed as of 15 November 2005. The application has an international filing date of 22 February 2002 under 35 U.S.C. 363 and a date of **15 November 2005** under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

For the reasons above, the renewed petition under 37 CFR 1.47(a) is **DISMISSED** as MOOT. This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

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AND PLASTICDS TECHNOLOGY
CORPORATION
P.O. BOX 1967
MIDLAND MI 48674

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JUN 2 9 2005

OFFICE OF PETITIONS

In re Application of :
Xinlai Bai et al :
Application No. 10/468,978 : ON PETITION
Filed: August 22, 2003 :
Attorney Docket No. 61657A :

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 29, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 30, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $120 extension of time submitted January 25, 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 Mark Ragland at (571) 272-3295.

This matter is being referred to the Technology Center 1700, Group Art Unit 1713 for further processing.

Mark Ragland
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Irvin Dingle
Petitions Examiner

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Steven Fischman Scully Scott
Murphy & Presser
400 Garden City Plaza
New York, NY 11530

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OFFICE OF PETITIONS

In re Application of
Paul W. Coteus, et. al.
Application No. 10/468,990
Filed: August 22, 2003
Attorney Docket No. YOR920020038US2
(15276)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on May 18, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

This application was held abandoned for failure to timely file a proper reply to the final Office action mailed August 21, 2006. A Notice of Abandonment was mailed on April 11, 2007.

Petitioner states that a timely reply was mailed to the Office on November 20, 2006. On May 18, 2007, petitioner submitted a copy of the stamped postcard receipt dated November 22, 2006, which references an authorization to charge $790 to the deposit account for an RCE, a Certificate of Mailing for November 20, 2006, and a copy of the RCE, which bears a Certificate of Mailing dated November 20, 2006, that would have rendered the reply timely if received.

Office records fail to show receipt of the originally submitted reply filed on November 20, 2006. Failure to receive correspondence which includes a Certificate of Mailing or Certificate of Facsimile Transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is

dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of August 21, 2006, is hereby withdrawn and the application is restored to pending status.

In view of the above, the petition to revive is unnecessary and no fee for this petition will be charged.

This application is being revived for consideration of the RCE filed on November 20, 2006.

The application is being referred to Technology Center Art Unit 2114, for further review of the previously submitted amendment on October 25, 2006, and for consideration of the RCE, as being timely submitted within the three month shortened statutory period for reply.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3226. Questions concerning the processing of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

#8

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30 OCT 2006

Steven Fishman
SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, NY 11530

In re Application of
BLUMRICH *et al*
U.S. Application No.: 10/468,995
PCT No.: PCT/US2004/000016
Int. Filing Date: 25 February 2002
Priority Date: 24 February 2001
Attorney Docket No.: YOR920020035US1
For: MANAGING COHERENCE VIA PUT/GET WINDOWS

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' petition to revive under 37 CFR 1.137(b) filed on 25 September 2006 is hereby **GRANTED** as follows:

A signed oath or declaration in compliance with 37 CFR 1.497(a) and (b) was provided. The petition fee has been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 25 February 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 25 September 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

0 9 JUL 2008

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Steven Fishman
SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, NY 11530

In re Application of :
BLUMRICH *et al* :
U.S. Application No.: 10/468,995 :
PCT No.: PCT/US2004/000016 :
Int. Filing Date: 25 February 2002 :
Priority Date: 24 February 2001 :
Attorney Docket No.: YOR920020035US1 :
For: MANAGING COHERENCE VIA :
PUT/GET WINDOWS :

DECISION ON REQUEST FOR REFUND

Applicants' request for refund filed on 27 February 2008 is hereby **REFUSED**.

A review of the application shows that applicants submitted papers to enter the national stage of PCT/US2004/000016 on 22 August 2003 which included an executed declaration. The declaration listed ten inventors; however, the international publication for PCT/US2004/000016 lists only eight inventors

On 18 December 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed requesting a new oath or declaration in compliance with 37 CFR 1.497(a) and (b). The Form PCT/DO/EO/905 noted that Burkhard D. Steinmacher-Burow and Todd E. Takken were listed as inventors on the declaration, but not on the international publication.

On 20 February 2004, applicants responded to the Form PCT/DO/EO/905 with the same declaration as filed on 22 August 2003 listing ten inventors.

On 06 January 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed and noted that: the 905, notice of missing part mailed 12/18/2003 ask about inventor 9 & 10 they not listed on publish sheet. Decl., was filed as the first decl., without explanation.

On 25 September 2006, applicants submitted a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) along with a new declaration listing only eight inventors. Applicants included a $1,500.00 petition fee.

On 30 October 2006, a decision granting applicants' petition to revive under 37 CFR 1.137(b) was mailed.

