UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

APR 30 2007

OFFICE OF PETITIONS

Lin Zhen Man
Ava Tower 19 07
10 Ava Road
Singapore 32994-9 SG SINGAPORE

In re Application of :
Lin Zhen-Man :
Application No. 10/469,063 : ON PETITION
Filed: August 13, 2003 :
Attorney Docket No.

This is responsive to the communication filed November 3, 2006. The communication will be treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The record reflects that a non-final Office action was mailed on September 30, 2005, allowing a shortened statutory period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). An amendment was filed on January 10, 2006, but was not accompanied by a request for an extension of time within the first month, which would have been necessary in order for the amendment to be considered timely[1]. The application became abandoned on December 31, 2005. A Notice of Abandonment was mailed on September 21, 2006. The instant petition was filed on November 3, 2006. Petitioner should note that the undersigned found the petition to be convoluted. It is believed that petitioner is arguing that the amendment filed January 10, 2006, was timely.

Section 711.03 of the *Manual of Patent Examining Procedure* provides guidance where, as in this case, petitioner is arguing that a timely response to the Office action was mailed and provides, in pertinent part, that:

> 37 CFR 1.10(c) through 1.10(e) >and 1.10(g)< set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), * (e)>, or (g)< (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the

[1] The request for an extension of time within the first month filed March 23, 2006, is noted but is not accepted because the request was made outside the maximum six-month statutory period for reply to the non-final Office action. Additionally, the credit card provided did not sufficient balance to charge the fee for the extension of time.

application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

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

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

The above-cited section of the MPEP explains that in order for correspondence to receive a filing date as of the date of deposit with the United States Postal Service (USPS), the correspondence must either be mailed via USPS Express Mail, or the correspondence must contain a proper certificate of mailing pursuant to 37 CFR 1.8. Correspondence may also receive the date of the receipt with the USPTO if petitioner provides an itemized Office date-stamped postcard whereby the USPTO acknowledges receipt of the item mailed. There is no evidence that petitioner used the procedures provided in 37 CFR 1.8 and 1.10, which, if properly utilized, would allow a filing to be accorded a filing date as of the date mailed or deposited, respectively, rather than the date the filing was received by the Office. The certificate of mailing procedures under 37 CFR 1.8 allow for a filing date to be accorded as of the date the filing was mailed rather than the date the filing was received by the Office provided the procedures set out in 37 CFR 1.8 are followed and the filing is not excepted under 37 CFR 1.8(2)(i). The procedures under 37 CFR 1.10 allow correspondence deposited with the United States Postal Service Express Mail Service pursuant to 37 CFR 1.10 to be accorded a filing date as of the date-in shown on the Express Mail label rather than the date the filing was received by the Office. Filings made by any other mail service, i.e., first class postage, USPS certified mail, FEDEX, Priority Mail, will not receive the benefit of 37 CFR 1.10.

The holding of abandonment will not be withdrawn because petitioner is not able to provide *prima facie* evidence that a proper response to the non-final Office action of September 30, 2005, was deposited with the USPS Express Mail Service within the period for reply, is not able to provide a certificate of mailing pursuant to 37 CFR 1.8, or an USPTO date-stamped postcard. The petition is dismissed accordingly.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1500.00 for a large entity and $750.00 for a verified small

entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure : Form PTO/SB/64

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

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

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

I hereby certify that this correspondence is being:

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

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

Lin Zhen Man
Ava Tower 19 07
10 Ava Road
Singapore 32994-9 SG SINGAPORE

COPY MAILED

JUN 21 2007

OFFICE OF PETITIONS

In re Application of

Lin Zhen-Man :

Application No. 10/469,063

: DECISION ON PETITION

Filed: August 13, 2003

:

Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(b), filed June 1, 2007, and in duplicate on June 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 30, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on December 31, 2005. A Notice of Abandonment was mailed on September 21, 2006.

The amendment filed January 10, 2006, is noted.

The petition fee of $750.00 was charged twice. The amount of $750.00 will be refunded to petitioner, in due course.

The application is being forwarded to Technology Center 1600, GAU 1616 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Anders Haegermarck	: DECISION ON REQUEST FOR
Patent Number	: 7647144	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/469,069	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1638** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Anders Haegermarck	: DECISION ON REQUEST FOR
Patent Number	: 7647144	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/469,069	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1638** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

COPY MAILED
MAR 20 2007
OFFICE OF PETITIONS

In re Patent No. 6,991,275 :

Issue Date: January 31, 2006 :

Application No. 10/469,082 : ON PETITION

Filed: December 12, 2003 :

Attorney Docket No. 5067-50PUS

This is a decision on the petition filed November 3, 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.

22 JAN 2004

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Raymond C. Stewart
Birch, Stewart, Kolasch & Birch, LLP
P. O. Box 747
Falls Church, VA 22040-0747

In re Application of:	:	
Brent et al.	:	DECISION ON
Application No.: 10/469,093	:	PETITION
PCT No.: PCT/AU02/00054	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 18 January 2002	:	
Priority Date: 19 January 2001	:	
Docket No.: 0446-0151P	:	
For: METHOD OF BLASTING	:	

This is in response to the petition filed 25 August 2003 under 37 CFR 1.137 (b) to revive the above-identified abandoned application for "unintentional" delay.

BACKGROUND

On 18 January 2002, applicants filed international application PCT/AU02/00054, which claimed priority to an earlier application, filed 19 January 2001. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 19 July 2003.

On 25 August 2003, the present petition and the Transmittal Letter (Form PTO-1390) to enter the national stage were submitted, including a petition fee of $1300.00, the basic national fee of $1060.00, and a surcharge of $130.00 for submitting a declaration later than thirty months from the priority date. This petition further includes an authorization to charge Deposit Account No. 02-2448 for any additional fees. However, a declaration executed by the inventor as required by 35 U.S.C.371 (c)(4) was not submitted.

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 petition fee of $1300.00 and the U.S. basic national fee of $1060.00 by check.

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 18 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 37 CFR1.137(b).

However, a declaration executed by the inventor as required by 35 U.S.C. 371 (c)(4) has not been submitted .

CONCLUSION

The request to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the United States of America.

This application is being forwarded to the Office of PCT Operations for further review and processing in accordance with this communication, including the preparation and 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) is required.

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

01 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

BIRCH, STEWART, KOLASH & BIRCH
PO Box 747
Falls Church, VA 22040-0747

In re Application of:	:	
ALLEGRETTI, et al.	:	
U.S. Application No.: 10/469,094	:	COMMUNICATION
PCT No.: PCT/EP02/01974	:	REGARDING RENEWED
International Filing Date: 25 February 2002	:	SUBMISSION UNDER
Priority Date: 27 February 2001	:	37 CFR 1.42
Attorney's Docket No.:3765-0111P	:	
For: OMEGA-AMINOALKYLAMIDES ...	:	

In a communication mailed on 06 January 2004, this Office rejected the declaration filed by applicant on 01 December 2003 for failure to satisfy 37 CFR 1.42 and 1.497. Specifically, it was not clear whether the declaration filed on 01 December 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 06 May 2004, applicants filed the "Renewed Request Under 37 CFR 1.42" considered herein (with two-month extension fee). The response includes a statement that the executing heirs are the sole heirs of the deceased inventors. The response also states that it is accompanied by a "Combined Declaration and Power Oof Attorney and Added Page executed by all of the heirs of the deceased inventor Carmelo GANDOLFI." However, a review of the submitted materials reveals only the first three pages of the declaration (previously submitted); the newly executed "Added Page" referred to in the response is not present in the application file. It would appear that this page has been inadvertently omitted from the filed materials.

Without the missing "Added Page" (properly executed by the heirs of the inventor and containing all the required information), the declaration filed 06 May 2004 is not fully executed and cannot be accepted under 37 CFR 1.42 and 1.497.

CONCLUSION

The 06 May 2004 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 a complete and acceptable declaration properly executed under 37 CFR 1.42, as discussed above and in the previous decision.

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

30 AUG 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
www.uspto.gov

BIRCH, STEWART, KOLASH & BIRCH
PO Box 747
Falls Church, VA 22040-0747

In re Application of:	:	
ALLEGRETTI, et al.	:	
U.S. Application No.: 10/469,094	:	COMMUNICATION
PCT No.: PCT/EP02/01974	:	REGARDING RENEWED
International Filing Date: 25 February 2002	:	SUBMISSION UNDER
Priority Date: 27 February 2001	:	37 CFR 1.42
Attorney's Docket No.:3765-0111P	:	
For: OMEGA-AMINOALKYLAMIDES ...	:	

In a communication mailed on 01 June 2004, this Office rejected the declaration filed by applicant on 06 May 2004 for failure to satisfy 37 CFR 1.42 and 1.497. Specifically, the declaration in the application file did not include the additional page executed by the heirs of the deceased inventor.

On 16 June 2004, applicants filed the "Second Renewed Request Under 37 CFR 1.42" considered herein. The response includes a copy of the declaration that includes an added page executed by the heirs of the deceased inventor. This declaration (including added sheet) includes the information required under 37 CFR 1.497(b)(2). As noted in the previous communication, applicants' 06 May 2004 submission included the statement that the signing heirs were all the heirs of the deceased inventor.[1]

The submission of the declaration executed by 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.

Based on the above, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

---

[1] Applicants assert that the added page was included in the 06 May 2004 submission, and they have included a copy of the stamped return postcard in support of this assertion. However, the return postcard does not specifically itemize the declaration or the number of pages therein; the postcard therefore does not support a conclusion that the 06 May 2004 submission included the missing declaration page.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**. The revised declaration filed on 16 June 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 application's date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 16 June 2004.

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

28 JUN 2006

#6

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

Leonard Tachner
A Professional Corporation
17961 Sky park Circle, Suite 38-E
Irvine, CA 92614

In re Application of :
ZHOU, Xiaoxi :
Application No.: 10/469,112 :
PCT No.: PCT/CN02/00111 :
Int. Filing Date: 25 February 2002 :
Priority Date: 26 February 2001 :
Attorney Docket No.: FP03044PCT/US :
For: A PUMPING UNIT DRIVEN BY A LINEAR MOTOR

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 June 2006 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
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

LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE CA 92614

MAILED

JUN 29 2010

OFFICE OF PETITIONS

In re Application of :
Xiaoxi Zhou :
Application No. 10/469,112 : DECISION ON PETITION
Filed: August 23, 2003 :
Attorney Docket No. FP0304PCT :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office Action mailed August 20, 2009, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3746 for appropriate action by the Examiner in the normal course of business on the reply received April 8, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

10/469113
DT09 Rec'd PCT/PTO 25 AUG 2003

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

44

Applicant	:	Colleen Joyce BETTLES Christopher Thomas FORWOOD
Serial No.	:	Group Art Unit: 1742
Filing Date	:	Examiner: IP
Title	:	**CREEP RESISTANT MAGNESIUM ALLOY**
International Application No.	:	PCT/AU03/00774
International Filing Date	:	June 20, 2003
Priority Date Claimed	:	June 21, 2002
Entity Status	:	
Our Docket	:	RR-551 PCT/US

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

FEB 23 2005

EXPRESS MAIL CERTIFICATE

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as EXPRESS MAIL Customer Receipt No. EV334433121US in an envelope addressed to:

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

on August 25, 2003

Applicants' Attorney

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

09/09/2004 VWALLACE 00000003 181741 10469113
01 FC:1460 130.00 DA

PETITION TO MAKE SPECIAL UNDER 37 CFR §1.102(c)

Sir:

Applicant petitions to advance the examination of this application under 37 CFR §1.102(c) on the basis that the subject application will materially advance the quality of the environment. It is believed that no

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3/9/06

TO SPE OF : ART UNIT 1772

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/469115 Patent No.: 6933027B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: Improper Amendment. No support in the record for changes

TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE

1771
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

February 13, 2007

Russell D. Orkin
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1845

Patent No: 6933027 B2
Application No: 10/469115
Applicant: Mamoru Takehara
Issued: August 23, 2005
Title: **COMPOSITE AND VESSELS INCLUDING THE COMPOSITE**

Request for Certificate Of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

Inspection of the printed patent, of the above application reveals that the errors mentioned in your request are in fact printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. Per the examiner " **Improper amendment. No support in the record for changes".**

In view of the foregoing your request in these matters are hereby **denied**.

However, further consideration will be given to these matters, upon receipt of a request for certificate of correction with supporting documents and accompanied by the appropriate fee, which is presently $100.

V.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

05 FEB 2004

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Linda M. Deschere
Harness, Dickey & Pierce, PLC
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of	:	
Jauss	:	
Application No. 10/469,116	:	DECISION ON
PCT No.: PCT/DE01/04510	:	
Int. Filing Date: 30 November 2001	:	PETITION UNDER
Priority Date: 14 December 2000	:	
Atty. Docket No.: 8540T-000017	:	37 CFR 1.137(b)
For: Internal Combustion Engine Which	:	
Can Be Operated With A Choice Of	:	
Different Fuels, Especially For A...	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 25 August 2003.

BACKGROUND

This international application was filed on 30 November 2001, claimed an earliest priority date of 14 December 2000, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 20 June 2002. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. The 30 month time period for paying the basic national fee in the United States expired at midnight on 16 June 2003 (since 14 June 2003 was a Saturday). This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

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

Regarding requirement (1), the basic national fee accompanied the petition.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED** as to the national stage in the United States.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of a surcharge under 37 CFR 1.492(e) 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

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

09 JUL 2007

CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20036

In re Application of	:	
Takashi Tomita et al	:	
Application No.: 10/469,141	:	DECISION ON
PCT No.: PCT/JP03/01093	:	
Int. Filing Date: 04 February 2003	:	PETITION
Priority Date: 06 February 2002	:	
Attorney's Docket No.: 21581-00302-US	:	UNDER 37 CFR 1.181
For: CONCRETE COMPOSITION ... ADMIXTURE	:	

This decision is in response to the "REQUEST FOR CORRECTED NOTICE... FILING RECEIPT," filed on 04 May 2004 which is being treated as a petition under 37 CFR 1.181 requesting that the 371(c)(1), (c)(2), and (c)(4) date of the above application be corrected to January 16, 2004.

BACKGROUND

On 27 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 by 35 U.S.C. 371(c)(1), and a copy of the international application and a translation into English of the international application was provided with the transmittal letter. However, no executed declaration was submitted at such time.

On 22 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicants, inter alia, that an "Oath or declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date must be submitted within two (2) months from the date of this Notice or 32 months from the priority date of the application. Failure to properly will result in abandoned.

In response to the "NOTIFICATION OF MISSING REQUIREMENTS" mailed on 22 December 2003, applicants filed an executed declaration with the USPTO on 16 January 2004.

On 17 February 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" which informed applicants that the 371(c)(1), (c)(2) and (c)(4) and that the date of completion of all 35 U.S.C. 371 is 18 January 2004.

On 04 May 2004, applicants filed this petition indicating that the correct 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) date is 16 January 2004.

DISCUSSION

A review of the file indicates that the executed declaration was received at the USPTO on January 16, 2004. Thus, the date of receipt of the declaration for the above application is 16 January 2004, which is the date that applicants satisfied the requirement under 35 U.S.C. 371(c)(4). Accordingly, this is the date that all of the requirements under 35 U.S.C. 371 have been satisfied.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 17 February 2004 is **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **16 January 2004.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 0 9 2008

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

Einar Stole
MILBANK, TWEED, HADLEY & MCCLOY LLP
INTERNATIONAL SQUARE BUILDING
1850 K STREET N.W., SUITE 1100
WASHINGTON DC 20006

In re Application of	:	
Wei-Qin Zhao	:	Decision on Petition
Serial No.: 10/469,164	:	
Filed : 19 July 2004	:	
Attorney Docket No.: 17357.00600US	:	

This letter is in response to the Renewed Petition under 37 C.F.R. 1.144 and 1.181 filed on 2 April 2008 requesting reconsideration of the restriction requirement dated 11 June 2007.

BACKGROUND

This application was filed as a national stage under 35 USC 371 and as such, is entitled to PCT unity of invention rules.

On 11 June 2007, the examiner found unity of invention lacking among the six Groups as follows:

> Group I, claims 1-13, 18-38, 58-61 and 76-78, drawn to a method of diagnosing Alzheimer's disease in a subject.
>
> Group II, Claims 62-67 and 79, drawn to a method of screening compounds to identify a compound useful for the treatment or prevention of Alzheimer's disease.
>
> Group III, claims 68, drawn to a method of screening compounds for usefulness as activator compounds in a stimulus-response assay,
>
> Group IV, claim 69 drawn to a diagnostic kit for Alzheimer's disease, comprising anti-phospho-MAPK protein antibody and bradykinin.
>
> Group V, claims 70-71, drawn to a method for selecting medication for an Alzheimer's patient.

Group VI, claims 72-75 and 80, drawn to a method of treating or preventing Alzheimer's disease in a subject.

On 11 July 2007, applicants elected Group I with traverse.

On 2 October 2007, the examiner considered the traversal and made the lack of unity determination final. Claims 62-75 were withdrawn from consideration as being directed to non-elected inventions. Claims 1, 9-10, 12-13, 58-61 were rejected under 35 USC 102(b) as being anticipated by Takeda. Claims 2-8, 11 and 18-37 were rejected under 35 USC 103(a) as being unpatentable over Takeda, Ito, Huang and El-Dahr.

On 2 April 2008, applicants filed a response to the Office action along with this petition.

DISCUSSION

The file history and petition have been considered carefully.

PCT Rules 13.2 states that:

> **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.**

The criteria for determining the concept of "contribution over the prior art" is further discussed in Chapter 10 of the International Search and Preliminary Examination Guidelines:

Rule 13.2; AI Annex B, Part 1(b)

> 10.02 Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," is considered with respect to novelty and inventive step. For example, a document discovered in the international search shows that there is a presumption of lack of novelty or inventive step in a main claim, so that there may be no technical relationship left over the prior art among the claimed inventions involving one or more of the same or corresponding special technical features, leaving two or more dependent claims without a single general inventive concept.

There are two parts to PCT Rule 13.2. First, the inventions must share the same or corresponding technical feature. In the petition, applicant argues that the shared technical feature is "assaying of differential or abnormal phosphorylation ratios of Erk1/2 [or MAPK] in the claimed cell types upon stimulation with the claimed activator compounds."

This argument is not persuasive.

The methods do not all share any one particular claimed cell type. Groups I and V and VI use any cell taken from a subject, Group II uses "test cells", Group III uses "AD cells" while Group IV does not require any particular type of cell.

Moreover, the methods do not all share any one particular activator compound. Group I refer to a PKC activator which may be bombesin, thrombin, vasopressin, bradykinin or bradykinin receptor agonist or a IP3R agonist, etc., Group II uses an agent that triggers intracellular calcium release via IP3 receptor. Group III is a screening method for identifying activator compounds- as such, it does not require any particular activator compound. Finally, Group IV, V and VI do not require any particular type of activator compound. For these two reasons, the technical feature asserted by applicants is not commensurate with the scope of the claims nor required by all the inventions.

The second part of PCT Rule 13.2 requires that the shared technical feature make a contribution over the prior art. Chapter 10 of the ISPE Guidelines makes it clear that the contribution must be both in terms of novelty, which corresponds to anticipation under US practice, and inventive step, which corresponds to unobviousness under US practice. Applicants also argue that the Takeda reference does not teach the technical feature of "assaying of differential or abnormal phosphorylation ratios of Erk1/2 [or MAPK] in the claimed cell types upon stimulation with the claimed activator compounds." In view of the first Office action on the merits, if any shared technical feature were present, for unity of invention to be present, the technical feature must make a contribution over both the anticipation rejection of Takeda and the obviousness rejection over the combination of Takeda, Ito, Huang and El-Dahr. While the petition addresses the anticipation rejection, it does not address the obviousness rejection. The petition does not provide a shared technical feature and does not address the obviousness rejection.

At present, claims directed to the elected invention are found unpatentable in view of a 35 USC 102 rejection and a 103(a) rejection. These rejections taken together are evidence that the elected invention does not make a contribution over the prior art. Therefore, it follows that any technical feature shared among the 6 inventions does not make a contribution over the prior art. Because the elected invention does not make a contribution over the prior art, and because the technical feature as identified by applicants is not required by all the inventions, the lack of unity determination among Groups I-VI will be maintained in accordance with PCT Rule 13.2.

Should all claims drawn to the elected invention be found free of the prior art, the examiner should then consider whether the claims all require a special technical feature which makes a contribution over the prior art. If so, at that time, the lack of unity holding should be withdrawn among any inventions which require the same or corresponding special technical feature.

DECISION

The petition filed under 37 CFR 1.144 and 1.181 on 2 April 2008 is **DENIED**.

The application will be forwarded to the examiner to consider the papers filed 2 April 2008 and to prepare an Office action consistent with this petition decision. Should the elected invention be found free of the prior art, the examiner will consider withdrawing the lack of unity determination.

Any request for reconsideration should be filed within TWO MONTHS of the mail date of this Petition Decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

John LeGuyader
Director, Technology Center 1600

RECEIVED
CENTRAL FAX CENTER
OCT 2 2 2008

LAW OFFICES OF
FAY KAPLUN & MARCIN, LLP
INTELLECTUAL PROPERTY LAW

150 BROADWAY, SUITE 702
NEW YORK, NEW YORK 10038
PHONE: (212) 619-6000
FAX : (212) 619-0276
WWW.FKMIPLAW.COM

FACSIMILE COVER SHEET

FAX NO	:	571-273-8300
TO	:	Commissioner for Patents Mail Stop: Petitions
FROM	:	Oleg F. Kaplun, Esq. of Fay Kaplun & Marcin, LLP
DATE	:	October 22, 2008
SUBJECT	:	U.S. Patent No. 7,360,349 for *Equestrian Saddles* Our Ref.: 40132/00201

NUMBER OF PAGES INCLUDING COVER : 6

MESSAGE:

Please see attached.

Thank you.

IF ANY PAGES WERE NOT RECEIVED OR ARE ILLEGIBLE, PLEASE CALL (212) 619-6000 AS SOON AS POSSIBLE
The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. We will reimburse any costs you incur in notifying us and returning the message to us. Thank you.

Attorney Docket No. 40132/00201 (LB 1843)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER
OCT 2 2 2008

Applicant(s)	:	Walker
Patent No.	:	7,360,349
Issue Date	:	April 22, 2008
For	:	Adjustable Saddle

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

Certificate of Facsimile / Electronic Filing
I hereby certify that this correspondence is being transmitted via facsimile or Electronic Filing addressed to:

Mail Stop: Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 2213-1450
(571) 273-8300

By: Oleg F. Kaplun (Reg. No. 45,559) Date: October 22, 2008

TRANSMITTAL

Transmitted herewith please find a Petition and a Request for Certificate of Correction for filing in the above-identified patent. Please charge the Credit Card of Fay Kaplun & Marcin in the amount of $1,410. The Commissioner is hereby authorized to charge any additional required fees to the **Deposit Account of Fay Kaplun & Marcin, LLP No. 50-1492**

Respectfully submitted,

Dated: October 22, 2008

By: _____
Oleg F. Kaplun, Reg. 45,559

Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, NY 10038
Tel: (212) 619-6000
Fax: (212) 619-0276

Attorney Docket No.: 40132/00201
Ref. No.: LB1843-JPP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER
OCT 2 2 2008

Applicant	:	Walker
Serial No.	:	10/469,203
Filed	:	April 26, 2004
For	:	Equestrian Saddles
Group Art Unit	:	3643
Examiner	:	Son T. Nguyen
Confirmation No.	:	2362

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

PETITION UNDER 37 C.F.R. § 1.78(a)(3)

The Applicant of the above-identified Application, now U.S. Patent No. 7,360,349, hereby petitions the USPTO to correct priority of the Application under 37 C.F.R. § 1.78(a)(3). On March 3, 2001, the original priority UK Patent Application Serial No. 0105336.2 was filed in the United Kingdom. On March 1, 2002, PCT Patent Application Serial No. PCT/GB02/00902 was filed claiming priority to the UK Application. On April 26, 2004, the Application was filed claiming priority to the PCT Application and the UK Application. However, the Application erroneously indicated that the filling date of the PCT Application as "March 3, 2002" instead of "March 1, 2002". Therefore, the Applicant hereby petitions to correct the reference to the PCT Application contained in the Application.

10/23/2008 HWARZI1 00000048 10469203
01 FC:1454 1410.00 OP

PAGE 3/6 * RCVD AT 10/22/2008 4:46:45 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/21 * DNIS:2738300 * CSID:2126190276 * DURATION (mm-ss):02-18

Attorney Docket No.: 40132/00201
Ref. No.: LB1843-JPP

It is respectfully submitted that the entire delay between the date the claims were due under 37 C.F.R. § 1.78 (a)(2)(ii) and the date the claims were filed was unintentional. The surcharge fee as set in 37 C.F.R. § 1.17(t) is enclosed herewith. This Petition is accompanied by a Request for a Certificate of Correction.

Therefore, the Applicant petitions under 37 C.F.R. § 1.78(a)(3) to correct the priority claim of the Application. Favorable consideration of the present petition is respectfully requested.

Respectfully submitted,

Dated: October 22, 2008

By: _____
Oleg F. Kaplun (Reg. No. 45,559)

Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, New York 10038
Tel.: (212) 619-6000
Fax: (212) 619-0276

PAGE 4/6 * RCVD AT 10/22/2008 4:46:45 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/21 * DNIS:2738300 * CSID:2126190276 * DURATION (mm-ss):02-18

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,360,349

APPLICATION NO.: 10/469,203

ISSUE DATE : April 22, 2008

INVENTOR(S) : Walker

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:

The PCT Filed date should read:

Mar. 1, 2002

MAILING ADDRESS OF SENDER (Please do not use customer number below):

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

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

28 JUL 2004

#5

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

Kate H. Murashige
MORRISON & FOERSTER
3811 Valley Centre Drive
Suite 500
San Diego, CA 92130-2332

In re Application of: EDENS, Luppo, et al. U.S. Application No.: 10/469,204 PCT No.: PCT/EP02/01984 International Filing Date: 22 February 2002 Priority Date: 23 February 2001 Attorney's Docket No.: 246152020500 For: NOVEL GENES ENCODING NOVEL PROTEOLYTIC ENZYMES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition In Support Of Filing Under 37 CFR 1.47(b) On Behalf Of The Assignee Of The Invention" filed 09 July 2004 and treated herein under 37 CFR 1.47(a). Applicants have paid the required petition fee.

BACKGROUND

On 22 February 2002, applicants filed international application PCT/EP02/01984 which claimed a priority date of 23 February 2001 and which designated the United States. On 06 September 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., 25 August 2003 (23 August 2003 was a Saturday).

On 25 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 11 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed declaration acceptable under 37 CFR 1.497 was required.

On 23 April 2004, applicants filed a response to the Notification Of Missing Requirements accompanied by the fee for a two month extension of time to respond. The response included a declaration executed by seventeen of the nineteen named inventors, and the

petition considered herein. The petition seeks acceptance of the application without the signature of the remaining inventors, Erik KIMPEL and Wilk VON GUSTEDT.[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 addresses of the nonsigning inventors. Item (2) is therefore 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 seventeen of the named inventors with unsigned signature blocks for both of the nonsigning inventors. This declaration can be accepted as having been signed by these inventors on their own behalf and on behalf of the nonsigning inventors. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the nonsigning inventors have refused to execute the application. In such cases, the MPEP requires that the 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, with respect to inventor Erik KIMPEL, applicant has provided a firsthand statement from Paul L. Sharer, with documentary support, demonstrating that the complete application papers have been provided to the nonsigning inventor, and that he has not responded. The petition also includes a copy of an email from the inventor in which the inventor expressly states that he will not execute application papers. Item (4) is therefore satisfied with respect to this inventor.

---

[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).

With respect to Mr. VON GUSTEDT, firsthand evidence has been presented to show that two unsuccessful attempts were made to send the nonsigning inventor a copy of the complete application papers. However, the addresses used were not current, and no firsthand evidence has been provided with respect to efforts made to locate a current address for this inventor. The petition also references a conversation between the nonsigning inventor and Negar Chegini in which the inventor purportedly refused to execute application materials. However, applicants have not provided a statement from Mrs. Chegini providing the required firsthand evidence with respect to such refusal.

Based on the above, applicants have not, on the present record, satisfied item (4) of a grantable petition with respect to nonsigning inventor Wilk VON GUSTEDT. Applicants must submit firsthand evidence that this inventor has been provided with a copy of the complete application and refused to execute the application or, in the alternative, firsthand evidence that this inventor cannot be reached after diligent effort.

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 (4) of a grantable petition with respect to nonsigning inventor Wilk VON GUSTEDT, 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

1 8 NOV 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#8

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

Kate H. Murashige
MORRISON & FOERSTER
3811 Valley Centre Drive
Suite 500
San Diego, CA 92130-2332

In re Application of: EDENS, Luppo, et al. U.S. Application No.: 10/469,204 PCT No.: PCT/EP02/01984 International Filing Date: 22 February 2002 Priority Date: 23 February 2001 Attorney's Docket No.: 246152020500 For: NOVEL GENES ENCODING NOVEL PROTEOLYTIC ENZYMES	SECOND DECISION ON PETITION UNDER 37 CFR 1.47(a)

In a decision mailed by this Office on 28 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. Specifically, the decision found that, while applicants had submitted all the requirements for a grantable petition with respect to nonsigning inventor Erik KIMPEL, applicants had not provided adequate evidence that nonsigning inventor Wilk VON GUSTEDT had been presented with a copy of the complete application and refused to sign.

On 21 October 2004, petitioners filed the "Submission Of Executed Declaration In Lieu Of 'Renewed Petition Under 37 CFR 1.47(a)'" considered herein. Deposit Account No. 50-3121 will be charged the one month extension fee required to make this submission a timely response to the 28 July 2004 decision.

Applicants' 21 October 2004 submission includes a declaration executed by previously nonsigning inventor Wilk VON GUSTEDT which complies with 37 CFR 1.497. Accordingly, the petition under 37 CFR 1.47(a) is now moot with respect to this inventor. As noted in the previous decision, applicants have submitted all the requirements for a grantable petition under 37 CFR 1.47(a) with respect to the remaining nonsigning inventor, Erik KIMPEL.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) with respect to nonsigning inventor Wilk VON GUSTEDT is **MOOT**.

Applicants' petition under 37 CFR 1.47(a) with respect to nonsigning inventor Erik KIMPEL is **GRANTED**.

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 21 October 2004.

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

18 NOV 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

Erik KIMPEL
Samannstrasse 100
D-81249 Munchen
GERMANY

In re Application of: EDENS, Luppo, et al.
U.S. Application No.: 10/469,204
PCT No.: PCT/EP02/01984
International Filing Date: 22 February 2002
Priority Date: 23 February 2001
Attorney's Docket No.: 246152020500
For: NOVEL GENES ENCODING NOVEL PROTEOLYTIC ENZYMES

Dear Mr. KIMPEL :

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 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
Attorney Advisor
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

Counsel Of Record:
Kate H. Murashige
MORRISON & FOERSTER
3811 Valley Centre Drive
Suite 500
San Diego, CA 92130-2332

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
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO CA 92130-2040

COPY MAILED

NOV 16 2006

OFFICE OF PETITIONS

In re Application of	:	
EDENS, et al.	:	
Application No. 10/469,204	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. 24615202500	:	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 **APPROVED**.

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

The request was signed by Thomas Ciotti on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed August 31, 2006 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **Luppo Edens**
Hoflaan 118
Rotterdan, The Netherlands 3062 JL

cc: **Nixon & Vanderhye PC**
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

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
10/469,204	10/21/2004		24615202500

CONFIRMATION NO. 9834

OC000000021243229

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 11/15/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/29/2006.

- 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

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
10/469,204	10/21/2004		24615202500

CONFIRMATION NO. 9834

OC000000021243006

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 11/15/2006

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/20/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received. or is improper.
- The statement provided does not contain the current reel/frame number.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO, CA 92130-2040

COPY MAILED

MAY 02 2007

OFFICE OF PETITIONS

In re Application of	:	
EDENS, et al.	:	
Application No. 10/469,204	:	DECISION ON REQUEST FOR
Filed: October 21, 2004	:	REVOCATION OF POWER
Attorney Docket No. 24615202500	:	OF ATTORNEY
	:	

CORRECTED DECISION

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed September 20, 2006.

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The 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 11, 2007 that requires a reply from the applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIXON & VANDERHYE PC**
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/15/09 **Paper No.:** _____

TO SPE OF : ART UNIT 2168

SUBJECT : Request for Certificate of Correction for Appl. No.: 10469210 Patent No.: 7447672

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

[redacted]

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

HIMYO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

PAGE 1/1 * RCVD AT 1/6/2010 10:13:34 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/37 * DNIS:2709990 * CSID:7033080758 * DURATION (mm-ss):00-58

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

Law Offices of Daniel L. Dawes
Dawes Patent Law Group
5200 Warner Blvd, Ste. 106
Huntington Beach, CA 92649

Mail Date: 04/20/2010

Applicant	: Adrian Ponce	: DECISION ON REQUEST FOR
Patent Number	: 7651862	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/469,216	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1331** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ostrolenk Faber
Gerb & Soffen
1180 Avenue of the Americas
New York NY 10036-8403

COPY MAILED

MAR 03 2006

OFFICE OF PETITIONS

In re Application of	:	
Tempea et al.	:	
Application No. 10/469,218	:	DECISION ON PETITION
Filed: August 26, 2003	:	
Attorney Docket No. P/1903-25	:	

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

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on June 29, 2005. The final Office Action set a three (3) month shortened statutory period for reply. A reply was filed on September 29, 2005. An Advisory Action was mailed on October 13, 2005 informing applicant the response filed did not place the application in condition for allowance. No extension of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 30, 2005. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Request for Continued Examination (RCE), and the previously submitted amendment will be forwarded to Technology Center 2800 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

10 JUN 2004

#5

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

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

In re Application of Takashi OGINO (deceased) Application No.: 10/469,233 PCT No.: PCT/JP02/02109 Int. Filing Date: 07 March 2002 Priority Date: 08 March 2001 Attorney's Docket No.: 241208US0PCT For: NEW COMPOUND	DECISION ON REQUEST FOR STATUS UNDER 37 CFR 1.42

This is a decision on applicant's submission filed on 06 May 2004, and treated as a request for status under 37 CFR 1.42. Applicant also requests a two month extension of time, which is granted.

BACKGROUND

On 07 March 2002, applicant filed international application PCT/JP02/02109, which claimed priority of an Japanese application filed 08 March 2001. On 09 October 2002, a Demand for international preliminary examination was filed and accordingly, the thirty month period for paying the basic national fee for processing in the United States expired at midnight on 08 September 2003.

On 05 September 2003, applicant filed a Transmittal Letter for entry into the national stage in the United States of America along with a basic national fee. On 06 January 2004, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 06 May 2004, applicant filed a response to the Notification of Missing Requirements including an executed declaration. The declaration indicates that inventor Takashi Ogino is deceased. The declaration is signed by Hitomi Ogino, Tetsuya Ogino and Tomomi Takezawa as legal representatives of deceased joint inventor Takashi Ogino.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The legal representative of a deceased inventor must make the application for patent "on the same terms and conditions applicable to the inventor." 35 U.S.C. 117. To this end, 37 CFR 1.497(b)(2) states, in pertinent part,:

"If the person making the oath or declaration... is not the inventor, the oath or declaration

shall state the relationship of the person to the inventor.... [and] 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 May 2004 identifies the signatories and states their relationship to the inventor as the legal representatives for deceased inventor Takashi Ogino as well as the citizenship, residence and mailing address of the deceased inventor and the legal representatives. (See MPEP §409.01(a)). The declaration satisfies 37 CFR 1.497(b)(2) and is acceptable. Thus, the declaration is acceptable under 37 CFR 1.42. Accordingly, 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 application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c) date is **06 May 2004.**

/Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
209 MADISON STREET, SUITE 500
ALEXANDRIA, VA 22314

COPY MAILED

JUN 12 2008

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Kerstin Uvnas-Moberg et al :
Application No. 10/469,255 :
Filed: April 9, 2004 :
Attorney Docket No. 1547-1004 :

This is a decision on the petition filed February 8, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed January 17, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 18, 2007.

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

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: Benoit Castel
Young & Thompson
745 South 23rd Street
Arlington, VA 22202

08 APR 2004

#4

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

Lawrence M. Nawrocki
Nawrocki Rooney & Sivertson
3433 Broadway Street NE Suite 401
Minneapolis, MN 55413

In re Application of	:	
TWEET, David	:	
Application No.: 10/469,262	:	DECISION ON PETITION
PCT No.: PCT/US02/06012	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 26 February 2002	:	
Priority Date: 26 February 2001	:	
Attorney Docket No.: 17002/114/102	:	
For: ANTI-ABRASIVE FIRE RETARDANT COMPOSITION		

This decision is in response to applicant's "Petition to Revive Unintentionally Abandoned Application under 37 CFR 1.137(b)" filed 25 March 2004. The required petition fee of $665.00 has been submitted.

BACKGROUND

On 26 February 2002, applicant filed international application PCT/US02/06012 which claimed a priority date of 26 February 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 20 months from the priority date, or at midnight on 26 August 2003.

On 26 August 2003, applicant filed a transmittal letter requesting entry into the national stage in the United States, which was accompanied, inter alia, by: a copy of the international application and an unexecuted combined declaration and power of attorney. These papers were stamped with serial number **10/469,262**.

On 15 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT UNDER 35 U.S.C. 371 (Form PCT/DO/EO/909) for application no. 10/469,262 indicating that the application was abandoned for failure to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2).

On 25 March 2004, applicant filed a "Petition to Revive Unintentionally Abandoned Application under 37 CFR 1.137(b)" which was accompanied a copy of the international application, a copy of a postcard receipt; and a copy of a check in the amount of $665 and $459. These papers were stamped with serial number **10/490,812**.

Application No.: 10/469,262

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 from 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).

With regard to Item (1), the proper response was the submission of the petition to revive under 37 CFR 1.137(b).

As to Item (2), the appropriate petition fee of $665.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicant's statement that "the entire period of delay was unintentional" 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.

CONCLUSION

All of the requirements of 37 CFR 1.137(b) have been met and applicant's petition to revive is **GRANTED**.

The application papers filed on 25 March 2004 have been removed from **10/490,812** and placed in application folder **10/469,262**. Applicant should use application number **10/469,262** in all future communications with the Patent and Trademark Office (PTO) in regards to the U.S. national stage of international application PCT/US02/06012.

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
Tel: 703-308-6314
Fax: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAY 13 2005

OFFICE OF PETITIONS

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
Hiroyuki Doi, et al.	:	DECISION
Application No. 10/469,264	:	ON PETITION
Filed: August 26, 2003	:	37 CFR 1.137(b)
Attorney Docket No. A35955 PCT-USA-074224.011	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3).

The above-identified application became abandoned for failure to timely pay the issue fee. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. See MPEP 711.03(c)(III)(A)(1).

Petitioner has met the requirements for the filing of a grantable petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Stephen K. Cronin at (571) 272-6051 or, in his absence, to the undersigned at (571) 272-3217.

The application file is being referred to the Office of Publications.

Brian Hearn

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/10/07

Paper No.:

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/469268 Patent No. 6992073 B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE

1623
Art Unit

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

Lawrence Rosenthal
Stroock & Stroock & Lavan
180 Maiden Lane
New York, NY 10038-4982

Mail Date: 04/21/2010

Applicant	: Hiroto Nakamura	: DECISION ON REQUEST FOR
Patent Number	: 7601417	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/469,282	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **60** 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.

28 FEB 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

CHRISTIE, PARKER & HALE, LLP
350 West Colorado Boulevard
Suite 500
Pasadena, CA 91105

In re Application of: XU, Qiwang, et al.	:	
U.S. Application No.: 10/469,284	:	DECISION
PCT No.: PCT/CN02/00120	:	
Int'l Filing Date: 28 February 2002	:	
Priority Date: 28 February 2001	:	
Attorney's Docket No.: 51041/DBP/C306	:	
For: The use of n-acetyl-d-glucosamine in the manufacture of pharmaceutical useful for adjuvant treatment of perianal disease	:	

This decision is issued in response to applicant's "Request To Correct Filing Receipt" filed 26 April 2004 and resubmitted 18 February 2005. No petition fee is required.

BACKGROUND

On 28 February 2002, applicants filed international application PCT/CN02/00120 which claimed a priority date of 28 February 2001 and which designated the United States. On 09 June 2002, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB).

On 28 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 and a translation of the international application into English.

On 02 February 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497 was required.

On 16 March 2004, applicants filed a declaration executed by the inventors.

On 29 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) were satisfied on 19 March 2004 and a filing receipt indicating that the 371(c) date was 19 March 2004. In addition, the filing receipt indicated that all three inventors were citizens of Switzerland, and it identified the priority application as Chinese application number 01004885.9, filed 02/28/2002.

On 26 April 2004, applicants filed the request for a corrected filing receipt considered herein. The request seeks correction of the 371(c) date to 16 March 2004, the date on which the declaration was filed. Applicants also requests correction of the citizenship of the inventors and the foreign priority information. The submission was accompanied by a copy of the 16 March 2004 submission, including the transmittal letter (which identifies "Express Mail" label number EV326707616US), and a copy of the customer receipt for this "Express Mail" label number (which bears a 16 March 2004 "date in").

On 18 February 2005, applicants resubmitted the request for correction of the filing receipt. The resubmission includes a copy of a return postcard that itemizes the executed declaration, properly identifies the present application, and bears a USPTO receipt stamp dated 16 March 2004.

DISCUSSION

Based on applicants' statements, the exhibits to the request for a corrected filing receipt, and a review of the application file, it is confirmed that the declaration completing the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) was filed on 16 March 2004. Accordingly, the requested correction of the 371(c) date on the filing receipt is appropriate. Correction of the 35 U.S.C. 371 date contained on the Notification Of Acceptance (Form PCT/DO/EO/903) is also appropriate.

In addition, a review of the published international application and the executed declaration filed herein confirms that the citizenship and residence of the three inventors was indicated by applicants as China, and the priority application was identified as Chinese application number 01104885.9, filed 28 February 2001. Accordingly, the requested correction of this information on the filing receipt is also appropriate.

CONCLUSION

Applicant's request for a corrected filing receipt is **GRANTED**.

The filing receipt and Notification Of Acceptance (Form PCT/DO/EO/903) previously mailed herein are hereby **VACATED**.

Accompanying this decision is a corrected filing receipt (identifying the correct 371(c) date, citizenship of the inventors, and foreign priority information) and a corrected Notification Of Acceptance (identifying the proper 35 U.S.C. 371(c) date).

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

27 FEB 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

Edward L. Kelley
DBA INVENTION MANAGEMENT ASSOC.
4 Militia Drive
Lexington, MA 02421

In re Application of GABEL, Benjamin U.S. Application No.: 10/469,295 PCT No.: PCT/EP02/02089 Int. Filing Date: 27 February 2002 Priority Date: 28 February 2001 Attorney Docket No.: IMA0020-YIDADAP For: VIDEO CAMERA AND ADAPTER FOR VIDEO CAMERA	:	**DECISION** **UNDER** **37 CFR 1.10(d)**

This decision is in response to the documents titled "Petition to the PCT Legal Administrator Under 1002(p)" filed 09 February 2004 which are treated as a petition under 37 CFR 1.10(c). No fee is required.

BACKGROUND

Applicant filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 using Express Mail. The United States Designated/Elected Office (DO/EO/US) listed the date of receipt of these documents as 29 August 2003.