10/468,995

On 27 November 2006, a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt was mailed. A Withdrawal of Previously Sent Notice was also mailed indicating that the Notice of Abandonment mailed on 06 January 2006 was sent in error, and is hereby withdrawn.

On 27 February 2008, applicants filed the subject request for a refund of the $1,500.00 petition fee and argue that the Withdrawal of Previously Sent Notice mailed on 27 November 2006 nullified the Form PCT/DO/EO/909 mailed 06 January 2006.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 06 January 2006 was properly sent. Applicants failed to properly respond to Form PCT/DO/EO/905 mailed 18 January 2003. The submission of the same declaration as originally filed on 22 August 2003 listing ten inventors was not an appropriate response.

Accordingly, the Withdrawal of Previously Sent Notice mailed on 27 November 2006 was sent by mistake and is hereby **VACATED**.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

Mail Date: 04/20/2010

Applicant	: Gyan V Bhanot	: DECISION ON REQUEST FOR
Patent Number	: 7587516	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/468,999	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1222** 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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SCHMIDT & HOWLETT
BRIDGEWATER PLACE
GRAND RAPIDS MI 49501-0352

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OFFICE OF PETITIONS

In re Application of :
Gerardus Johannes J. De Wit :
Application Number: 10/469019 : ON PETITION
Filing Date: 04/09/2004 :
Attorney Docket Number: :
Vereenigde P57US :

This is a decision on the petition under 1.137(b),[1] filed on 11 May, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 10 March, 2006, for failure to timely respond to the non-final Office action mailed on 9 December, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 26 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 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)).

Petitioners have filed an amendment as the required reply.

The application is being referred to Technology Center Art Unit 3651 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
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

VARNUM RIDDERING
SCHMIDT & HOWLETT
BRIDGEWATER PLACE
GRAND RAPIDS, MI 49501-0352

In re Application of
Gerardus Johannes J. De Witt
Application No. 10/469,019
Filed: April 9, 2004
Attorney Docket No. VEREENIGDE P57US

ON PETITION

This is a decision on the petition filed May 12, 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 submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed August 20, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 21, 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; (3) the required statement of unintentional delay have been received. Accordingly, the issue fee 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) 272-3210. This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Thomas L. Lockhart
P.O. Box 352
Grand Rapids, MI 49501-0352

04 FEB 2004

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ALEXANDRIA, VA 22313-1450
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Wenderoth Lind & Ponack LLP
2033 K Street, NW
Suite 800
Washington, DC 20006-1021

In re Application of TAZAKI, Hiroo et al. Application No.: 10/469,030 PCT No.: PCT/JP02/01694 Int. Filing Date: 26 February 2002 Priority Date: 27 February 2001 Attorney Docket No.: 2003_1177A For: TWO-WIRE POWER TRANSMITTING/RECEIVING DEVICE AND ITS METHOD	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Notification of Typographical Error In Inventor's Name," filed on 26 August 2003.

BACKGROUND

On 26 February 2002, applicant filed international application PCT/JP02/01694. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 06 September 2002. A demand for international preliminary examination was filed 15 July 2002, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, 27 August 2003.

On 26 August 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, the basic national fee, a declaration and a statement under MPEP 201.03.

DISCUSSION

The statement under MPEP 201.03 that listing "Mituo Miyagaki" on the international application and the declaration was a typographical error and should have read "Mitsuo Miyagaki" is acceptable.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The application has an international filing date of 27 February 2002 under 35 U.S.C. §363 and a date of 26 August 2003 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is

being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

04 FEB 2004

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Wenderoth, Lind & Ponack L.L.P.

Wenderoth Lind & Ponack LLP
2033 K Street, NW
Suite 800
Washington, DC 20006-1021

In re Application of
TAZAKI, Hiroo et al.
Application No.: 10/469,030
PCT No.: PCT/JP02/01694
Int. Filing Date: 26 February 2002
Priority Date: 27 February 2001
Attorney Docket No.: 2003_1177A
For: TWO-WIRE POWER TRANSMITTING/RECEIVING DEVICE AND ITS METHOD

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Notification of Typographical Error In Inventor's Name," filed on 26 August 2003.

BACKGROUND

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being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/1/07

Paper No.: _____

TO SPE OF : ART UNIT 2817 (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/469037 Patent No.: 6946926

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

_____

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_____ SPE

_____ Art Unit

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AKIN GUMP STRAUSS HAUER & FELD LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

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OFFICE OF PETITIONS

In re Patent No. 7,007,291	:	
Issue Date: February 28, 2006	:	
Application No. 10/469,062	:	ON PETITION
Filed: August 26, 2003	:	
Attorney Docket No. 10407-58US (A2078MT-US1)	:	

This is a decision on the request under 37 CFR 3.81(b), filed June 6, 2006, to include an inadvertently omitted assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The patent file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to 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