On 06 January 2004, 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) advising applicant that the 35 U.S.C. 371 requirements were satisfied on 29 August 2003.

On 09 February 2004, applicants filed the instant petition which was accompanied by *inter alia*, a copy of the Customer Copy of Express Mail label No. EU539796615US and a copy of the postcard receipt for the initial national stage filing.

DISCUSSION

It is first noted that applicant listed the U.S. application number as 10/469,925 on the instant petition. That application number is erroneous. The correct U.S. application number is 10/469,295.

Applicant requests to correct the filing date of the original national stage filing to 28 August 2003. Any correspondence received by the Patent and Trademark Office delivered by "Express Mail" will be considered filed in the office on the date of deposit

with the USPS. 37 CFR 1.10(a). Moreover, 37 CFR 1.10(c) states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date - in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date - in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> > (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> >
> > (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> >
> > (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date - in," and of any other official notation by the USPS relied upon to show the date of deposit.

In the instant petition, applicants submitted a copy of Express Mail label No. EU539796615US which has a "Date In" listed as "8 28 03." The aforementioned Express Mail label is also stamped by the USPS in Lexington, MA on "AUG 28 2003." In addition, the Express Mail label number is listed on the postcard receipt submitted. Moreover, a review of the USPS Track Confirm website verifies that Express Mail label No. EU539796615US was accepted at Lexington, MA 02420 on 28 August 2003 at 4:57 p.m.

In light of the evidence, it appears that the DO/EO/US erroneously listed the date of receipt as 29 August 2003.

CONCLUSION

The petition to correct the filing date pursuant to 37 CFR 1.10(c) is **GRANTED**.

Thus 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 January 2004 indicating a Date of Receipt of 35 U.S.C. 471(c)(1), (c)(2) and (c) (4) requirements of 29 August 2003 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Division of

the Office of PCT Operations for continued processing including issuing a corrected Form PCT/DO/EO/903 indicating a 35 U.S.C. 371(c) date of **28 August 2003** and a new filing receipt indicating the same.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDWARD L. KELLEY
DBA INVENTION MANAGEMENT ASSOCIATES
241 LEXINGTON STREET
BLDG. 15 UNIT 1A
WOBURN MA 01801

MAIL

AUG 2 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Benjamin Gabel
Application No. 10/469,295
Filed: August 28, 2003
For: **VIDEO CAMERA AND ADAPTER FOR SAID VIDEO CAMERA**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 8, 2005 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.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 21 2005

FOLEY & LARDNER
WASHINGTON HARBOUR
SUITE 500
3000 K STREET NW
WASHIGTON DC 20007-5109

In re Application of	:
Tomonori Tawara et al	: PETITION TO MAKE SPECIAL
Serial No.: 10/469,304	:
Filed: August 29, 2003	:
Attorney Docket No.: 081356-0201	

This is in response to the petition filed August 29, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted.

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

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

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

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

31 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kevin T. LeMond
Townsend Townsend & Crew LLP
Two Embarcadero Center
8th Floor
San Francisco, California 94111

In re Application of	:	
ASHFORD et al.	:	
U.S. Application No. 10/469,312	:	DECISION ON PETITION
PCT No.: PCT/AU02/00228	:	
Int. Filing Date: 01 March 2002	:	
Priority Date: 01 March 2001	:	
Attorney Docket No.: 086348-000000US	:	
For: AN APPARATUS FOR HEATING A FOOD PRODUCT AND HEATING DEVICES AND FEED ASSEMBLY	:	

This decision is in response to "Petition under 37 CFR 1.47(a)" filed 23 February 2004, to accept the application without the signature of joint-inventor, Ken Kevin Ashford. The $130 petition fee has been submitted.

BACKGROUND

On 01 March 2002, applicants filed international application PCT/AU02/00228 which claimed a priority date of 01 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, 01 September 2003.

On 29 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 copy of the international application; and a preliminary amendment.

On 16 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 23 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), petitioner states that Ken Kevin Ashford cannot be found or reached after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

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

As to Item (2), petitioner has not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventor, Ken Kevin Ashford. Petitioner states "applicants are unable to ascertain the current whereabouts of Ken K. Ashford . . . and that various attempts have been made to contact Mr. Ashford through his known associates." However, a review of the petition reveals that all attempts to locate the nonsigning have been conducted by "his known associates" and cannot be considered as firsthand knowledge. As stated above, 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.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Ken Kevin Ashford under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Anthony Smith

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

15 JUN 2004

#5

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

Kevin T. LeMond
Townsend Townsend & Crew LLP
Two Embarcadero Center
8th Floor
San Francisco, California 94111

In re Application of ASHFORD et al. U.S. Application No. 10/469,312 PCT No.: PCT/AU02/00228 Int. Filing Date: 01 March 2002 Priority Date: 01 March 2001 Attorney Docket No.: 086348-000000US For: AN APPARATUS FOR HEATING A FOOD PRODUCT AND HEATING DEVICES AND FEED ASSEMBLY	:	DECISION ON PETITION

This decision is in response to "Renewed Petition under 37 CFR 1.47(a)" filed 01 June 2004 to accept the application without the signature of joint-inventor, Ken Kevin Ashford.

BACKGROUND

On 01 March 2002, applicants filed international application PCT/AU02/00228 which claimed a priority date of 01 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, 01 September 2003.

On 29 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 copy of the international application; and a preliminary amendment.

On 16 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 23 February 2004, applicants filed petition under 37 CFR 1.47(a). In a decision dated 31 March 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 01 June 2004, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1), (3), and (4) have been satisfied.

As to item (2), petitioner states that Ken Kevin Ashford cannot be found or reached after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

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

As to Item (2), petitioner has not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventor, Ken Kevin Ashford. The Statutory Declaration of David King states that "I have been involved in attempting, unsuccessfully to locate (Ken Kevin) Ashford since June 2002," however, no documentary evidence has been provided with the statutory declaration. It is noted that Exhibits 1-7 listed in the Statutory Declaration were not included with the present petition. Further, the steps to which Mr. King avers to were conducted by other individuals and cannot be considered firsthand knowledge without supporting documentation. As stated above, <u>copies of documentary evidence</u> 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.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Ken Kevin Ashford 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

02 FEB 2005

#10

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

Kevin T. LeMond
Townsend Townsend & Crew LLP
Two Embarcadero Center
8th Floor
San Francisco, California 94111

In re Application of	:	
ASHFORD et al.	:	
U.S. Application No. 10/469,312	:	DECISION ON PETITION
PCT No.: PCT/AU02/00228	:	
Int. Filing Date: 01 March 2002	:	
Priority Date: 01 March 2001	:	
Attorney Docket No.: 086348-000000US	:	
For: AN APPARATUS FOR HEATING A FOOD PRODUCT AND HEATING DEVICES AND FEED ASSEMBLY	:	

This decision is in response to "Renewed Petition under 37 CFR 1.47(a)" filed 07 September 2004 to accept the application without the signature of joint-inventor, Ken Kevin Ashford.

BACKGROUND

On 01 March 2002, applicants filed international application PCT/AU02/00228 which claimed a priority date of 01 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, 01 September 2003.

On 29 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 copy of the international application; and a preliminary amendment.

On 16 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 23 February 2004, applicants filed petition under 37 CFR 1.47(a). In a decision dated 31 March 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 01 June 2004, applicants filed a renewed petition under 37 CFR 1.47(a). In a decision dated 15 June 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 07 September 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), petitioner states that Ken Kevin Ashford cannot be found or reached after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

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

As to Item (2), petitioner has not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventor, Ken Kevin Ashford. The (resubmitted) Statutory Declaration of David King states that "I have been involved in attempting, unsuccessfully to locate (Ken Kevin) Ashford since June 2002. . .I am aware of no further avenues that could be pursued in order to locate (Ken Kevin) Ashford." As stated in the previous decision, the steps to which Mr. King avers to were conducted by other individuals (Steve Scott; Alan Bradford; Shaun Reid; and Marie King) and cannot be considered firsthand knowledge without supporting documentation. In this case, supporting documents would include a declaration supplied by a person having firsthand knowledge. As stated

above, 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. Lastly, has a complete copy of the application papers been mailed to the inventor's last known address?

For the reasons stated above, it would not be appropriate to accept the application without the signature of Ken Kevin Ashford under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

13 SEP 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

Kevin T. LeMond
Townsend Townsend & Crew LLP
Two Embarcadero Center
8th Floor
San Francisco, California 94111

In re Application of ASHFORD et al. U.S. Application No. 10/469,312 PCT No.: PCT/AU02/00228 Int. Filing Date: 01 March 2002 Priority Date: 01 March 2001 Attorney Docket No.: 086348-000000US For: AN APPARATUS FOR HEATING A FOOD PRODUCT AND HEATING DEVICES AND FEED ASSEMBLY THEREOF	DECISION ON PETITION

This decision is in response to "Renewed Petition under 37 CFR 1.47(a)" filed 21 June 2005 to accept the application without the signature of joint-inventor, Ken Kevin Ashford.

BACKGROUND

On 01 March 2002, applicants filed international application PCT/AU02/00228 which claimed a priority date of 01 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, 01 September 2003.

On 29 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 copy of the international application; and a preliminary amendment.

On 16 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 23 February 2004, applicants filed petition under 37 CFR 1.47(a). In a decision dated 31 March 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 01 June 2004, applicants filed a renewed petition under 37 CFR 1.47(a). In a decision dated 15 June 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 07 September 2004, applicants filed a (second) renewed petition under 37 CFR 1.47(a). In a decision dated 02 February 2005, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 21 June 2005, applicants filed a (third) renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1), (3), and (4) have been satisfied.

As to Item (2), a review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Ken Kevin Ashford. The steps taken are sufficient to show that the missing inventor, Ken Kevin Ashford, could not be reached after diligent effort. Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

The renewed 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 returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **23 February 2004**.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

13 SEP 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

Ken Kevin Ashford
40 Lumeah Avenue
East Corrimal, NSW
Australia 2518

In re Application of
ASHFORD et al.
U.S. Application No. 10/469,312
PCT No.: PCT/AU02/00228
Int. Filing Date: 01 March 2002
Priority Date: 01 March 2001
Attorney Docket No.: 086348-000000US
For: AN APPARATUS FOR HEATING A FOOD PRODUCT AND HEATING DEVICES AND FEED ASSEMBLY THEREOF

Dear Mr. Ashford:

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

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

Counsel of Record:
Kevin T. LeMond
Townsend Townsend & Crew LLP
Two Embarcadero Center
8th Floor
San Francisco, California 94111

20 OCT 2004

#10

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

HOLLAND & HART, LLP
555 17TH STREET, SUITE 3200
DENVER, COLORADO 80201

In re Application of LLOYD et al. Application No.: 10/469,313 PCT No.: PCT/US02/06632 Int. Filing Date: 05 March 2002 Priority Date: 05 March 2001 Attorney Docket No.: VGEN.P-070 For: METHODS AND PRIMERS FOR EVALUATING HIV-1 MUTATIONS	: : : : : : : :	DECISION

This is a decision on applicants' "Request for Withdrawal of Abandonment"filed in the United States Patent and Trademark Office (USPTO) on 12 July 2004 and via facsimile on 14 September 2004, in response to the 30 June 2004 Notification of Abandonment. No petition fee is required.

BACKGROUND

On 29 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 23 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) and the $130 surcharge, for providing the oath or declaration after the thirty month period, was required.

On 21 May 2004, in response to the Notification of Missing Requirements, applicants filed, *inter alia*, declarations, executed by the joint inventors.

On 30 June 2004, a Notification of Abandonment was erroneously mailed to applicants indicating that an oath or declaration was required because the signature of the last named inventor, Arejas Uzgiris, was missing from the declaration.

On 12 July 2004, applicants filed the instant Request for Withdrawal of Abandonment along with copies of the declarations and USPTO date-stamped itemized postcard receipt.

On 14 September 2004, applicants faxed a copy of Request to Withdrawal of Abandonment along with USPTO mail room date-stamped itemized postcard receipt indicating that declarations were filed on 21 July 2004.

DISCUSSION

A review of the application file reveals that applicant filed two declarations on 21 May 2004. The two originally filed declarations are found in the application file. The 21 May 2004

response is considered a *bona fide* response to the 23 December 2003 Notification of Missing Requirements. Thus, the Notification of Abandonment mailed on 30 June 2004 was issued erroneously and is hereby vacated.

A review of the declarations indicates that the declaration executed by Robert M. Lloyd, Jr. and Tzong-Jyh Huong is unacceptable as it does not meet the requirements of 37 CFR 1.68, which requires that any document filed in the Patent and Trademark Office be subscribed to; that is, signed at the end of the document. In the instant declaration, the signatures of the inventors Robert M. Lloyd, Jr. and Tzong-Jyh Huong do not appear at the end of the document. Furthermore, Tzong-Jyh Huong's name on the declaration should appear as Joe Tzong-Jyh Huong, as set forth in the published international application.

The declaration executed by Arejas Uzgiris meets the requirements of 37 CFR §§1.497(a) and (b) and 1.68 and is acceptable.

The Notification of Abandonment was erroneously mailed to applicants on 30 June 2004 and is hereby vacated.

CONCLUSION

The petition to withdraw the holding of abandonment filed on 12 July 2004 is **GRANTED**. The Notification of Abandonment mailed on 30 June 2004 was issued erroneously and is hereby **VACATED**.

The declaration submitted on 21 May 2004 executed by Arejas Uzgiris is acceptable and meets the requirements of 37 CFR 1.497. However, the declaration executed by Robert M. Lloyd, Jr. and Tzong-Jyh Huong is unacceptable; a newly executed declaration is required, subscribed by both inventors Robert M. Lloyd, Jr. and Joe Tzong-Jyh Huong.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing including issuance of a Notification of Defective Response in accord with this decision.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 8 2004

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of
Mashiro Fuji et al.
Serial No.: 10/469,364
Filed: August 18, 2003
Attorney Docket No.: 2003-1100A

: PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed August 18, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition has been caused by the delay in DO/EO processing.

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 703-872-9306.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

MAILED
APR 15 2010
OFFICE OF PETITIONS

In re Application of	:	DECISION ON APPLICATION
Brandt et al.	:	FOR PATENT TERM ADJUSTMENT
Application No. 10/469,367	:	AND DECISION ON PETITION TO
Filed: February 18, 2004	:	REVIVE APPLICATION
Attorney Docket No. 4-31884A	:	

This decision is being issued in response to the "Request for Reconsideration of the Patent Term Adjustment-Pre-Grant" filed September 9, 2009. Applicants request, in essence, the initial determination of patent term adjustment be corrected from two hundred fifty (250) days to two hundred fifty-one (251) days. This is also a decision on the petition under 37 C.F.R. § 1.137(b), filed September 9, 2009, to revive the above-identified application.

The application for patent term adjustment is **granted**. The Office has updated the PALM screen to reflect the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 251 days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

The petition to revive is **granted**.

The Application for Patent Term Adjustment

On May 29, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. Applicants were advised of a patent term adjustment to date of 250 days. In response, applicants timely filed this application for patent term adjustment with payment of the issue fee.

Applicants contend the Office's delay under 37 C.F.R. § 1.703(a)(2) in mailing the November 17, 2006 Office action should be calculated as 260 days, not 259 days.

Pursuant to 37 C.F.R. § 1.703(a)(2), the period of adjustment for Office delay includes:

> The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

At the time the Notice of Allowance was mailed, Office computer records indicated applicants filed a reply under 37 C.F.R. § 1.111 on November 3, 2005. The Office mailed a final Office action on November 17, 2006. The number of days in the period beginning on March 4, 2006 (the day after the date four months after the date a reply under 37 C.F.R. § 1.111 was filed) and ending on November 17, 2006 (the date of mailing of either an action under 35 U.S.C. § 132) is 259 days. Therefore, the Office calculated the period of adjustment under 37 C.F.R. § 1.703(a)(2) as 259 days.

Applicants contend the reply under 37 C.F.R. § 1.111 was actually filed November 2, 2005. Specifically, applicants contend the reply was mailed to the Office by Express Mail on November 2, 2005.

A review of the record indicates the reply include a date-stamp added by the USPTO. The date-stamp indicates the reply was received November 2, 2005. The evidence supplied by petitioner, in conjunction with the date-stamp, is sufficient to establish the proper filing date for the reply is November 2, 2005.

Since the reply discussed above was filed November 2, 2005, instead of November 3, 2005, the period of delay under 37 C.F.R. § 1.703(a)(2) for Office delay in responding to the reply is 260 days.

The period of adjustment of 259 days entered pursuant to 37 C.F.R. § 1.703(a)(2) has been removed and a period of adjustment of 260 days has been entered.

In view of the prior discussion, the correct patent term adjustment at the time of mailing of the notice of allowance is 251 days which is 437 (177 + 260) of Office delay reduced by 186 days of Applicant delay.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Petition Under 37 C.F.R. § 1.137(b)

The Office mailed a Notice of Allowance and Notice of Allowability on May 29, 2009.

The Notice of Allowance required the submission of $1,510 for the issue fee and $300 for the publication fee.

The Notice of Allowability stated, "[T]he declaration filed February 18, 2004 is defective because it contains non-initialed and/or non-dated handwritten alterations." The Notice of Allowability required the submission of a "substitute declaration or oath to correct the deficiencies."

The Notice of Allowance and Notice of Allowability set a period for reply of three (3) months.

The Office did not receive a timely reply to the notices. As a result, the application became abandoned on Tuesday, September 1, 2009.

Applicants request revival of the application.

A grantable petition under 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,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

As to requirement (1) listed above, applicants have submitted the required reply.

A reply to the Notice of Allowance has been filed in the form of payment of the issue fee and publication fee.

As discussed below, the Office has determined a substitute oath or declaration is not required.

The petition asserts the requirement for a substitute oath or declaration was erroneous because the Office made the cited alterations to the declaration filed February 18, 2004. The petition states the examiner has agreed a substitute oath or declaration should not have been required during a telephone conversation on September 8, 2009. The petition states, "Applicants submit that the payment of the issue fee is a complete response to the outstanding notice."

The Office has determined the alterations on the February 18, 2004 declaration were made by Office personnel. Therefore, a substitute declaration does not need to be filed in order to revive the application. The reply in the form of payment of the issue fee and publication fee is acceptable.

As to requirement (2) listed above, applicants have submitted the petition fee of $1,620.

As to requirement (3) listed above, the petition states "the entire delay in filing the reply from the due date of the reply until the filing of this Petition was unintentional."

As to requirement (4) listed above, a terminal disclaimer is unnecessary in this case.

Since applicants have satisfied the requirements set forth in 37 C.F.R. § 1.137(b), the application is revived.

Conclusion

Applicants have shown the Office miscalculated the patent term adjustment and the patent term adjustment at the time of mailing of the notice of allowance is 251 days.

The application is hereby revived.

The Office notes the petition to revive the application states,

> Applicants submit a Supplemental Application Data Sheet pursuant to 37 C.F.R. § 1.76(c) to correct the filing date of priority application GB0104840.4. Applicants request that the Supplemental Application Data Sheet be entered prior to payment of the issue fee.

The Office of Data Management has been advised of this decision and the matter has been transferred to the Office of Data Management. The Office of Data Management will take any steps necessary to determine whether or not entry of the Supplemental Application Data Sheet filed September 9, 2009, is appropriate.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Thursday
Date: 4/15/2010

PALM INTRANET

Time: 10:46:16

PTA Calculations for Application: 10/469367			
Application Filing Date:	02/18/2004	PTO Delay (PTO):	436
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	186
Post-Issue Petitions:	0	Total PTA (days):	251
PTO Delay Adjustment:	1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	04/15/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	1		
63	05/29/2009	MAIL NOTICE OF ALLOWANCE			
62	05/26/2009	ISSUE REVISION COMPLETED			
61	05/26/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	05/26/2009	CASE DOCKETED TO EXAMINER IN GAU			
59	05/26/2009	DOCUMENT VERIFICATION			
58	05/26/2009	NOTICE OF ALLOWABILITY			
55	05/01/2009	DATE FORWARDED TO EXAMINER			
54	04/29/2009	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
53	04/29/2009	NOTICE OF APPEAL FILED			
52	01/29/2009	MAIL FINAL REJECTION (PTOL - 326)			
51	01/28/2009	FINAL REJECTION			
50	11/21/2008	DATE FORWARDED TO EXAMINER			
49	11/18/2008	RESPONSE AFTER NON-FINAL ACTION		89	47
48	11/18/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	05/21/2008	MAIL NON-FINAL REJECTION			
46	05/20/2008	NON-FINAL REJECTION			
45	05/08/2008	DATE FORWARDED TO EXAMINER			
44	04/25/2008	AMENDMENT AFTER FINAL REJECTION			
43	01/30/2008	MAIL FINAL REJECTION (PTOL - 326)			
42	01/28/2008	FINAL REJECTION			
41	11/21/2007	DATE FORWARDED TO EXAMINER			
40	10/17/2007	RESPONSE AFTER NON-FINAL ACTION		70	29
		MAIL MISCELLANEOUS COMMUNICATION TO			

39	11/21/2007	APPLICANT			
38	11/21/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
37	10/17/2007	IMPROPER REQUEST FOR CONTINUED EXAMINATION			
31	10/17/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	10/17/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
29	05/08/2007	MAIL NON-FINAL REJECTION			
28	05/07/2007	NON-FINAL REJECTION			
27	03/20/2007	DATE FORWARDED TO EXAMINER			
26	03/16/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
25	03/20/2007	DATE FORWARDED TO EXAMINER			
24	03/16/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		27	21
23	03/20/2007	DISPOSAL FOR A RCE / CPA / R129			
22	03/16/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
21	11/17/2006	MAIL FINAL REJECTION (PTOL - 326)	259		17
20	11/13/2006	FINAL REJECTION			
19	08/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	11/21/2005	DATE FORWARDED TO EXAMINER			
17	11/03/2005	RESPONSE AFTER NON-FINAL ACTION			
16	10/12/2005	MAIL NON-FINAL REJECTION	177		7
15	10/03/2005	NON-FINAL REJECTION			
14	04/12/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
13	08/04/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	08/04/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11.7	04/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	04/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	03/26/2004	CLEARED BY OIPE CSR			
7	02/18/2004	371 COMPLETION DATE			
6	03/05/2004	APPLICATION DISPATCHED FROM OIPE			
5	03/05/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	02/18/2004	ADDITIONAL APPLICATION FILING FEES			
		A STATEMENT BY ONE OR MORE INVENTORS			

3	02/18/2004	SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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

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

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant	: Bertrand J. Jean-Claude	: DECISION ON REQUEST FOR
Patent Number	: 7572798	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/469,368	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **896** 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.

28 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

27774
MAYER & WILLIAMS PC
251 North Avenue West
2nd Floor
Westfield, NJ 07090

In re Application of
RAPP *et al*
U.S. Application No.: 10/469,375
PCT No.: PCT/DE02/00741
Int. Filing Date: 27 February 2002
Priority Date: 27 February 2001
Attorney Docket No.: 7003/7
For: NUCLEIC ACIDS CODING FOR A PROTEIN INTERACTING WITH A PORIN CHANNEL

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This decision is in response to the "Request to Withdraw Notice of Abandonment" filed 06 March 2007. No fee is required.

BACKGROUND

On 13 April 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) indicating that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. 371 requirements was 02 July 2004.

On 06 October 2006, the DO/EO/US mailed a Withdrawal of Previously Sent Notice vacating the Form PCT/DO/EO/903 mailed 13 April 2004 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 a sequence listing in compliance with 37 CFR 1.821-1.825 was required. A two-month time limit in which to respond was set with extensions of time available under 37 CFR 1.136(a).

On 09 February 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to respond to the Form PCT/DO/EO/922 within the time period set therein. Applicant submitted a response to the Form PCT/DO/EO/922 on the same day which included a sequence listing and a two-month extension and fee.

On 16 February 2007, the sequence listing submitted 09 February 2007 was processed and entered into the database.

On 06 March 2007, applicants filed the subject petition which was accompanied

with, *inter alia*, a date-stamped postcard receipt for the response filed 09 February 2007.

DISCUSSION

The response filed 09 February 2007 was located in the file. The postcard receipt need not be addressed. A review of the above-captioned application verifies that the time limit to respond to the Form PCT/DO/EO/922 mailed 06 October 2006 with extensions of time had not yet expired when the Form PCT/DO/EO/909 was mailed.

Moreover, applicants responded to the Form PCT/DO/EO/922 on 09 February 2007 using a two-month extension and containing a sequence listing that is in compliance with 37 CFR 1.821-1.825.

CONCLUSION

Applicants' petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Form PCT/DO/EO/909 mailed 09 February 2007 was sent in error and is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing including the mailing of a new Form PCT/DO/EO/903.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

30 JAN 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

Patrick G. Burns
Greer, Burns & Crain Ltd.
300 South Wacker Dr, Suite 2500
Chicago, IL 60606

In re Application of FUTATSUGI, Takehiko et al. Application No.: 10/469,390 PCT No.: PCT/JP01/00060 Int. Filing Date: 10 January 2001 Priority Date: None Docket No.: 1503.68285 For: NEW AUTOMATIC CONTROL SYSTEM	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 28 August 2003 is **GRANTED**.

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

A declaration in compliance with 37 CFR 1.497(a)-(b) and a translation of the international application have been submitted. The fee for late submission of the oath or declaration and the fee for late furnishing of the translation into English will be charged to deposit account no. 07-2069, as authorized.

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 28 August 2003 under 35 U.S.C. §371.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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

Kent E Baldauf
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

Mail Date: 04/21/2010

Applicant	: Yukio Miya	: DECISION ON REQUEST FOR
Patent Number	: 7622198	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/469,394	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **527** 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 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

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

Young & Thompson
745 South 23rd Street, 2nd Floor
Arlington, VA 22202

In re Application of BERG, Sofie, et al. Application No.: 10/469,410 PCT No.: PCT/SE02/00357 Int. Filing Date: 28 February 2002 Priority Date: 01 March 2001 Attorney's Docket No.: 1506.1066 For: METHOD FOR THE PRODUCTION OF FERMENTED CEREAL FOOD PRODUCTS AND PRODUCTS THEREOF	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to "Response to Notification of Defective Response," filed in the United States Patent and Trademark Office on 18 February 2004.

BACKGROUND

On 28 February 2002, applicants filed international application PCT/SE02/00357, which claimed a priority date of 01 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 12 September 2002. A timely demand for international preliminary examination was filed 19 August 2002. The deadline for entry into the national stage in the United States was midnight 02 September 2003 (01 September 2003 was a holiday).

On 28 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 10 December 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 09 January 2004, applicants submitted a declaration executed by "Maria Swanberg," though the international application listed "Maria Svanerg" as the inventor.

On 09 February 2004, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the spelling of an inventor's name had changed from "Svanerg" to "Swanberg".

On 18 February 2004, applicants submitted a response indicating that the international application was in error and that the inventor's legal surname is "Swanberg".

DISCUSSION

The explanation that the international application contained a typographical error is sufficient.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) is 09 January 2004.

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

19 MAR 2004

#3

UNITED STATES PATENT and TRADEMARK OFFICE

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

John C. Han
Ericsson Inc.
6300 Legacy Drive
M/S EVW 2-C-2
Plano, TX 75024

In re Application of	DECISION ON
STUMPERT et al	
Application No.: 10/469,411	
PCT No.: PCT/EP01/12121	PETITION UNDER
Int. Filing Date: 19 October 2001	
Priority Date: 13 February 2001	37 CFR 1.137(b)
Attorney's Docket No.: P15312-US1	
For: Method for Determining Whether to Grant Access of a User Equipment to a Radio Access Network	

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 28 August 2003.

BACKGROUND

On 19 October 2001, this international application was filed, claiming an earliest priority date of 13 February 2001.

A Demand electing the United States was filed in this international application on 22 August 2002. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 13 August 2003.

On 28 August 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, basic national fee, and an executed declaration was filed 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. The 35 USC 371 date of this application is **28 August 2003**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

COPY MAILED

JAN 25 2005

OFFICE OF PETITIONS

In re Application of
Brian Sundberg, et al. :
Application No. 10/469,412 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 20341-73401 :

This is a decision on the petition, filed January 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(6), filed January 21, 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..

The petitions are **GRANTED**.

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

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

Petitioner is advised that the issue fee paid on December 13, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

As to the petition under 37 CFR 1.78(a)(6):

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

[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).

specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

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

The instant application was filed on August 28, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

Additionally, PCT application No. PCT/US02/20816 was filed within twelve months of provisional Application No. 60/302,718, which was filed on July 3, 2001, for which priority is claimed.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/302,718 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

The application is being forwarded to Technology Center AU 3751 for appropriate action on the amendment submitted January 21, 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. 60/302,718.

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

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gregory J Lavorgna
Drinker Biddle & Reath
One Logan Square
18th and Cherry Streets
Philadelphia PA 19103-6996

COPY MAILED
MAY 2 2 2006
OFFICE OF PETITIONS

In re Application of	:	
PANGAUD, NICOLAS	:	
Application No. 10/469,416	:	DECISION ON PETITION
Filed: January 2, 2004	:	TO WITHDRAW
Attorney Docket No. 188870(8830-223)	:	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 5, 2005.

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

A review of the file record indicates that the power of attorney to Gregory J. Lavorgna #30,469 has been revoked by the assignee of the patent application on September 6, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

The application became abandoned for failure to timely respond to the office action mailed on June 15, 2005.

Telephone inquires concerning this decision should be directed to Amelia Au at 571-272-7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc: JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA VA 22314

03 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

J. William Frank
McCracken and Frank
200 W. Adams
Suite 2150
Chicago, IL 60606

In re Application of	:	
MARQUE-PUNCHEU	:	
U.S. Application No.: 10/469,417	:	
PCT No.: PCT/FR02/00757	:	DECISION ON PETITION
Int. Filing Date: 01 March 2002	:	
Priority Date: 01 March 2001	:	UNDER 37 CFR 1.182
Attorney's Docket No.: 28944/40077	:	
For: INTERCELL HANDOVER METHOD IN A	:	
RADIO COMMUNICATION SYSTEM WITH	:	
MOBILE TERMINALS	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.182" filed 19 December 2005 in the United States Patent and Trademark Office (USPTO) to correct the error in the Transmittal Letter (Form PTO-1390) filed 28 August 2003.

BACKGROUND

On 01 March 2002, applicant filed international application PCT/FR02/00757, which claimed priority of an earlier application filed 01 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 01 September 2003.

On 28 August 2003, applicant filed a transmittal letter for entering the U.S. national stage under 35 U.S.C. 371 accompanied by: payment of the U.S. Basic National Fee; an English translation of the International Application and a preliminary amendment. The transmittal letter identified the international application number as PCT/FR01/00757.

On 03 February 2004, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 35 U.S.C. 371 date of 16 September 2003 and the corresponding international application number as PCT/FR01/00757.

On 19 December 2005, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The identifying information provided on the transmittal letter filed by applicant on 28 August 2003, i.e., the title, applicant-inventor information, priority date, and international filing date all correspond to that of PCT/FR02/00757. For these reasons, as well as the explanation provided in the present petition, it has been concluded that the national stage papers filed 28 August 2003 sufficiently identified international application PCT/FR02/00757. Pursuant to petitioner's request, the national stage papers assigned U.S. application number 10/469,417 will be treated as a U.S. national stage submission for PCT/FR02/00757.

CONCLUSION

For the reasons above, applicant's "Petition Under 37 CFR 1.182" is **GRANTED**.

The Form PCT/DO/EO/903 mailed 03 February 2004 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of U.S. application number 10/469,417 as the U.S. national stage application of PCT/FR02/00757; specifically, the preparation and mailing of a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating that the present application is the U.S. National stage entry for international application PCT/FR02/00757 with a date of **16 September 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENNETH I. KOHN
KOHN & ASSOCIATES
SUITE 410
30500 NORTHWESTERN HIGHWAY
FARMINGTON HILLS MI 48334

MAILED

MAR 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Steven Streatfield GILL	:	
Application No. 10/469,423	:	ON PETITION
Filed: August 20, 2004	:	
Attorney Docket No. 3174-00007	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 19, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 20, 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 of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a

reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3766 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.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

COPY MAILED

DEC 2 2 2008

OFFICE OF PETITIONS

LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

In re Patent No. 7,300,784	:	
Nagasawa et al.	:	DECISION ON REQUEST
Issue Date: November 27, 2007	:	FOR RECONSIDERATION OF
Application No. 10/469,427	:	PATENT TERM ADJUSTMENT
Filed: March 25, 2004	:	
Attorney Docket No. SHZ-017US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed December 10, 2007. Patentee requests that the Patent Term Adjustment for the above-identified patent be set at 433 days.

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

On November 27, 2007, the above-identified application matured into U.S. Patent No. 7,300,784. The instant request for reconsideration filed December 10, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 379 days. This revised determination was calculated as follows: The initial determination of PTA of 471 days was reduced by 92 days for the filing of an information disclosure statement (IDS) after the mailing of a notice of allowance.

Patentees contend that the 92 day reduction for the filing of the IDS on August 28, 2007 after the Notice of Allowance mailed on July 12, 2007, should be removed because the IDS contained the certification in accordance with 37 CFR 1.704(d) that each

item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

Patentees further state that a 38 day period of reduction for applicant delay in patent term adjustment should be assessed, however, for the filing of an amendment after the mailing of a notice of allowance that was not expressly requested by the examiner. Specifically, patentees aver that an amendment after the mailing of a notice of allowance was filed on August 28, 2007.

Preliminarily, it is noted that the period of reduction of 92 days for the IDS filed August 28, 2007 was entered pursuant to 37 CFR 1.704(c)(10), not 1.704(c)(8) as asserted by patentees.

37 CFR 1.704(c)(10) states circumstances that constitute a failure of the application to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of: (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (ii) Four months.

On July 12, 2007, a notice of allowance was mailed. On August 28, 2007, an amendment after the mailing of a notice of allowance under 37 CFR 1.312 and the IDS was filed. Accordingly, since a notice of allowance was mailed prior to the filing of the amendment under 37 CFR 1.312 and the IDS, 37 CFR 1.704(c)(10) is applicable provision.

Further, 92 days is incorrect even if the IDS filed August 28, 2007 did not contain a § 1.704(d) statement. This is because pursuant to 37 CFR 1.704(c)(10), a period of reduction would be 38 days, not 92 days, counting the number of days in the

period beginning on August 28, 2007, and ending on October 4, 2007, the date of mailing of the Office communication in response. Accordingly, the period of reduction of 92 days has been removed.

With respect to entry of a 38 days period of reduction, on August 28, 2007, the amendment after the mailing of the notice of allowance and the IDS were filed. On October 4, 2007, an Office communication in response to the amendment under 37 CFR 1.312 had been considered was mailed, along with a copy of the PTO Form 1449 for the IDS.

In accordance with 37 CFR 1.704(c)(10), the period of applicant delay runs from the date the amendment after the mailing of the notice of allowance was mailed, or August 28, 2007, to the date that the Office communication in response to the amendment after the mailing of the notice of allowance was mailed, or October 4, 2007. Accordingly, the period of applicant delay is 38 days.

It is noted that the IDS filed on August 28, 2007, did not include a statement in accordance with 37 CFR 1.704(d). Additionally, the IDS was not expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8).

37 CFR 1.704(d) states that a paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Accordingly, the period of applicant delay runs from the date the IDS was filed on August 28, 2007, to the date that the Office communication acknowledging the IDS was mailed, or October 4, 2007, or 38 days. However, as this 38 day period overlaps with the period charged for the filing of the amendment after the mailing of the notice of allowance, as noted in 37 CFR

1.703(c)(10), applicant will be charged only one 38 day period of delay.

In view thereof, the patent term adjustment indicated on the patent should be four hundred thirty-three (433) days (504 days of Office delay reduced by 71 (33+38) days of applicant delay).

In accordance with 37 CFR 1.705(d), the petition fee of $200.00 as set forth in 37 CFR 1.18(e) is due. The fee will be charged to counsel's deposit account as authorized in the IDS filed on August 28, 2007.

The application file is being forwarded to the Certificates of Correction Branch for issuing of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by FOUR HUNDRED THIRTY-THREE (433) DAYS.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,300,784 B2

DATED : November 27, 2007

INVENTOR(S) : Toru Nagasawa

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (379) days

Delete the phrase "by 379 days" and insert – by 433 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

BROWN RAYSMAN MILLSTEIN FELDER & STEINER LLP
303 TWIN DOLPHIN DRIVE
SUITE 600
REDWOOD SHORES CA 94065

COPY MAILED
NOV 07 2006
OFFICE OF PETITIONS

In re Application of	:	
Aughton et al.	:	
Application No. 10/469,438	:	ON PETITION
Filed: march 29, 2004	:	
Attorney Docket No. 50001-00002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 19, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to the Publishing Division for processing into a patent.

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

Liana Chase Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

29 DEC 2005

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

In re Application of:	:
BRIGHT, Christoper, J., et al.	:
U.S. Application No.: 10/469,443	: DECISION ON PETITION
Int'l Application No.: PCT/GB02/00845	: UNDER 37 CFR 1.78(a)(6)
Int'l Filing Date: 27 February 2002	:
Priority Date: 27 February 2001	:
Attorney Docket No.: 29610/CDT237A	:

This is a decision on the "Petition To Accept Unintentionally Delayed Priority Claim" filed 29 September 2005, treated herein under 37 CFR 1.78(a)(6). The petition seeks acceptance of 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 to the first page of the specification and Application Data Sheet (ADS).

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

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

The instant pending 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 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 page of the specification and ADS filed with the petition, 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.[1] Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Richard Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1755 for appropriate action on the amendment submitted 29 September 2005, including consideration by the examiner of the claim

---

[1] Applicants' statement of unintentional delay incorrectly states that the benefit claim was due by "May 5, 2004" (the benefit claim was due on 26 December 2003). Despite this error, applicants' statement has been construed as the statement required under 37 CFR 1.78(a)(6)(iii), that is, a statement that "the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional." If this is not a correct interpretation of applicants' statements, applicants **must** contact this Office immediately.

under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/291,684.

BMilef

Boris Milef
Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/469,443	01/05/2004	1755	1030	29610/CDT237A	4	19	1

CONFIRMATION NO. 6702

CORRECTED FILING RECEIPT

OC000000017749374

James P Zeller
Marshall Gerstein & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6357

Date Mailed: 12/29/2005

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

Applicant(s)

Christopher J Bright, Huntingdon, UNITED KINGDOM;
Julian Carter, Cambridgeshire, UNITED KINGDOM;
Martin Cacheiro, A Coruña, SPAIN;
Peter Lyon, Cambridgeshire, UNITED KINGDOM;

Power of Attorney:

James Zeller--28491

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/GB02/00845 02/27/2002
and claims benefit of 60/291,684 05/17/2001

Foreign Applications

CHINA 90 1 04585 02/27/2001
UNITED KINGDOM 0104875.0 02/28/2001
UNITED KINGDOM 0107740.3 03/28/2001

If Required, Foreign Filing License Granted: 12/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/469,443

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Formulation and method for depositing a material on a substrate

Preliminary Class

252

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

COPY MAILED

MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Eric Billy et al	:	
Application No. 10/469,447	:	DECISION GRANTING PETITION
Filed: October 3, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1-31886A	:	

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

The petition is **GRANTED**.

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 (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of February 24, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1635.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

20 FEB 2004

#4

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

Leo H. McCormick, Jr.
Bosch Braking System
2112 Mishawaka Avenue
PO Box 4721
South Bend, IN 46634-4721

In re Application of	:	
BACARDIT et al.	:	
Application No.: 10/469,459	:	DECISION ON PETITION
PCT No.: PCT/FR02/00320	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 25 January 2002	:	
Priority Date: 08 February 2001	:	
Attorney Docket No.: 803-01-224	:	
For: MASTER CYLINDER COMPRISING RESUPPLY GROOVES		

The petition to revive under 37 CFR 1.137(b) filed 13 February 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 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.

Deposit Account No. 02-3222 will be charged a $1330.00 petition fee under 37 CFR 1.17(m). Deposit Account No.02-3222 will be charged a $130.00 surcharge fee under 37 CFR 1.492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date and a $130 processing under 37 CFR 1.492(f) for supplying an English translation 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

15 JAN 2004

#3

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

Jason K. Klindtworth
Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97204

In re Application of	:	
APOSTOL, et al.	:	DECISION ON PETITION
Serial No.: 10/469,467	:	
PCT No.: PCT/US02/06384	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 28 February 2002	:	
Priority Date: 28 February 2001	:	
Atty Docket No.: 109873-130131	:	
For: A SECURITY SYSTEM WITH AN INTELLIGENT DMA CONTROLLER	:	

This decision is in response to the applicant's "PETITION IN ACCORDANCE WITH 37 C.F.R. § 1.47(a)" filed 28 August 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 February 2002, applicant filed international application PCT/US02/06384 which claimed priority to a United States application filed 28 February 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 August 2003.

On 28 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 executed declaration; an assignment document for recording and the petition considered herein.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite $130 petition fee required by 37 CFR 1.17(I); (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 joint inventor; and (4) an oath or declaration executed by each of the signing joint inventors on their behalf and on behalf of the non-signing joint inventor(s). Applicant has satisfied items (1), (3) and (4) above.

As to item (2), the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal states that, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." It is unclear from the present petition and accompanying documents whether Mr. Dinh has been presented with a complete copy of the application papers as required. While the enclosed declaration from Mr. Apostol states that he E-mailed "A revised draft of the above-captioned patent application, along with Declaration and Power of Attorney documents, to Peter Dinh for his review and signature" applicant has not included any documentation to support this claim. In addition to providing a copy of the E-mail showing the relevant attachments, applicant should provide, if possible, a delivery receipt confirmation showing that Mr. Dinh in fact received the E-mail in question.

In light of the above it is not possible to grant applicant's petition under 37 CFR 1.47(a) at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) 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. 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 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: (703) 305-0130
Fax: (703) 308-6459

07 JUN 2004

#5

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

Jason K. Klindtworth
Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97204

In re Application of	:	
APOSTOL, et al.	:	DECISION ON PETITION
Serial No.: 10/469,467	:	
PCT No.: PCT/US02/06384	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 28 February 2002	:	
Priority Date: 28 February 2001	:	
Atty Docket No.: 109873-130131	:	
For: A SECURITY SYSTEM WITH AN	:	
INTELLIGENT DMA CONTROLLER	:	

This decision is in response to applicant's "Response to Decision on Petition Under 37 CFR 1.47(a)" filed 05 April 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 15 January 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 05 April 2004, applicant filed the present renewed petition. With the accompanying petition for a one-month extension of time and extension fee payment, the present renewed petition is considered timely filed.

DISCUSSION

As detailed in the decision mailed 11 March 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 provided a signed declaration from Mr. Jason K. Klindtworth detailing firsthand his providing of a complete set of the application papers to Mr. Dinh. The statement of Mr. Klindtworth combined with the continued silence of the non-signing inventor, constitute a refusal to execute the declaration as to the National stage in the United States.

Accordingly, applicant has now satisfied all four items detailed above and it is proper to

grant applicant's renewed petition 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 28 February 2002 under 35 U.S.C. 363, and will be given a date of **05 April 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

Mr. Peter N. Dinh
5768 Blossom Avenue
San Jose, CA 95123

In re Application of
APOSTOL, et al.
Serial No.: 10/469,467
PCT No.: PCT/US02/06384
Int. Filing Date: 28 February 2002
Priority Date: 28 February 2001
Atty Docket No.: 109873-130131
For: A SECURITY SYSTEM WITH AN INTELLIGENT DMA CONTROLLER

Dear Mr. Dinh:

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

Jason K. Klindtworth
Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97204

15 JUN 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

Matthew J. Booth
Booth Wright LLP
P.O. Box 50010
Austin, TX 78763-0010

In re Application of
Bowerman, Stephen Henry
U.S. Application No.: 10/469, 480
PCT No.: PCT/GB01/00810
Int. Filing Date: 26 February 2001
Attorney's File Reference: 59362.0101
For: AN ANIMAL TRAP

DECISION ON PETITION

This decision is in response to the Petition for Revival under 37 CFR 1.137(b) filed on 23 December 2004 which is being treated as a petition to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 09 February 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 a declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee must be provided. A two-month time period for response was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 01 April 2004, applicant purportedly filed via facsimile a reply to the Form PCT/DO/EO/905 which was accompanied by, *inter alia*, an executed declaration and authorization to charge the required fees to Deposit Account No. 11-0851.

On 18 October 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicant failed to respond to the Form PCT/DO/EO/905 mailed 09 February 2004 within the time period set.

On 23 December 2004, applicant filed the instant petition for revival which was accompanied by, *inter alia*, copies of the documents purportedly filed via facsimile on 01 April 2004 and a copy of the confirmation report.

DISCUSSION

Applicants claim that a response to the Form PCT/DO/EO/905 was filed via

facsimile on 01 April 2004. This response included an executed declaration and authorization to charge the required surcharge fee. In the subject petition filed on 23 December 2004, applicant petitions for revival of the application and has provided a copy of the documents filed 01 April 2004, as well as a copy of the confirmation report received on their facsimile machine. Counsel also provides a signed declaration of Mary Ann Jones stating that the reply to the Notification of Missing Requirements (Form PCT/DO/EO/905) was filed via facsimile on 01 April 2004. However, the original facsimile transmission sent to Right Fax number 703-746-6704 has been retrieved and is now located in the file, bearing a facsimile date of 01 April 2004.

Accordingly, applicant's Petition for Revival Under 37 CFR 1.137(b) is being treated as a petition to withdraw the holding of abandonment since a proper and timely response to the Notification of Missing Requirements was filed by applicant. Accordingly, the petition fee of $750.00 will be refunded to applicant.

CONCLUSION

Applicant's Petition for Revival under 37 CFR 1.137(b) is dismissed as **MOOT**.

Applicant's petition is **GRANTED** as a petition under 1.181 to withdraw the holding of abandonment.

The Form PCT/DO/EO/909 mailed 18 October 2004 is hereby **VACATED**.

The declaration filed 01 April 2004 is in compliance with 37 CFR 1.497(a) and (b). The surcharge fee of $65.00 has been charged to Deposit Account 11-0851 as authorized in the 01 April 2004 response.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 26 February 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 April 2004.

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

Amy Vanatta
PCT Legal Administration Detailee
Tel.: 571-272-6095
Facsimile: 571-273-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

17 FEB 2004

#5

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

Julian H. Cohen
Ladas & Parry
26 West 61st Street
New York, NY 10023

In re Application of	:	
STERKIN, et al.	:	DECISION ON REQUEST
Application No.: 10/496,487	:	
PCT No.: PCT/IL02/00190	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 10 March 2002	:	
Priority Date: 16 March 2001	:	
Attorney Docket No.: U014794-1	:	
For: METHOD AND SYSTEM FOR LITERAL DATA ACCESS	:	

This decision is in response to applicant's "Request And Fee to Delete And/Or Add to Inventor(s) Erroneously Named or Not Named in Declaration -- Nonprovisional Application -- (37 C.F.R. Section 1.48(a)" filed 09 January 2004. For the reasons detailed below the petition is being considered under 37 CFR 1.497(d).

BACKGROUND

On 10 March 2002, applicant filed international application PCT/IL02/00190, which claimed priority of an earlier application filed 16 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 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 16 September 2003.

On 29 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 First preliminary amendment.

On 22 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 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 also notified of the need to pay the $130.00 surcharge for providing the oath or declaration later than 30 months from the earliest claimed priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 09 January 2004, applicant responded with the present petition accompanied by a combined declaration and power of attorney executed by the inventors named in the published international application, as well as, a fourth inventor, Ezra DARSHAN and a signed statement from Ezra DARSHAN.

DISCUSSION

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(i); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

As to Item (1), applicant has provided a statement from Ezra DARSHAN declaring that the error in inventorship occurred without deceptive intent.

Regarding Item (2), applicant has filed a combined declaration and power of attorney executed by the inventors named in the published international application, as well as, Ezra DARSHAN.

As Item (3), applicant has provided a check in the amount of $130.00.

Regarding Item (4), applicant has provided the written consent of the assignee, NDS Limited.

As such, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, the request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicant has now 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 **10 March 2002** and a date of **09 January 2004** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 703-305-0130
Fax: 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

Ballard Spahr LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

Mail Date: 04/21/2010

Applicant	: Gabriele Schramm	: DECISION ON REQUEST FOR
Patent Number	: 7601812	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/469,499	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1177** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

COPY MAILED

APR 16 2007

OFFICE OF PETITIONS

In re Application of
Suzuki et al.
Application No. 10/469,507
Filed: September 2, 2003
Title of Invention: Preventives or Remedies For Tumor of Human Papillomaviral Disease

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed March 20, 2007, to revive the above-identified application.

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 above-identified application became abandoned for failure to timely file a reply to an Office Action mailed September 18, 2006. The Office Action set a three (3) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on December 19, 2006. This decision precedes the mailing of a Notice of Abandonment.

The petition is **dismissed**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional"; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d))

required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The instant petition lacks item (1). Petitioner must submit a reply to the September 18, 2006 Office Action with the renewed petition. The "response" in the form of the request for a three month extension of time, is not an acceptable reply. Further the maximum time period for expiration has expired. Accordingly, the $510.00 submitted towards the extension of time will be refunded to deposit account no. 02-2448.

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

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

By facsimile: (571) 273-8300

By delivery service: (FedEx, UPS, DHL, etc.) U.S. Patent and Trademark Office
Customer Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

COPY MAILED

MAY 11 2007

OFFICE OF PETITIONS

In re Application of
Suzuki et al.
Application No. 10/469,507
Filed: September 2, 2003

Title of Invention: Preventives or Remedies For Tumor of Human Papillomaviral Disease

DECISION ON PETITION

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

This above-identified application became abandoned for failure to timely file a reply to an Office Action mailed September 18, 2006. The Office Action set a three (3) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on December 19, 2006. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **Granted**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of Divisional Application No. 11/688,151.

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

20 SEP 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joshua D. Isenberg
204 Castro Lane
Fremont, CA 94539

In re Application of	:	
Daneman et al.	:	
Application No.: 10/469,516	:	DECISION
PCT No.: PCT/US02/09038	:	
Int. Filing Date: 01 March 2002	:	UNDER
Priority Date: 01 March 2001	:	
Attorney Docket No.: ONX-185/PCT/US	:	37 CFR 1.497(d)
For: Optical Cross-Connect System	:	

This is a decision on applicants' "Request Under 37 CFR 1.48" filed on 12 July 2004, which is being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 01 March 2002 and claimed a priority date of 01 March 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 01 September 2003. On 29 August 2003, applicants filed *inter alia* the basic national fee.

On 02 January 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of additional claims fees, an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 27 May 2004, applicants filed a response including a declaration.

On 17 June 2004, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to counsel, indicating that the declaration filed on 27 May 2004 is defective because "the tenth inventor, Kam Lin Yau, is not mentioned on the published international application. In addition, I do not have an IB Form 306 indicating that an inventor was added."

DISCUSSION

Counsel requests that the declaration filed on 27 May 2004 be accepted because "the original declaration submitted on May 27, 2004 was signed by each actual inventor as required by 37 CFR 1.63." Counsel indicates that Kam Yin Lau was not originally named as an inventor and requests relief under 37 CFR 1.48. The regulation which properly pertains to this situation is 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.).

Regarding requirement (1), applicants have provided an appropriate statement signed by the inventor (Kam Yin Lau) sought be added as an inventor, attesting that the error in inventorship occurred without deceptive intent.

Regarding requirement (2), the instant submission was accompanied by the required processing fee.

Regarding requirement (3), the instant submission includes a "Consent of Assignee" consenting to the addition of Kam Yin Lau as an inventor by assignee Analog Devices, Inc., and specifically identifying the instant application. The submission also includes a number of assignment documents executed in favor of Onix Microsystems by several of the inventors, and an assignment from Onix Microsystems to Analog Devices, Inc. However, counsel has not established a chain of title from ALL of the inventors to Analog Devices, Inc. Specifically, there is no evidence of assignments made by Scott Dalton,. Stephen Pankyo, Kam Lin Yau or Boris Kobrin. As such, it is not clear whether they themselves have retained rights in the application, whether they have assigned those rights to present assignee, or whether they may have assigned rights to some other assignee. As such, the requirements of 37 CFR 3.73(b) have not been satisfied.

CONCLUSION

The declaration filed on 27 May 2004 is **NOT ACCEPTED** under 37 CFR 1.497 (d).

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 Submission Under 37 CFR 1.497(d)". No additional processing fee is required.

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
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459

05 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#13

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

Joshua D. Isenberg
204 Castro Lane
Fremont, CA 94539

In re Application of	:	
Daneman et al.	:	
Application No.: 10/469,516	:	DECISION
PCT No.: PCT/US02/09038	:	
Int. Filing Date: 01 March 2002	:	UNDER
Priority Date: 01 March 2001	:	
Attorney Docket No.: ONX-185/PCT/US	:	37 CFR 1.497(d)
For: Optical Cross-Connect System	:	

This is a decision on applicants' "Renewed Submission Under 37 CFR 1.497(d)" filed on 19 January 2005.

DISCUSSION

In a decision mailed on 20 September 2004, applicant's request (filed on 12 July 2004) to accept the declaration filed on 27 May 2004 was dismissed without prejudice under 37 CFR 1.497(d) because

> Regarding requirement (3), the instant submission includes a "Consent of Assignee" consenting to the addition of Kam Yin Lau as an inventor by assignee Analog Devices, Inc., and specifically identifying the instant application. The submission also includes a number of assignment documents executed in favor of Onix Microsystems by several of the inventors, and an assignment from Onix Microsystems to Analog Devices, Inc. However, counsel has not established a chain of title from ALL of the inventors to Analog Devices, Inc. Specifically, there is no evidence of assignments made by Scott Dalton,. Stephen Pankyo, Kam Lin Yau or Boris Kobrin. As such, it is not clear whether they themselves have retained rights in the application, whether they have assigned those rights to present assignee, or whether they may have assigned rights to some other assignee. As such, the requirements of 37 CFR 3.73(b) have not been satisfied.

In response, counsel has filed copies of assignment documents executed in favor of assignee Onix Microsystems by Scott Dalton,. Stephen Pankyo, Kam Lin Yau and Boris Kobrin. Therefore, all of the requirements for relief under 37 CFR 1.497(d) have been satisfied, and accordingly it would now be appropriate to accept the declaration of the inventors filed on 27 May 2004.

CONCLUSION

The declaration filed on 27 May 2004 is **ACCEPTED** under 37 CFR 1.497 (d).

This application is being forwarded to the National Stage Processing Branch for further processing. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **27 May 2004**.

Richard Cole
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

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

Paper No. 080504

DAVIDSON BERQUIST
KILMA & JACKSON
4501 NORTH FAIRFAX DRIVE, SUITE 920
ARLINGTON, VA 22203

SEP 16 2004

In re Application of:	:	
STEFANO GHIZZI et al.	:	
Serial No.: 10/469,517	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: September 02, 2003	:	
Attorney Docket No.: **2545-0430**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed July 21, 2004.

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

The request meets all the above stated requirements. The request was signed by J. Scott Davidson, on behalf of himself and all the attorneys/agents of record, except Timothy J. Klima. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Timothy J. Klima, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: TIMOTHY J. KLIMA, ESQ.
HARBIN KING & KLIMA
500 NINTH STREET, SE
WASHINGTON, DC 20003

10 AUG 2004

#5

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

SMART & BIGGAR/FETHERSTONHAUGH & CO.
P.O. BOX 2999, STATION D
55 METCALFE STREET
OTTAWA, CANADA K1P5Y-6

In re Application of GIERNALCZYK et al	:	
U.S. Application No.: 10/469,518	:	
PCT Application No.: PCT/CA02/00279	:	
Int. Filing Date: 04 March 2002	:	DECISION
Priority Date Claimed: 02 March 2001	:	
Attorney Docket No.: 79135-7 /pw	:	
For: APPARATUS FOR VARIABLE WORD LENGTH COMPUTING IN AN ARRAY PROCESSOR	:	

This is in response to applicant's "Petition Under 37 CFR 1.181" filed 14 July 2004.

BACKGROUND

On 04 March 2002, applicant filed international application PCT/CA02/00279, which claimed priority of an earlier United States application filed 02 March 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 12 September 2002. The thirty-month period for paying the basic national fee in the United States expired on 02 September 2003.

On 02 September 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 29 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 25 February 2004, applicant purportedly filed an executed declaration via facsimile transmission.

On 14 July 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the declaration purportedly filed on 25 February 2004 is not present. However, applicant has provided a copy of the declaration along with a certificate of transmission in compliance with 37 CFR 1.8(b).

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 04 March 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 14 July 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
Office of PCT Legal Administration

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

SPE: N. Nguyen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/20/07

TO SPE OF : ART UNIT 1753

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/469,522 Patent No.: 7056425

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: Applicant just corrects cities where several of the inventors are stated to live on the face of the patent. GN

Nam Nguyen — SPE

1753 — Art Unit

30 AUG 2004

#8

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

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

In re Application of	:	
GIERNALCZYK et al.	:	
U.S. Application No. 10/469,526	:	DECISION ON PETITION
PCT No.: PCT/CA02/00278	:	
Int. Filing Date: 04 March 2002	:	
Priority Date: 02 March 2001	:	
Attorney Docket No.: 79135-9/pw	:	
For: DATA PROCESSING APPARATUS AND SYSTEM AND METHOD FOR CONTROLLING MEMORY ACCESS	:	

This decision is in response to "Petition under 37 CFR 1.47(a) - Petition to Accept Application in the Name of Signing Inventors of Behalf of Non-Signing Inventor" filed 26 May 2004 to accept the application without the signature of joint-inventor, Tuan Ho. The $130 petition fee has been submitted.

BACKGROUND

On 04 March 2002, applicants filed international application PCT/CA02/00278 which claimed a priority date of 02 March 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, 02 September 2003.

On 02 September 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 copy of the international application; and a preliminary amendment.

On 26 January 2004, 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 26 May 2004, applicants filed a petition under 37 CFR 1.47(a) and a two-month extension of time. The two-month extension of time fee has been charged to Deposit Account no. 04-1577.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) and (3) have been satisfied.

Regarding item (2) above, petitioner states that Tuan Ho 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 Tuan Ho. The declaration of Vijay Dube states that "I sent a copy of the patent specification to Tuan Ho by facsimile . . . (on) 4th November 2003." However, no documentary evidence to support the refusal or the attempt was provided with the petition.

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 Tuan Ho, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

As to Item (4), a review of the declaration filed on 26 May 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 a duplicate sheet of page 5. 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 26 May 2004, which is improper. (See MPEP 201.03(B) on how to correct this matter.)

For the reasons stated above, it would not be appropriate to accept the application without the signature of Tuan Ho under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

Anthony Smith

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

1 0 NOV 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

Ralph A. Dowell, P.C.
Dowell & Dowell
Suite 406, 2111 Eisenhower Avenue
Alexandria, VA 22314

In re Application of	:	
Giernalczyk et al.	:	
Application No.: 10/469,526	:	DECISION ON
PCT No.: PCT/CA02/00278	:	
Int. Filing Date: 04 March 2002	:	PETITION UNDER
Priority Date: 02 March 2001	:	
Attorney Docket No.: 79135-9/pw	:	37 CFR 1.47(a)
For: Data Processing Apparatus And System And	:	
Method For Controlling Memory Access	:	

This is a decision on applicant's "Renewed Petition Under 37 CFR 1.47(a)" filed on 29 October 2004.

DISCUSSION

In a decision mailed on 30 August 2004, a petition under 37 CFR 1.47(a) filed on 26 May 2004 was dismissed without prejudice. The reasons for dismissal were that counsel had not adequately demonstrated that non-signing inventor Tuan Ho had refused to sign the oath or declaration (or, alternatively, could not be found or reached after diligent effort) and that the declaration of the inventors was formally defective in that it was not clear whether each signing inventor had signed a complete copy of the declaration. The instant renewed petition is accompanied by a declaration which has been executed by formerly non-signing joint inventor Tuan Ho, as well as by complete copies of declaration documents signed by each of the other inventors. With regard to the formal defect observed in the declaration filed on 26 May 2004, counsel observes that "by inadvertence, the additional page five showing the signature only of Andrew Stewart was submitted with applicants' petition." In view of the evidence of record, it would now be appropriate to grant status to this application.

DECISION

In view of the executed declaration filed on 29 October 2004, the petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**, without prejudice.

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 October 2004**.

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

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

Ralph A. Dowell of DOWELL & DOWELL P.C.
2111 Eisenhower Ave
Suite 406
Alexandria VA 22314

COPY MAILED

DEC 14 2005

OFFICE OF PETITIONS

Applicant: Giernalczyk et al.
Appl. No.: 10/469,526
International Filing Date: March 4, 2002
Title: DATA PROCESSING APPARATUS AND SYSTEM AND METHOD FOR CONTROLLING MEMORY ACCESS
Attorney Docket No.: 1471NP
Pub. No.: US 2005/0071576 A1
Pub. Date: March 31, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 31, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

On December 7, 2004, a Filing Receipt was mailed, which included the typographical error in the inventors residence. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

The drawings and information disclosure statement improperly placed in this application file have been placed in the closed folder.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

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

Enclosure: Corrected Filing Receipt

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
10/469,526	10/29/2004	2185	542	79135-9/pw	8	23	3

CONFIRMATION NO. 1600

CORRECTED FILING RECEIPT

OC000000017645349

293
Ralph A. Dowell of DOWELL & DOWELL P.C.
2111 Eisenhower Ave
Suite 406
Alexandria, VA 22314

Date Mailed: 12/13/2005

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

Applicant(s)

Eric Giernalczyk, Ottawa Ontario, CANADA;
Malcolm Stewart, Nepean Ontario, CANADA;
Adrian G Nita, Ottawa Ontario, CANADA;
Denny Wong, Ottawa Ontario, CANADA;
Andrew Stewart, Nepean Ontario, CANADA;
Tuan Ho, Ottawa Ontario, CANADA;
Thinh M Le, Kent Vale Singapore, SINGAPORE;

Power of Attorney:

Ralph Dowell--26868

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/CA02/00278 03/04/2002
which claims benefit of 60/272,301 03/02/2001

Foreign Applications

If Required, Foreign Filing License Granted: 12/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/469,526

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Data processing apparatus and system and method for controlling memory access

Preliminary Class

711

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).

23 JAN 2004

#3

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

Jason K. Klindtworth
Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97204

In re Application of	:	
GADKARI et al.	:	
Application No.: 10/469,529	:	
PCT No.: PCT/US02/06331	:	DECISION ON PETITION
Int. Filing Date: 28 February 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 28 February 2001	:	
Attorney Docket No.: 109873-130129	:	
For: A SUBSYSTEM BOOT PERIPHERAL DATA TRANSFER ARCHITECTURE FOR A SUBSYSTEM OF A SYSTEM-ON-CHIP	:	

This is a decision on applicants' "Petition in Accordance with 37 CFR 1.47(a)" filed 28 August 2003 to accept the application without the signature of joint-inventor, Harsimran S. Grewal. The required petition fee of $130.00 has been submitted.

BACKGROUND

On 28 February 2002, applicants filed international application PCT/US02/06331 which claimed a priority date of 28 February 2001. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 28 August 2003.

On 28 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 copy of the international application; a declaration executed by two of the three inventors; and a 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(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 nonsigning joint inventor. Items (1), (3) and(4) have been satisfied.

Regarding item (2) above, petitioner states that Harsimran S. Grewal 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 Harsimran S. Grewal. It is unclear from the present petition and accompanying documents whether Mr.Grewal has been presented with a complete copy of the application papers as required. The electronic mail sent to Mr. Grewal on 26 February 2002 states, "[h]ere are the drafts for the patents. Understand, that these are the drafts and not the final applications." The mailing of a "draft" version of the application is not considered a complete copy of the instant application (specification, including claims, drawings, and oath or declaration). 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 instant application papers was sent to Harsimran S. Grewal, 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.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Harsimran S. Grewal 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
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Fax: 703-308-6459

25 MAY 2004

#5

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

Jason K. Klindtworth
Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97204

In re Application of	:	
GADKARI et al.	:	
Application No.: 10/469,529	:	
PCT No.: PCT/US02/06331	:	DECISION ON PETITION
Int. Filing Date: 28 February 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 28 February 2001	:	
Attorney Docket No.: 109873-130129	:	
For: A SUBSYSTEM BOOT PERIPHERAL DATA TRANSFER ARCHITECTURE FOR A SUBSYSTEM OF A SYSTEM-ON-CHIP	:	

This is a decision on applicants' "Renewed Petition in Accordance with 37 CFR 1.47(a)" filed 05 April 2004 to accept the application without the signature of joint-inventor, Harsimran S. Grewal. The required petition fee of $130.00 has been submitted.

BACKGROUND

On 28 February 2002, applicants filed international application PCT/US02/06331 which claimed a priority date of 28 February 2001. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 28 August 2003.

On 28 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 copy of the international application; a declaration executed by two of the three inventors; and a petition under 37 CFR 1.47(a). In a decision dated 23 January 2004, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 05 April 2004, applicant filed "Renewed Petition in Accordance with 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 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.

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Harsimran S. Grewal. The steps taken by Jason Klindtworth are sufficient to show that Harsimran S. Grewal has refused to execute the application.

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

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 28 August 2003 under 35 U.S.C. 363, and will be given a date of **28 August 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

25 MAY 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

Harsimran S. Grewal
103 Walnut Hill Court
Los Gatos, CA 95032

In re Application of
GADKARI et al.
Application No.: 10/469,529
PCT No.: PCT/US02/06331
Int. Filing Date: 28 February 2002
Priority Date: 28 February 2001
Attorney Docket No.: 109873-130129
For: A SUBSYSTEM BOOT PERIPHERAL DATA TRANSFER ARCHITECTURE FOR A SUBSYSTEM OF A SYSTEM-ON-CHIP

Dear Harsimran S. Grewal:

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 1.497.

Anthony Smith

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

Counsel of Record:
Jason K. Klindtworth
Schwabe, Williamson & Wyatt, P.C.
Pacwest Center, Suites 1600-1900
1211 SW Fifth Avenue
Portland, Oregon 97204

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

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

Mail Date: 04/21/2010

Applicant	: Mileend Gadkari	: DECISION ON REQUEST FOR
Patent Number	: 7653763	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/469,529	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **631** 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.

28 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

OBLON, SPIVAK, MCCLELLAND, MAIER & NUESTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of	:	
SAAVEDRA et al.	:	
Application No.: 10/469,539	:	DECISION
PCT No.: PCT/US02/07369	:	
Int. Filing Date: 11 March 2002	:	
Priority Date: 09 March 2001	:	
Attorney Docket No.: 242052US20PCT	:	
For: STABILIZED, BIOCOMPATIBLE SUPPORTED	:	
LIPID MEMBRANE	:	

This is a decision on applicants' submission filed 30 August 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 11 March 2002, applicants filed international application PCT/US02/07369, which designated the United States and claimed priority of an earlier application filed on 09 March 2001. A copy of the international application was communicated from the International Bureau to the USPTO 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 09 September 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 surcharge for providing the oath or declaration later than thirty months from the priority date.

On 30 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 an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 30 August 2004, applicants filed the instant submission which was accompanied by, *inter alia*, a declaration of inventors, an indication that inventor David E. Obrien is deceased, a declaration of small entity status, a petition/fee for a five month extension of time, and a declaration of facts by David G. Perry explaining the efforts made to obtain the signature of joint Bruce Bondurant. The indication in the declaration of inventors that joint inventor Obrien is deceased has been treated as a request for status under 37 CFR 1.42. The indication in the declaration of facts by David G. Perry has been treated as a petition under 37 CFR 1.47(a).

DISCUSSION

Request for Status Under 37 CFR 1.42

The declaration of inventors filed 30 August 2004 fails to comply with 37 CFR 1.497(a)-(b). It is not clear from the declaration whether the information adjacent David E. Obrien's name is his residence, mailing address, and citizenship, or if it is the residence, mailing address, and citizenship of Nancy Obrien, the legal representative. Additionally, 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)).

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.

Item (1) has been satisfied.

Item (2) has not been satisfied. As noted in MPEP § 409.03(d), copies of documentary evidence such as internet searches and certified mail return receipts should be provided. Mr. Perry states in his declaration that he did perform an internet search, but a copy of that search has not been provided. Mr. Perry indicates that he came up with a telephone number in Albuquerque, New Mexico but does not state whether any other telephone numbers were found. Also, it is not clear if only a search for "Bruce Bondurant" was done or if the search was extended to something like "B Bondurant". Also, it does not appear that any attempts were made to mail the application papers (i.e., specification, including claims, drawings, and oath or declaration) to Mr. Bondurant via a non-electronic delivery service with some type of return receipt.

As to item (3), applicants have not clearly identified the last known address of the missing inventor.

Item (4) has not been satisfied. The declaration filed 30 August 2004 does not comply with 37 CFR 1.497(a)-(b) for the reasons set forth above under the heading "Request for Status Under 37 CFR 1.42". A declaration in compliance with 37 CFR 1.497 and 1.42 is required. Also, the published international application lists Scott S. Saavedra and David F. O'Brien as inventors while the declaration of inventors filed 30 August 2004 lists Steven Scott Saavedra and David E. O'Brien as inventors. Regarding these differences in names, a new oath(s) or

declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application is required.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(a) at this time.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

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) and Renewed Submission Under 37 CFR 1.42". 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

11 MAR 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

OBLON, SPIVAK, MCCLELLAND, MAIER & NUESTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of	:	
SAAVEDRA et al.	:	
Application No.: 10/469,539	:	DECISION
PCT No.: PCT/US02/07369	:	
Int. Filing Date: 11 March 2002	:	
Priority Date: 09 March 2001	:	
Attorney Docket No.: 242052US20PCT	:	
For: STABILIZED, BIOCOMPATIBLE SUPPORTED	:	
LIPID MEMBRANE	:	

This is a decision on applicants' submission filed 23 December 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 11 March 2002, applicants filed international application PCT/US02/07369, which designated the United States and claimed priority of an earlier application filed on 09 March 2001. A copy of the international application was communicated from the International Bureau to the USPTO 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 09 September 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 surcharge for providing the oath or declaration later than thirty months from the priority date.

On 30 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 an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 30 August 2004, applicants filed a submission which was accompanied by, *inter alia*, a declaration of inventors, an indication that inventor David E. Obrien is deceased, a declaration of small entity status, a petition/fee for a five month extension of time, and a declaration of facts by David G. Perry explaining the efforts made to obtain the signature of joint inventor Bruce Bondurant. The indication in the declaration of inventors that joint inventor Obrien is deceased has been treated as a request for status under 37 CFR 1.42. The indication in the declaration of facts by David G. Perry has been treated as a petition under 37 CFR 1.47(a).

On 28 October 2004, a decision was mailed refusing applicants' request for status under 37 CFR 1.42 and dismissing applicants' petition under 37 CFR 1.47(a). Specifically, as to the petition under 37 CFR 1.47(a), it was noted that factual proof that the missing joint inventor could not be reached after diligent effort and a declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor had not been provided.

On 23 December 2004, applicant filed the instant submission which was accompanied by, *inter alia*, three declarations of inventors.

DISCUSSION

Petition Under 37 CFR 1.47(a)

Since a 37 CFR 1.497 declaration has been executed by legal representative of the deceased joint inventor and by the remaining joint inventors themselves, 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.

Request for Status Under 37 CFR 1.42

The declaration of inventors filed 23 December 2004 fails to comply with 37 CFR 1.497(a)-(b) for the same reasons the declaration of inventors filed 30 August 2004 failed to comply. It is not clear from the declaration whether the information adjacent David F. Obrien's name is his residence, mailing address, and citizenship, or if it is the residence, mailing address, and citizenship of Nancy Obrien, the legal representative. Additionally, 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)).

The submission filed 23 December 2004 alleges that the "declaration signed by Mrs. Obrien also indicates that her citizenship is U.S.A. and that her mailing address is the same as Mr. Obrien's address." However, as noted above, the declaration signed by Mrs. Obrien fails to indicate whose citizenship and address are being indicated.

Declarations of Inventors

The declarations of inventors filed 23 December 2004 are not in compliance with 37 CFR 1.497(a)-(b). The published international application lists Scott S. Saavedra as an inventor while the declaration of inventors filed 23 December 2004 lists Steven Scott Saavedra as an inventor. Because this difference in names is more than a mere typographical error or a phonetic misspelling of applicant's legal name, a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $400 as well as a statement from the inventor. This statement should set forth that he is a joint

inventor of the subject matter of the present application and should set forth the circumstances surrounding the difference in names on the international application and the declaration.

The explanation in the difference in names between the published international application and the declaration of inventors filed 23 December 2004 for David Obrien is accepted.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

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

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 Submission Under 37 CFR 1.42". 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

20 SEP 2005

#10

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

OBLON, SPIVAK, MCCLELLAND, MAIER & NUESTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of	:	
SAAVEDRA et al.	:	
Application No.: 10/469,539	:	DECISION
PCT No.: PCT/US02/07369	:	
Int. Filing Date: 11 March 2002	:	
Priority Date: 09 March 2001	:	
Attorney Docket No.: 242052US20PCT	:	
For: STABILIZED, BIOCOMPATIBLE SUPPORTED	:	
LIPID MEMBRANE	:	

This is a decision on applicants' submission filed 13 June 2005, which included a petition under 37 CFR 1.182 and a Supplemental Application Data Sheet,[1] in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 11 March 2002, applicants filed international application PCT/US02/07369, which designated the United States and claimed priority of an earlier application filed on 09 March 2001. A copy of the international application was communicated from the International Bureau to the USPTO 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 09 September 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 surcharge for providing the oath or declaration later than thirty months from the priority date.

On 30 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 an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

[1]The petition states that "copies of executed declarations by all the inventors, except deceased inventor David F. O'Brien" are attached. However, no copies of declarations were attached. In a telephone call between the undersigned and Mr. Ronald A. Rudder, it was indicated that the declarations intended to be attached to the petition were copies of declarations already filed. Accordingly, it was agreed that new copies did not need to be sent and that the earlier copies would be sufficient.

On 30 August 2004, applicants filed a submission which was accompanied by, *inter alia*, a declaration of inventors, an indication that inventor David E. Obrien is deceased, a declaration of small entity status, a petition/fee for a five month extension of time, and a declaration of facts by David G. Perry explaining the efforts made to obtain the signature of joint inventor Bruce Bondurant. The indication in the declaration of inventors that joint inventor Obrien is deceased has been treated as a request for status under 37 CFR 1.42. The indication in the declaration of facts by David G. Perry has been treated as a petition under 37 CFR 1.47(a).

On 28 October 2004, a decision was mailed refusing applicants' request for status under 37 CFR 1.42 and dismissing applicants' petition under 37 CFR 1.47(a). Specifically, as to the petition under 37 CFR 1.47(a), it was noted that factual proof that the missing joint inventor could not be reached after diligent effort and a declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor had not been provided.

On 23 December 2004, applicant filed a submission which was accompanied by, *inter alia*, three declarations of inventors.

On 11 March 2005, a decision was mailed refusing applicants' request for status under 37 CFR 1.42 and dismissing applicants' petition under 37 CFR 1.47(a) as moot. Specifically, as to the request for status under 37 CFR 1.42, it was noted that it was not clear from the declaration of inventors filed 23 December 2004 whether the information adjacent David F. Obrien's name was his residence, mailing address, and citizenship, or if it was the residence, mailing address, and citizenship of Nancy Obrien, the legal representative. It was also noted 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)). Additionally, the decision noted that the difference in names in the published international application and the declaration of inventors for Mr. Saavedra was more than a mere typographical error or a phonetic misspelling of applicant's legal name and that a proper petition under 37 CFR 1.182 would be required in order to resolve the matter.

On 13 June 2005, applicants filed the instant petition under 37 CFR 1.182 and a Supplemental Application Data Sheet.

DISCUSSION

Request for Status Under 37 CFR 1.42

The Supplemental Application Data Sheet clarifies the residence, mailing address, and citizenship of both the deceased inventor David F. Obrien and the legal representative Nancy Obrien. Accordingly, the application papers are now in compliance with 37 CFR 1.42.

Petition Under 37 CFR 1.182

The petition fee has been paid. The statement of Scott Saavedra is accepted.

Declarations of Inventors

The declarations of inventors filed 23 December 2004 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**.

For the above reasons, the petition under 37 CFR 1.182 is **GRANTED**.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **23 December 2004**.

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

0 3 JUL 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

In Re Application of REIDENBERG et al. Application No.: 10/469,553 PCT No.: PCT/US02/06766 Int. Filing Date: 04 March 2002 Priority Date: 02 March 2001 Attorney Docket No.: 2755/1H832US1 For: N-BUT-3-ENYL NORBUPRENORPHINE AND ITS USE AS ANALGESIC	DECISION

This is a decision on applicant's "Second Request for Corrected Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 22 March 2004. This is also responsive to applicant's request filed on 02 December 2004.

On 04 March 2002, applicant filed international application No. PCT/US02/06766 which claimed a priority date of 02 March 2001 and which designated the United States. Thereafter, on 29 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. No Notification of Missing Requirements (Form PCT/DO/EO/905) was issued.. On 29 October 2003, applicant submitted an executed declaration.

On 13 January 2004, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed, erroneously indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 August 2003.

On 16 March 2004, applicant filed a Request for a Corrected Filing Receipt. On 02 December 2004 applicant resubmitted the request. Subsequently, on 10 November 2006, applicant filed a Request for Certificate of Correction, in which a certificate of correction issued on 09 January 2007.

On 12 September 2006, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed, indicating the correct 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 October 2003.

Applicant requests a corrected filing receipt as the submission of the declaration was originally filed 29 October 2003. The request is accompanied by a copy of the Customer Copy of Express Mail label bearing Express mail number EL982104123US, a "Date-In" of 29 October 2003 and a USPS barrel stamp of "OCT 29 2003".

DISCUSSION

A review of the USPTO records indicates that the executed declaration was filed on 29

October 2003. The evidence is sufficient to establish that the declaration was received in the USPTO on 29 October 2003. Accordingly, it is appropriate to correct the filing receipt to indicate such.

The Notification of Acceptance mailed on 12 September 2006 correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 October 2003 and remains in effect.

CONCLUSION

For the reasons set forth above, the Request to Correct the Filing Receipt is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 12 September 2006 remains in effect, as it correctly indicates a 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date of 29 October 2003.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 6, 2006

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/469570 Patent No.: 7,033,510

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: In the amendment to claim 20 "cyanotic" should be changed to -cyanuric- The corrections to claims 27 & 36 are approved

DUANE SMITH
SUPERVISORY PATENT EXAMINER

SPE

1724
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

Buchanan, Ingersoll & Rooney
P.O. Box 1404
Alexandria, VA 22313-1404

COPY MAILED
JUL 19 2006
OFFICE OF PETITIONS

In re Application of :
Rhonda Honeycutt :

Application No. 10/469,571 : DECISION ON PETITION
Filed: April 23, 2004 : TO WITHDRAW
Attorney Docket No. 034109-006 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 2005.

The request is **NOT APPROVED**.

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

The request cannot be approved because the reason was missing from the withdrawal of attorney.

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.

David Buccei
Petitions Examiner
Office of Petitions

cc: Rhonda J. Honeycutt
6936 Batiquitos Lagoon
Carisbad, CA 92009

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

Buchanan, Ingersoll & Rooney LLP
P.O. Box 1404
Alexandria, VA 22313-1404

COPY MAILED

JUL 17 2007

OFFICE OF PETITIONS

In re Application of :

Rhonda J. Honeycutt et al. :
Application No. 10/469,571 :
Filed: April 23, 2004 :
Attorney Docket No. 011399-0004-999 :

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 18, 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 Joseph R. Baker, Jr. on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Joseph R. Baker, Jr. at the address indicated below.

There is an outstanding Office action mailed February 27, 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: **Rhonda J. Honeycutt**
6936 Batiquitos Drive
Carlsbad, CA 92009

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
10/469,571	04/23/2004	Rhonda J. Honeycutt	011399-0004-999

CONFIRMATION NO. 1512

OC000000024853435

41790
BUCHANAN, INGERSOLL & ROONEY LLP
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

Date Mailed: 07/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/18/2006.

- 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.

Jessi Williams

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

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO CA 92101

COPY MAILED

MAR 1 7 2009

OFFICE OF PETITIONS

In re Application of	:	
Rhonda J. Honeycutt, et al.	:	
Application No. 10/469,571	:	DECISION ON PETITION
Filed: April 23, 2004	:	TO WITHDRAW
Attorney Docket No. 011399-0004-999	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(a), filed October 8, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because all three certification boxes were not checked on the PTO/SB/83. It has not been certified that the representative has delivered to the client all papers and property (including funds) to which client is entitled.

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

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rhonda J. Honeycutt, President Clarity BioSciences**
P.O. Box 131474
Carlsbad, CA 92013

24 DEC 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Timothy B. Clise
Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re Application of	:	
SAITO	:	
U.S. Application No.: 10/469,577	:	DECISION ON PETITION
PCT No.: PCT/SE01/00198	:	
Int. Filing Date: 01 February 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 01 February 2001	:	
Attorney Docket No.: 1876.001US1	:	
For: A METHOD AND AN APPARATUS FOR	:	
FOR ENERGIZING FLUIDS	:	

The petition to revive under 37 CFR 1.137(b) filed 29 August 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the U.S. National Stage application from the due date to the date of this Petition was also 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 is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (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.
10/469,592	02/17/2004	Eric J. Strang	242224US6YAPCT	1506

22850 7590 02/22/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
MOORE, KARLA A

ART UNIT	PAPER NUMBER
1792	

NOTIFICATION DATE	DELIVERY MODE
02/22/2010	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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

wk

FEB 2 2 2010

In re application of Eric J. Strang Serial No. 10/469,592 Filed: February 17, 2004 For: SHOWER HEAD GAS INJECTION APPARATUS WITH SECONDARY HIGH PRESSURE PULSED GAS INJECTION	: : : :	DECISION ON PETITION

This is a decision on Applicant's Petition for Acceptance of Corrected Appeal Brief filed on November 20, 2009. Applicant requests that the requirements of 37 CFR 41.37(a) (1) be waived to permit the filing of the attached Response to Notification of Non-Compliant Appeal Brief. Applicant did not become aware of the Notice of Non-Compliant Appeal Brief until November 9, 2009 when the Examiner of Record called.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114).

A review of the petitioner's evidence indicates that the request has merit.

The Petition is **GRANTED**.

The attached Appeal Brief is accepted without extension of time fees being due.

/Jacqueline M. Stone/

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Steven P. Weihrouch
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

13 JAN 2004

II 3

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

Joel G. Ackerman
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

In re Application of
JOHNSON, David A. et al.
Application No.: 10/469,620
PCT No.: PCT/US01/24284
Int. Filing Date: 03 August 2001
Priority Date: 04 August 2000
Docket No.: 014058-011210US
For: NEW IMMUNOEFFECTOR COMPOUNDS

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 03 September 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

24 JUN 2004

#5

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

Carr & Ferrell
2225 E Bayshore Rd
Suite 200
Palo Alto CA 94303

In re Application of MILLARD et al. Application No.: 10/469,623 PCT No.: PCT/AU02/00172 Int. Filing: 20 February 2002 Priority Date: 20 February 2001 Attorney Docket No.: PA2361US For: SYSTEM AND METHOD FOR LICENSING CONTENT ON UPDATABLE STORAGE MEDIA	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's petition under 37 CFR 1.47(a) to accept the application without the signature of inventor Joseph Hayes, filed in the United States Patent and Trademark Office (USPTO) on 06 May 2004. Applicant also requests a two month extension of time, which is granted.

BACKGROUND

On 06 May 2004, applicant filed a petition under 37 CFR 1.47(a) in response to a 02 January 2004 Notification of Missing Requirements, in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requests the acceptance of the application without the signature of inventor Joseph Hayes.

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).

Petitioner satisfied Items (1), (3) and (4).

With respect to item (2), Petitioner alleges that inventor Joseph Hayes refuses to sign the declaration. In this regard, Petitioner presents the declaration of Peter English, Solicitor for Because Group Pty Limited in support of the petition under 37 CFR 1.47(a), based upon Mr. English's personal knowledge. Mr. English states that on 02 March 2004, he forwarded a declaration and power of attorney to inventor Hayes.

According to Mr. English, having no response from Mr. Hayes, on 26 March 2004, he sent an E-mail to Mr. Hayes at his last known E-mail address. On the same date, Mr. Hayes responded via E-mail that a response would be forthcoming. Furthermore, Mr. English indicates that he sent a second E-mail requesting a response by 30 March 2004. Mr. English states that he attempted to telephone Mr. Hayes on numerous occasions between 02 March 2004 and 02 April 2004. On 06 April 2004, Mr. English sent a second letter to Hayes along with a copy of the PCT application. As of the date of his declaration (22 April 2004), Mr.

English indicates that he has not had a response from Mr. Hayes.

The action taken by petitioner is sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor. Under these circumstances, it can be concluded that Mr. Hayes' conduct constitutes a refusal to sign the application.

The evidence submitted supports a finding that the nonsigning inventor refuses to sign the application. 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 06 May 2004 and to mail a filing receipt. The application has an international filing date of 20 February 2002 under 35 U.S.C. 363, and a date of 06 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 her 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 United States Designed/Elected Office (DO/EO/US) for processing as the U.S. National Stage of the above-identified international application.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467
Fax: (703)-308-6459

24 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

JOSEPH HAYES
25 RABBETT STREET
FRENCHS FOREST New South Wales 2086
AUSTRALIA

In re Application of MILLARD et al. Application No.: 10/469,623 PCT No.: PCT/AU02/00172 Int. Filing: 20 February 2002 Priority Date: 20 February 2001 Attorney Docket No.: PA2361US For: SYSTEM AND METHOD FOR LICENSING CONTENT ON UPDATABLE STORAGE MEDIA	DECISION ON PETITION UNDER 37 CFR 1.47(a)

Dear Mr. Hayes:

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

Carr & Ferrell
2225 E Bayshore Rd
Suite 200
Palo Alto CA 94303

22 JUN 2004

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert W. Strozier, P.L.L.C.
P.O. Box 429
Bellaire, Texas 77402-0429

In re Application of FELDMAN et al. Application No.: 10/469,632 PCT No.: PCT/US02/05782 Int. Filing Date: 27 February 2002 Priority Date: 06 March 2001 Attorney Docket No.: 97012/05US For: METHOD AND APPARATUS FOR STENT DEPLOYMENT WITH ENHANCED DELIVERY OF BIO-ACTIVE AGENTS	DECISION ON PETITION

This decision is in response to applicants' "Statement Properly Identifying Inventor Name" filed 06 May 2004 notifying the United States Patent and Trademark Office that the correct spelling of the second inventor's name is STEVEN R. Bailey, as indicated on the declaration, filed on 29 August 2003, rather than Stephen R. Bailey as is indicated on the published international application.

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the second inventor's name is accepted and noted for the record.

For the reasons above, the request is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing with the last name of the second named inventor spelled as STEVEN R. Bailey. The application has an international filing date of 27 February 2002 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **29 August 2003**.

Anthony Smith

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

24 FEB 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

Jason A. Bernstein
Powell, Goldstein, Frazer & Murphy LLP
16th Floor
191 Peachtree Street, NE
Atlanta, GA 30303-1736

In re Application of :
SCHWAMM, Lee H. :
Application No.:10/469,651 :
PCT Application No.: PCT/US01/49747 :
International Filing Date:21 December 2001 :
Priority Date: 27 December 2000 :
Attorney Docket No.: 0375.2-1-1 :
For: DUAL BALLOON CATHETER WITH SENSOR FOR CONTINUOUS TRANSVENOUS MEASUREMENT OF INTERCRANIAL PRESSURE :

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

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 02 September 2003 is **GRANTED**.

BACKGROUND

On 21 December 2001, applicant filed international application number PCT/US01/49747. The international application claims priority from a U.S. provisional application filed on 27 January 2000. A copy of the international application was transmitted by the International Bureau on 06 September 2002. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 27 June 2003.

On 02 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a petition to revive, the petition fee, the basic national fee, and a declaration of the inventor.

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 proper reply, (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). For an application that has gone

abandoned for failure to provide the submissions required by thirty months from the priority date, a proper reply must include the basic national fee and a copy of the international application, if not already provided by the International Bureau.

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," satisfies the requirements of 37 CFR 1.137(b)(3). Applicant's payment of the basic national fee is a proper reply because a copy of the international application was previously provided by the International Bureau. Applicant has paid the petition fee. A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The $130.00 surcharge set forth in 37 C.F.R. §1.492(e) for late filing of the declaration or oath has been charged to Deposit Account No. 50-1429.

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 has an international filing date of 21 December 2001 under 35 U.S.C. §363 and a date of 02 September 2003 under 35 U.S.C. §371. The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Ankur Parekh
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAY 0 2 2006

OFFICE OF PETITIONS

Law Offices of Karl Hormann
86 Sparks Street
Cambridge MA 02138-2216

In re Application of :
Frank PUTTKAMMER :
Application No. 10/469,652 : ON PETITION
Filed: September 2, 2003 :
Attorney Docket No. 030596-US :

This is a decision on the petition, filed January 5, 2006, and supplemented March 24, 2006, requesting withdrawal of the Notice of Abandonment mailed November 15, 2005 under the provisions of 37 CFR 1.8(b).

The petition is **GRANTED**.

Petitioner requests the Notice of Abandonment mailed November 15, 2005 for failure to respond to the Office action mailed December 22, 2004 be withdrawn as petitioner timely filed a response. As evidenced by the attached amendment with a certificate of mailing date of July 26, 2005 a response was timely entrusted to the mails, but not received at the USPTO.

The letter filed March 24, 2006 refers to a petition decision mailed March 16, 2006. No decision on petition was mailed on March 16, 2006.

A revocation of power of attorney by the assignee was filed December 8, 2005. The revocation is not acceptable because the statement under 37 CFR 3.73(b) did not include 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). Additionally, a power of attorney was filed March 9, 2006, this power of attorney is not acceptable because it was not signed by the inventor or an assignee of the entire interest of the applicant. 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 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 1774 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

CC: NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

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

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

COPY MAILED

MAY 0 2 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Jean-Louis Guerard et al	:
Application No. 10/469,668	:
Filed: September 2, 2003	:
Attorney Docket No. GUJL-2	:

This is a decision on the petition, filed April 23, 2007, under 37 CFR 1.313(a) to withdraw the above application from issue.

The petition is being forwarded to Technology Center AU 3738 for treatment under 37 CFR 1.181, in view of the comments presented in the above petition.

If deemed necessary, the Director has the delegated authority to withdraw the above-identified application from issue.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 0 3 2007

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

10/3/07

In re Application of:
Guerard, Jean-louis, et al.
Serial No. 10/469,668
Filed: Sep. 2, 2003
Docket: GUJL-2
Title:
WRIST PROSTHESIS

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Apr.23, 2007 requesting withdrawal of the issuance of this application. Pursuant to the decision rendered by the Petition Office on May 2, 2007, the petition is now being considered under 37 CFR 1.181.

The petition is **Granted.**

In view of the fact that on Jun. 11, 2007, the applicant has filed a RCE on this application. The requested relief is granted. The allowance of the application is hereby withdrawn. The examiner has been instructed to enter the amendment filed with the RCE and issue an Office action on the merits.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

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

Polster, Lieder, Woodruff & Lucchesi, L.C.
12412 Powerscourt Dr. Suite 200
St. Louis, MO 63131-3615

Mail Date: 07/14/2010

Applicant	: Allessandro Lualdi	: DECISION ON REQUEST FOR
Patent Number	: 7645273	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/469,673	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1615** 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.

26 FEB 2004

#5

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

J. Philip Polster
Polster, Lieder, Woodruff & Lucchesi
763 South New Ballas Road
St. Louis, Missouri 63141

In re Application of FELDMAN, et al. Application No.: 10/469,677 PUT No.: PCT/US02/06186 Int. Filing Date: 01 March 2002 Priority Date: 01March 2001 Attorney Docket No.: NCI 7935US-U1 For: FLEXIBLE THERMAL PROTECTIVE COMPOSITIONS AND COATINGS AND STRUCTURES FORMED WITH THEM	DECISION ON PETITION UNDER 37 CFR 1.42

This decision is in response to the applicant's correspondence filed 20 January 2004 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 01 March 2002, applicant filed international application PCT/US02/06186 which claimed priority to an earlier application filed 01 March 2001. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 September 2003.

On 02 September 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 First Preliminary amendment and an Information Disclosure Statement.

On 30 December 2003, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 20 January 2004, applicant filed the response including an executed combined declaration and power of attorney.

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 20 January 2004 was executed by Gloria Feldman as personal representative to the estate of the deceased inventor, Rubin Feldman. However, the filed declaration does not satisfy the requirements under 37 CFR 1.497(b). Specifically, the oath or declaration must provide the citizenship, residence, and mailing address of both the deceased inventor and the signing legal representative. The declaration filed on 20 January 2004 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the legal representative or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b).

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 703-305-0130
Fax: 703-308-6459

15 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

J. Philip Polster
Polster, Lieder, Woodruff & Lucchesi
763 South New Ballas Road
St. Louis, Missouri 63141

In re Application of FELDMAN, et al. Application No.: 10/469,677 PUT No.: PCT/US02/06186 Int. Filing Date: 01 March 2002 Priority Date: 01 March 2001 Attorney Docket No.: NCI 7935US-U1 For: FLEXIBLE THERMAL PROTECTIVE COMPOSITIONS AND COATINGS AND STRUCTURES FORMED WITH THEM	DECISION ON RENEWED PETITION UNDER 37 CFR 1.42

This decision is in response to the applicant's correspondence filed 05 March 2004 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a renewed petition under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 26 February 2004, applicant was mailed a decision dismissing applicant's request for status pursuant to 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration.

On 05 March 2004, applicant filed the response considered herein.

DISCUSSION

37 CFR 1.42 When the Inventor is Dead, states, in part:

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

The declaration submitted on 20 January 2004 was executed by Gloria Feldman as personal representative to the estate of the deceased inventor, Rubin Feldman. However, there was a question as to whether the information on page of the declaration was for the legal representative or the deceased inventor. Applicant has presently provided a statement that the

information was for the personal representative, Gloria Feldman. As the information for the deceased inventor was provided on 20 January 2004 in a separate declaration, it is clear that applicant has provided the relevant information for both the deceased inventor and his legal representative and it is proper to grant applicant's request at this time.

CONCLUSION

Applicant's renewed request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 01 March 2002 and a date of **20 January 2004** under 35 U.S.C. 371.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 14 2007

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

THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

In re Application of	:
Tetsuro Tateishi et al	:
Serial No.: 10/469,712	: SUSPENSION OF ACTION
Filed: September 4, 2003	:
Attorney Docket No.: 7388/80618	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed May 22, 2007, by applicants' previous attorney, Fitch, Even, Tabin & Flannery.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicants' petition requests suspension of action for three months in view of "business considerations". No further explanation is given. Thus no good and sufficient reason for suspension is set forth, as required. It is further noted that applicants filed RCE papers on April 10, 1007, including therein a request and fee for a three month extension of time under 37 CFR 1.103(c) which was granted as of the date the RCE papers were received. It would be improper to grant another suspension of time prior to the expiration date of a current suspension of time.

In view of the above reasons the petition is **DENIED**.

The application will be forwarded to the examiner for further consideration upon expiration of the current three month suspension of action.

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

Bruce M. Kisliuk
Director, Technology Center 1600

Back To Home Page

PATENT APPLICATION

10469712

PATENT APPLICATION

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Marshall & Melhorn, LLC
Four SeaGate
Eighth Floor
Toledo OH 43604

COPY MAILED

MAR 14 2008

OFFICE OF PETITIONS

In re Application of

Chun-Sik Lee, et al.

Application No. 10/469,728

Filed: January 14, 2004

Attorney Docket No. 1-16319

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), first filed August 23, 2006, and in supplement on February 29, 2008.

The petition is **granted**.

This application was held abandoned August 10, 2005, after no reply was received to the Notice of Allowance and Issue Fee Due mailed May 9, 2005. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became technically abandoned on August 10, 2005. A review of the application file history reveals that the Notice of Allowance and Issue Fee Due was mailed to an address other than the correspondence address of record and that the notice was returned to the USPTO as undeliverable on June 8, 2005. A Corrected Notice of Allowance and Issue Fee Due was mailed on May 25, 2006. A Notice of Abandonment was also mailed on May 25, 2006, indicating that the issue fee payment had not been received. This Notice of Abandonment apparently corresponds with the first Notice of Allowance and Issue Fee Due mailed May 9, 2005. The issue fee payment and publication fee were received on August 23, 2006, in response to the Corrected Notice of Allowance and Issue Fee Due mailed May 25, 2006.

The evidence is convincing that the imposition of the holding of abandonment was improper as the first Notice of Allowance and Issue Fee Due mailed May 9, 2005, was mailed to an incorrect address and returned as undeliverable. Further, the issue fee and publication fee were timely received in response to the Corrected Notice of Allowance and Issue Fee Due mailed May 25, 2006.

The petition is granted. The holding of abandonment is, therefore, withdrawn.

The "Application for Patent Term Adjustment under 1.705(b)", filed August 23, 2006, will be considered separately.

The application file is being forwarded to the Office of Patent Publications further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Marshall & Melhorn, LLC
Four SeaGate
Eighth Floor
Toledo OH 43604

COPY MAILED

MAR 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	DECISION ON APPLICATION
Application No. 10/469,728	:	FOR
Filed: January 14, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 1-16319	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(B)," filed August 23, 2006. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from fifty-six (56) days to four hundred thirty-seven (437) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **four hundred thirty seven (437)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 9, 2005, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 56 days. On May 25, 2006, the Office mailed a corrected Notice of Allowance, with the same Determination of Patent Term Adjustment of 56 days. Applicants maintain that the period of adjustment pursuant to 37 CFR 1.702(a)(1) should be calculated based on the mailing date of the Corrected Notice of Allowance. Applicants state that

through no fault of the applicants the Notice of Allowance was first mailed to an incorrect address.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 56 days is incorrect. The Office mailed an Office action under section 151 on May 9, 2005, fourteen months and 56 days after the date of filing of the application. However, the Notice was not mailed to the proper correspondence address of record. The record supports a conclusion that this was due to an error on the part of the Office in mailing the Office action to applicants. The correspondence address of record has always remained that of the Marshall & Melhorn law firm. However, the Office erred in changing the correspondence address pursuant to a paper filed to correct the addresses of the inventors.

Accordingly, the Office's delay should be calculating using the May 25, 2006 date. Applicants are correct that the period of delay is 437 days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded that any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

The Publishing Division has been advised of this decision. The application is, thereby, being forwarded to the Publishing Division for issuance of the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Tuesday
Date: 3/18/2008

PALM INTRANET

Time: 19:15:01

PTA Calculations for Application: 10/469728			
Application Filing Date:	01/14/2004	PTO Delay (PTO):	56
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	437
PTO Delay Adjustment:	381		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
41	03/18/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		56	
40	03/18/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	437		
32	05/25/2006	MAIL CORRECTED NOTICE OF ALLOWANCE			
31	05/25/2006	CORRECTED NOTICE OF ALLOWANCE			
30	05/25/2006	MAILING CORRECTED NOTICE OF ALLOWABILITY			
29	05/25/2006	CORRECTED NOTICE OF ALLOWABILITY			
28	11/17/2005	PUBS CASE REMAND TO TC			
27	07/20/2005	RECEIPT INTO PUBS			
26	06/08/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
25	05/17/2005	EXPORT TO INITIAL DATA CAPTURE			
24	05/09/2005	MAIL NOTICE OF ALLOWANCE	56		-1
23	05/05/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
22	05/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	05/03/2005	ISSUE REVISION COMPLETED			
20	05/02/2005	NOTICE OF ALLOWABILITY			
19	03/11/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	06/30/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	06/30/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	06/24/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	04/15/2004	REFERENCE CAPTURE ON IDS			
14	04/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/14/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			

12	01/14/2004	MISCELLANEOUS INCOMING LETTER			
9	05/05/2004	CORRESPONDENCE ADDRESS CHANGE			
8	03/07/2004	CLEARED BY OIPE CSR			
7	01/14/2004	371 COMPLETION DATE			
6	02/19/2004	APPLICATION DISPATCHED FROM OIPE			
5	02/19/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	01/14/2004	ADDITIONAL APPLICATION FILING FEES			
3	01/14/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-26-08

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/669737 Patent No.: 7267902

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 C of C be Approved

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

Chris Yang

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: _____

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Bruce Campbell — SPE

1648 — Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,267,952 B2

APPLICATION NO.: 10/469,737

ISSUE DATE : September 11, 2007

INVENTOR(S) : ARISAWA, Junji, 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 1, line 42: "manual op rations" should be -- manual operations --.

Column 4, line 13: "surface of th membrane" should be -- surface of the membrane --.

Column 4, line 14: "polypropylen fibers" should be -- polypropylen fibers --.

Column 7, line 2: "electric fi ld strength" should be -- electric field strength --.

Column 7, line 60: "Ther fore" should be -- Therefore --.

Column 7, line 62: "on -third" should be -- one-third --.

Column 7, line 65: "recognized, Subsequently" should be -- recognized. Subsequently --.

Column 8, line 20: "cathod" should be -- cathode --.

Column 8, line 24: "Ther fore" should be -- Therefore --.

Column 8, line 27: "th virus genes" should be -- the virus genes --.

Column 8, line 60: "op ration" should be -- operation --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Steven J. Hultquist
Intellectual Property/Technology Law
P.O. Box 14329
Research Triangle Park NC 27709

OCT 10 200

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

15 JAN 2004

#3

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

c/o Y Vladagin
6038 Tyndall Avenue
Bronx, New York 10471

In re Application of	:	
ZHURIN et al.	:	
Application No.: 10/469,752	:	
PCT No.: PCT/RU02/00064	:	DECISION
Int. Filing Date: 27 February 2002	:	
Priority Date: 05 March 2001	:	
Attorney Docket No.: None	:	
For: METHOD FOR VOLUME CONTROL OF AN AUDIOREPRODUCTION AND DEVICES FOR CARRYING OUT SAID METHOD		

This is a response to applicant's "Petition for Accepting of the Underpaid Basic Fee as Originally Filed with (the) USPTO" filed 26 November 2003 which is being treated as a Petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 27 February 2002, applicants filed international application PCT/RU02/00064 which claimed priority date of 05 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 October 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, 05 September 2003.

On 04 September 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: a credit card payment in the amount of $529; a translation of the international application; and an executed declaration.

On 26 November 2003, applicant filed a "Petition for Accepting of the Underpaid Basic Fee as Originally Filed with (the) USPTO."

DISCUSSION

The above-identified application was abandoned on 05 September 2003 for failure to pay the basic national fee 30 months from the priority date for international application no. PCT/RU02/00064. The basic national fee for a small entity whose international search report was conducted by the Russian Patent Office is $530. (See 37 Code of Federal

Regulation 1.492(a)(3)). A review of the finance record reveals that a credit card payment the amount of $529 was included with the Transmittal Letter filed on 04 September 2003. Therefore, applicant has failed to pay full basic national fee prior to the expiration of the 30th month deadline.

RECOMMENDATION

Applicants 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 recent revision of 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

The petition under 37 CF 1.181 is **DISMISSED** and the application remains **ABANDONED**.

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."

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
Fax: (703) 308-6459

22 MAR 2004

#5

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

c/o Y Vladagin
6038 Tyndall Avenue
Bronx, New York 10471

In re Application of ZHURIN et al. Application No.: 10/469,752 PCT No.: PCT/RU02/00064 Int. Filing Date: 27 February 2002 Priority Date: 05 March 2001 Attorney Docket No.: None For: METHOD FOR VOLUME CONTROL OF AN AUDIOREPRODUCTION AND DEVICES FOR CARRYING OUT SAID METHOD	:	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 12 March 2004in 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 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
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Andrew James CULSHAW	:	
Application No. 10/469,756	:	DECISION ON PETITION
Filed: January 06, 2004	:	
Attorney Docket No. 4-31932A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 02, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 05, 2008, and a two (2) month extension of time under the provisions of 37 CFR 1.136(a) was 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 April 08, 2008. *See* MPEP 1215.04.

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 $1,620.00; 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 1625 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JOHN ALEXANDER**
220 MASSACHUSETTS AVENUE
CAMBRIDGE, MA 02139

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

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

COPY MAILED

JUL 24 2008

In re Application of	:	
Ebner et al.	:	
Application No. 10/469,757	:	DECISION ON PETITION
Filed: September 4, 2003	:	
Attorney Docket No. 31912	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 21, 2007. A Notice of Abandonment was mailed March 18, 2008.

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

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/147,129, filed June 26, 2008.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nixon & Vanderhye
8th Floor
1100 North Glebe Road
Arlington VA 22201-4714

COPY MAILED

FEB 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Briscoe et al.	:	
Application No. 10/469786	:	
Filing or 371(c) Date: 09/04/2003	:	
Attorney Docket Number:	:	
36-1794	:	ON PETITION

This is a decision on the Request for Withdrawal of Erroneous Notice of Abandonment, filed December 13, 2007. The petition is properly treated under 37 C.F.R. § 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 16, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on August 17, 2007. A Notice of Abandonment was mailed November 27, 2007.

Applicant's Assertion

Applicant files the present petition and asserts that a timely response to the Office action was filed on November 16, 2007, including a three (3) month extension of time. In support of this assertion, applicant files a copy of the reply, along with a copy of a return-receipt postcard which acknowledges receipt by this Office of: an Amendment, 2 sheets of replacement drawings and $1,230.00 in fees paid via credit card on November 16, 2007.

Review of Office records

A review of Office records also reveals that the Office received the reply, including an Amendment, a three-month Extension of Time and fee and IDS submission fee on November 16, 2007.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2616 for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
JUN 26 2008
OFFICE OF PETITIONS

In re Application of	:	
Briscoe et al.	:	
Application No. 10/469786	:	
Filing or 371(c) Date: 09/04/2003	:	
Attorney Docket Number:	:	
36-1794	:	ON PETITION

This is a decision on the correspondence entitled "Request to Re-Mail Last Office Action and Re-Set Response Periods Due to Patent Office Error," filed April 10, 2008, and on the "Renewed Request to Re-Mail Last Office Action and Re-Set Response Periods Due to Patent Office Error," filed May 20, 2008. The correspondence is properly treated under 37 C.F.R. § 1.181.

This Petition is **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed March 11, 2008. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on June 12, 2008. The Office action was returned as undeliverable by the United States Postal Service (USPS), on March 17, 2008.

After the April 10, 2008 petition was filed, the Office re-mailed the Office action to the correspondence address of record, Nixon & Vanderhye, PC, 8th Floor, 1100 North Glebe Road, Arlington, VA 22201-4714. The Office action was again returned as undeliverable by the USPS, on May 20, 2008. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Office records

A review of Office records reveals that a non-final Office action was mailed May 16, 2007, to the address at 1100 North Glebe Road. Applicant filed a response to that Office action on November 16, 2007. The correspondence address listed on the response by Applicant was 901 North Glebe Road. The Office inadvertently mailed a Notice of Abandonment on November 27, 2007. Applicant filed a petition to withdraw the holding of abandonment on December 13, 2007, and the correspondence address listed on the petition was also 901 North Glebe Road; however, the petition made no mention of the correspondence address. Moreover, Office records do not indicate that a change of correspondence address was filed in this case.

The present petition

Applicant files the present petition and asserts that the application was filed directing all correspondence to customer number 23117, and that for over two years now, Applicant has been receiving mail for customer number 23117 at the 901 North Glebe Road address.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it

> been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied)

MPEP 711.03(c)

Analysis

The application as-filed directed correspondence to customer number 23117. The address associated with customer number 23117 was, until approximately two years ago, the address at 1100 North Glebe Road, the same address where the Office action was mailed, and remailed. Applicant confirms that for over two years now, Applicant has been receiving mail for customer number 23117 at the 901 North Glebe Road address. However, Office records do not indicate that a change of correspondence address was filed in this application, nor has applicant demonstrated that the correspondence address associated with customer number 23117 was properly changed in this application. As such, the record indicates that the Office properly mailed the Office action to the correspondence address of record. The MPEP 711.04, Notifying Applicants of Abandonment, proves instructive. It states: "In essence, it is imperative that a paper notifying the Office of a change of address be filed promptly in each application in which the correspondence address is to be changed (except as provided for under Customer Number practice — see MPEP § 403)." Accordingly, the petition to withdraw the holding of abandonment is dismissed.

Conclusion

The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition and demonstrate that a proper change of correspondence address was filed in the present application.

Alternatively, Applicant may file a petition to revive the application. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

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

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

AUG 15 2008

In re Application of	:	
Briscoe et al.	:	
Application No. 10/469786	:	
Filing or 371(c) Date: 09/04/2003	:	
Attorney Docket Number:	:	
36-1794	:	ON PETITION

This is a decision on the "Renewed Petition for Remailing of Last Office Action and Resetting of Response Period Due to Patent Office Error," filed July 9, 2008. The correspondence is properly treated under 37 C.F.R. § 1.181.

This Petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed March 11, 2008. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on June 12, 2008. The Office action was returned as undeliverable by the United States Postal Service (USPS), on March 17, 2008.

After the April 10, 2008 petition was filed, the Office re-mailed the Office action to the correspondence address of record, Nixon & Vanderhye, PC, 8th Floor, 1100 North Glebe Road, Arlington, VA 22201-4714. The Office action was again returned as undeliverable by the USPS, on May 20, 2008. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence[1].

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

[1] A review of Office records reveals that the Office inadvertently disassociated the application from the customer number prior to Applicant's filing of a Request for Customer Number Data Change, and as a result the Office action was inadvertently mailed to an incorrect correspondence address.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2616 for re-mailing of the Office action.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

22 JAN 2004

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert Berliner
Fulbright & Jaworski, L.L.P.
865 South Figueroa
Twenty-Ninth Floor
Los Angeles, CA 90017-2571

In re Application of Mason et al.
US Application No.: 10/469,789
PCT Application No.: PCT/US00/26655
International Filing Date: 28 September 2000
Priority Date: 28 September 1999
Attorney's Docket No.: 5555-550
For: INTEGRATED WAVELENGTH TUNABLE SINGLE AND TWO-STAGE ALL-OPTICAL WAVELENGTH CONVERTER

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 03 September 2003.

On 28 September 2000, Applicant filed international application PCT/US00/26655, which claimed priority of an earlier U.S. provisional application filed on 28 September 1999. The period for paying the basic national fee is 30 months and ended at midnight on 28 March 2002.

The basic national fee was not paid on or before 28 March 2002. The international application became abandoned as to the United States on 29 March 2003.

The petition encloses:

(1) A transmittal letter for entry into the national stage in the United States;

(2) Deposit Account No. 50-0337 for charging appropriate fees;

(3) A statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

Moreover, a terminal disclaimer is not applicable in the instant case.

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 Notice of Missing Requirements (PCT/DO/EO/905) indicating that an oath or declaration of the inventors and late surcharge are due.

Richard Cole
PCT Legal Examiner
PCT Legal Office

David O. Reip
PCT Legal Detailee
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Law Offices of Karl Hormann
PO Box 381516
Cambridge MA 02238

COPY MAILED

JUN 29 2006

OFFICE OF PETITIONS

In re Application of :
Puttkammer :
Application No. 10/469,795 :
Filed: September 2, 2003 :
Attorney Docket No. 030597-US :

ON PETITION

This is a decision on the correspondence filed December 19, 2005 entitled, "Letter Pursuant to 37 CFR 1.8(b), which is being treated as a petition under 37 C.F.R. 1.181, to 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 non-final Office action, mailed on March 9, 2005, which set forth an extendable 3 month for reply. No extensions of time or reply being received, the Office contended this application became abandoned on June 10, 2005. A Notice of Abandonment was mailed on September 23, 2005.

Petitioner asserts that he mailed an amendment to the Office on May 28, 2005. The original response is not of record in the file and cannot be located. However, the copy of the Amendment Transmittal Letter submitted with the instant petition contains a certificate of mailing bearing a May 28, 2005 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The

person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The certificate of mailing on the Amendment Transmittal Letter is dated May 28, 2005 and is in compliance with the requirements of 37 C.F.R. § 1.8(a)(1), as set forth above. In addition, the person signing the certificate, Attorney Karl Hormann, had reasonable basis to expect that the correspondence would be mailed on May 28, 2005.

The petition is **GRANTED**, the September 23, 2005 Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

The application file will be returned to Technology Center AU 1772 for consideration of the amendment filed on certificate of mailing date May 28, 2005 and resubmitted with the present petition on December 19, 2005.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

17 OCT 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Craig L. Linden
1335 Midway Drive
Alpine, CA 91901

In re Application of LINDEN, Craig L. Application No.: 10/469,800 PCT No.: PCT/US00/42771 Int. Filing Date: 09 December 2000 Priority Date: 09 December 1999 Docket No.: PCT/US00/42771 For: MOBILE ADVERTISING METHODS AND IMPROVEMENTS	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 18 May 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

#2

PTO/SB/64/PCT (10-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional): PCT/US00/42771

First named inventor: LINDEN, CRAIG, L.

International (PCT) Application No.: PCT/US00/42771

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

Filed: DECEMBER 9, 2000

Title: Mobile Advertising Methods AND Improvements

Attention: PCT Legal Staff
Box PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

☒ Small entity - fee $ 650 xx (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

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

$650

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s) in the form of U.S. NATIONAL STAGE FEE $50 (1612/2612) (identify type of reply): $50 xx

☐ has been filed previously on _____.
☒ is enclosed herewith.

$700 xx

09/11/2003 SNAJARRO 00000073 10469800

02 FC:2453 650.00 OP

Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Received from < > at 5/18/03 11:39:43 PM [Eastern Daylight Time]

PTO/SB/64/PCT (10-00)
Approved for use through 10/31/2002. 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.

3. Terminal disclaimer with disclaimer fee

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

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

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

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

MAY 18, 2003
Date

Craig L. Linden
Signature

CRAIG L. LINDEN
Typed or printed name

1335 MIDWAY Dr.
Address

ALPINE, CA 91901

Telephone Number: (619) 445-0352

Enclosures: ☒ Response NATIONAL Fee (1612/2612) $50 | TOTAL $700xx
☒ Fee Payment (Petition) $650
☐ Terminal Disclaimer Form
☐ _____

Received from < > at 5/18/03 11:39:43 PM [Eastern Daylight Time]

3 of

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

PATENT & TRADEMARK OFFICE
MAILED
JUN 03 2004
LICENSING & REVIEW

Li Cai
Amersham Health, Inc.
Princeton, NJ 08540

In re:	Cuthbertson et al	:	DECISION ON REQUEST
Serial No.:	10/469,801	:	UNDER 37 CFR 5.25
Filing date:	September 2, 2003		
Docket No:	PZ0107		

Title: **IMPROVED PEPTIDE-CHELATE CONJUGATES**

This is a decision on the petition filed on September 2, 2003 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is denied since the verified statement by Ms. Sally Bannan is not a formal verified statement. A verified statement must be in oath or declaration form. The instant verified statement is not in an oath or declaration form.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Ian J. Lobo
Patent Examiner
(703) 306-4161

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/469,801	24-May-04	ALAN CUTHBERTSON, ET AL.	PZ0107

Title: IMPROVED PEPTIDE-CHELATE CONJUGATES

Art Unit	Paper Number

Mailed n.n.

Correspondence Address:
LI CAI
AMERSHAM HEALTH, INC.
101 CARNEGIE CENTER
PRINCETON, NJ. 08540

RECEIVED
JUN - 3 2004
LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/469,801	5/24/04	ALAN CUTHBERTSON, ET AL.	PZ0107

Title: **IMPROVED PEPTIDE-CHELATE CONJUGATES**

Art Unit	Paper Number

Correspondence Address:
LI CAI
AMERSHAM HEALTH, INC.
101 CARNEGIE CENTER
PRINCETON, NJ. 08540

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 532,916

Grant Date: 20-Jul-04

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved

for Commissioner of Patents and Trademar

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such application or applications.

This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Office of Foreign Assets Control, Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminsttration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Li Cai
Amersham Health, Inc.
Princeton, NJ 08540

In re:	Cuthbertson et al	:	DECISION ON REQUEST
Serial No.:	10/469,801	:	UNDER 37 CFR 5.25
Filing date:	September 2, 2003		
Docket No:	PZ0107		

Title: **IMPROVED PEPTIDE-CHELATE CONJUGATES**

This is a decision on the petition filed on July 15, 2004 for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C.184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under a secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	**Date**
Great Britain	March 2, 2001
PCT UK Receiving Office	March 1, 2002

Ian J. Lobo
Patent Examiner
(703) 306-4161

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

GE HEALTHCARE, INC.
IP DEPARTMENT 101 CARNEGIE CENTER
PRINCETON, NJ 08540-6231

Mail Date: 04/21/2010

Applicant	: Alan Cuthbertson	: DECISION ON REQUEST FOR
Patent Number	: 7608242	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/469,801	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1355** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

NOV 19 2009

OFFICE OF PETITIONS

Kirschstein, Israel,
Schiffmiller & Pieroni, P.C.
425 FIFTH AVENUE
5TH FLOOR
NEW YORK NY 10016-2223

In re Patent No. 7,013,085	:	
Galtarossa, et al.	:	
Issue Date: March 14, 2006	:	DECISION ON
Application No. 10/469,807	:	REQUEST FOR RECONSIDERATION
Filed: March 31, 2004	:	OF
Atty Docket No. P/63192	:	PATENT TERM ADJUSTMENT

This is a decision on the correspondence entitled, "37 CFR 1.322 & 37 CFR 1.323 REQUEST FOR CERTIFICATE OF CORRECTION FOR USPTO AND/OR APPLICANT MISTAKE," filed January 28, 2009. The correspondence, with respect to the request to alter the revised patent term adjustment, will be treated as a petition under 37 CFR 1.705(d). Pursuant to petitioner's authorization, deposit account no. 50-1379 will be charged the required $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. Patentees request that the revised patent term adjustment indicated on the patent be corrected from ninety (90) days to one hundred fourteen (114) days. The present constructive petition appears to be filed on behalf of the assignee of record.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

On March 14, 2006, the above-identified application matured into U.S. Patent No. 7,013,085 with a revised patent term adjustment of 90 days. No request for reconsideration of the patent term

adjustment indicated in the patent was filed within two months of the date the patent issued.

A request for reconsideration of the patent term adjustment indicated in the patent was not filed until January 28, 2009.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by May 14, 2006, the date two months from the date this patent issued, March 14, 2006.

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR

---

[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as

1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and 37 CFR 1.323 or 35 U.S.C. 255 and 37 CFR 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in §1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in §1.705(d). See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

As a one time courtesy, a copy of this decision will be mailed to the address listed on the petition/proposed certificate of correction. If a change in correspondence address is desired, appropriate documents should be filed.

After the mailing of this decision, the application will be referred to Certificates of Correction Branch for consideration

---

provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

of the remaining requests in the proposed Certificate of Correction filed on January 28, 2009.

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 Petitions

CC: SIDNEY L. WEATHERFORD
6300 LEGACY, MS EVR 1-C-11
PLANO TX 75024

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

Jeffrey M. Greenman
Bayer Corporation
400 Morgan Lane
West Haven, CT 06516

COPY MAILED

SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Alonso-Alija, et al.

Application No. 10/469,817

Filed: December 22, 2003

Attorney Docket No. Le A 35 264

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 10, 2006, which set a shortened statutory period for reply of three (3) months. A request for an extension of time within the third month is noted as being filed on October 10, 2006, but no response accompanied the request. Accordingly, the application became abandoned on October 11, 2006. A Notice of Abandonment was mailed on October 26, 2006.

The continuing application 11/581,261, filed October 10, 2006, is noted. The subject application is again abandoned in favor the continuing application.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAR 16 2009

OFFICE OF PETITIONS

MACBETH & JOHNSON
SUITE 301
133 RICHMOND STREET WEST
TORONTO, ON M5H 2L7 CA CANADA

In re Application of	:	
Victory Daykin	:	
Application No. 10/469,853	:	ON PETITION
Filed: March 24, 2004	:	
Attorney Docket No. JJ-11 097US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 5, 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 September 6, 2008.

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 $555 extension of time submitted on December 8, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account.

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

This matter is being forwarded to Technology Center AU 1797 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

09 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI
Ten Post Office Square
Boston, MA 02109

In re Application of:	:	
JANSEN, Albert, Edward, et al.	:	DECISION
Application No.: 10/469,901	:	
PCT No.: PCT/NL02/00150	:	
Int. Filing Date: 06 March 2002	:	
Priority Date: 06 March 2001	:	
Attorney Docket No.: VER-177XX	:	
For: FRACTIONATION OF LIQUID MIXTURES	:	
USING MEMBRANE CONTACTORS	:	

This decision is issued in response to applicants' "Letter" filed 05 April 2004, treated herein as a petition under 37 CFR 1.181 to confirm the earlier filing of the executed declaration and to correct the 35 U.S.C. 371(c) date. No petition fee is required.

BACKGROUND

On 06 March 2002, applicants filed international application PCT/NL02/00150. The application claimed a priority date of 06 March 2001, was published in English, and designated the United States. On 12 September 2002, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office ("USPTO"). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 06 September 2003.

On 05 September 2003, applicants filed a transmittal letter for entry into the national stage accompanied by, among other materials, payment of the basic national fee.

On 22 October 2003, applicants filed an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

On 02 February 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

On 05 April 2004, applicant filed the "Letter" considered as a petition herein. The letter notes that an executed declaration had been previously filed on 22 October 2003 and asserts that the Notification Of Missing Requirements was therefore issued in error. The petition was accompanied by a copy of the previously filed declaration and evidence of the prior filing.

On 29 June 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying 05 April 2004 as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" and the "Date Of Completion Of All 35 U.S.C. 371(c) Requirements." Also on 29 June 2004, a filing receipt was issued which identified 05 April 2004 as the 35 U.S.C. 371(c) date.

DISCUSSION

A review of the application file confirms that, on 22 October 2003, applicants filed an executed declaration in compliance with 37 CFR 1.497. This submission completed the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). Accordingly, the proper date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for this application is 22 October 2003.

The Notification Of Missing Requirements mailed 02 February 2004, based as it was on applicants' purported failure to file an oath or declaration, is therefore appropriately vacated.

The Notification Of Acceptance and filing receipt mailed 29 June 2004, both of which identified the 35 U.S.C. 371(c) date as 05 April 2004, are also appropriately vacated.

CONCLUSION

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

The correct date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for the present application is 22 October 2003.

The Notification Of Missing Requirements mailed 02 February 2004 is hereby **VACATED**.

The Notification Of Acceptance and filing receipt mailed 29 June 2004, which identified the 35 U.S.C. 371(c) date as 05 April 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 accordance with this decision, including the issuance of a corrected Notification Of Acceptance and filing receipt that properly identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 22 October 2003.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

COPY MAILED

MAY 06 2008

OFFICE OF PETITIONS

In re Application of :
Albert Edward Jansen et al. :
Application No. 10/469,901 : ON PETITION
Filed: October 22, 2003 :
Attorney Docket No. VER-177XX :

This is a decision on the petition filed April 14, 2008, under 37 CFR 1.181(b), to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to file a timely response to the Final Office Action mailed August 29, 2007. A response in the form of an Request for Continued Examination (RCE) was filed November 29, 2007 but without a submission pursuant to 37 CFR 1.114. As a result, a Notice of Improper Request for Continued Examination (RCE) was mailed December 6, 2007. Petitioners argue non-receipt of the December 6, 2007. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The file record discloses that the Notice of Improper Request for Continued Examination (RCE) was mailed to the address of record, the same address to which all prior communications have been mailed. However, petitioner contends that the Notice of Improper Request for Continued Examination (RCE) was not received. In support, petitioner indicates that a search of the docket records revealed that the Notice was not received and submits copies of pages from docketing system, wherein receipt of the Notice would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Improper Request for Continued Examination (RCE).

In view of the facts set forth in the petition, it is concluded that the Notice of Improper Request for Continued Examination (RCE) was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged. The extension of time fees paid with the instant petition are also not required and outside of the maximum period obtainable and will be refunded to deposit account no. 23-0804.

This matter is being referred to Technology Center 1797 for processing the RCE and amendment.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

31 MAY 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

Mark M. Newman
Barnes & Thornburg
750 17th Street, N.W. Suite 900
Washington, D.C. 20006

In re Application of	:	
OETIKER et al.	:	
Application No.: 10/469,912	:	DECISION ON RENEWED
PCT No.: PCT/EP02/03259	:	REQUEST UNDER 37 CFR 1.42
Int. Filing Date: 22 March 2002	:	
Priority Date: 26 March 2001	:	
Attorney Docket No.: 967/40967	:	
For: HOSE CLAMP		

This decision is in response to applicants' "Renewed Submission under 37 CFR 1.42" filed 29 November 2004. No petition fee is required.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/EP02/03259, which claimed a priority date of 26 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 October 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, 26 September 2003.

On 17 September 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 translation of the international application; a preliminary amendment; and an executed declaration. The declaration was executed by: Ulrich Meier as an inventor and Paul Nef and Marco Lorez on behalf of deceased inventor, Hans Oetiker.

On 13 January 2004, the Office of PCT Legal Administration mailed "Decision on Petition under 37 CFR 1.42" which indicated that the declaration filed on 17 September 2003 was not in compliance with 37 CFR 1.42 and 37 CFR 1.497(a)(3).

On 12 July 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 "Decision on Petition under 37 CFR 1.42" mailed 13 January 2004 within the time period set therein.

On 28 July 2004, applicants filed "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action." In a Decision on Petition under 37 CFR 1.181,

applicants' petition was dismissed without prejudice.

On 25 August 2004, applicants filed a Renewed Petition under 37 CFR 1.181 which was granted in Decision on Petition under 37 CFR 1.181 dated 26 October 2004.

On 29 November 2004, applicants 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 supplemental declaration filed 29 November 2004 is executed by P. (Paul) Nef and Dr. M. (Marco) Lorez as "executors" of the deceased inventor, Hans Oetiker. The present declaration taken in combination with the previously submitted declaration fulfills the requirements of 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 29 November 2004.

CONCLUSION

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

The application has an international filing date of 22 March 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **29 November 2004**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

13 JAN 2004

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark M. Newman
Barnes & Thornburg
750 17th Street, N.W. Suite 900
Washington, D.C. 20006

In re Application of	:	
OETIKER et al.	:	DECISION ON
Application No.: 10/469,912	:	PAPERS UNDER 37 CFR 1.42
PCT No.: PCT/EP02/03259	:	
Int. Filing Date: 22 March 2002	:	
Priority Date: 26 March 2001	:	
Attorney Docket No.: 967/40967	:	
For: HOSE CLAMP		

This is a response to the declaration filed 17 September 2003 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/EP02/03259, which claimed a priority date of 26 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 October 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, 26 September 2003.

On 17 September 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 translation of the international application; a preliminary amendment; and an executed declaration. The declaration is executed by: Ulrich Meier as inventor and Paul Nef and Marco Lorez on behalf of deceased inventor, Hans Oetiker.

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 17 September 2003 is executed by Ulrich Meier as an inventor and Paul Nef and Marco Lorez as the "legal representatives" of the deceased inventor, Hans Oetiker. The declaration submitted appears to have been executed by the proper party

under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(a) and (b).

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 17 September 2003 provides this information with respect to the legal representatives, but does not include the residence, citizenship, and post office address for the deceased the inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(a)(3) and 37 CFR 1.63.

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."

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 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
Fax: (703) 308-6459

18 AUG 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark M. Newman
Barnes & Thornburg
750 17th Street, N.W. Suite 900
Washington, D.C. 20006

In re Application of	:	
OETIKER et al.	:	
Application No.: 10/469,912	:	DECISION ON PETITION
PCT No.: PCT/EP02/03259	:	UNDER 37 CFR 1.181
Int. Filing Date: 22 March 2002	:	
Priority Date: 26 March 2001	:	
Attorney Docket No.: 967/40967	:	
For: HOSE CLAMP		

This is a response applicants' "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" filed 28 July 2004 which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/EP02/03259, which claimed a priority date of 26 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 October 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, 26 September 2003.

On 17 September 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 translation of the international application; a preliminary amendment; and an executed declaration. The declaration was executed by: Ulrich Meier as an inventor and Paul Nef and Marco Lorez on behalf of deceased inventor, Hans Oetiker.

On 13 January 2004, the Office of PCT Legal Administration mailed "Decision on Papers under 37 CFR 1.42" which indicated that the declaration filed on 17 September 2003 was not in compliance with 37 CFR 1.42 and 37 CFR 1.497(a)(3). (A copy of the "Decision on Papers under 37 CFR 1.42" is attached.)

On 12 July 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 Decision on Papers under 37 CFR 1.42 mailed 13 January 2004 within the time period set therein.

On 28 July 2004, applicants filed "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action."

DISCUSSION

In response to the Notification of Abandonment mailed 12 July 2004, applicants state that the Decision mailed 13 January 2004 was not received. With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement). Applicants have satisfied item (1) and (2) above.

However, as to item (3) applicants have provided a copy of the docket record which purportedly shows where the paper would have been entered had it been received. The printout of the docket report for this specific application is not sufficient to establish that the Decision on Papers under 37 CFR 1.42 was not received and mis-docketed to another application. Accordingly, applicants are required to provide docket records for 13 March 2004, indicating all applications for which a response was due on said date.

CONCLUSION

The Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration of 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 1.181." Extensions of time under 37 CFR 1.136(a) are permitted.

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
Tel: (703) 308-6314
Fax: (703) 308-6459

Enclosures: Decision on Papers under 37 CFR 1.42 mailed 13 January 2004

26 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

Mark M. Newman
Barnes & Thornburg
750 17th Street, N.W. Suite 900
Washington, D.C. 20006

In re Application of	:	
OETIKER et al.	:	
Application No.: 10/469,912	:	
PCT No.: PCT/EP02/03259	:	DECISION ON PETITION
Int. Filing Date: 22 March 2002	:	
Priority Date: 26 March 2001	:	
Attorney Docket No.: 967/40967	:	
For: HOSE CLAMP		

This is a response applicants' "Renewed Petition under 37 CAR 1.181" filed 25 August 2004. No petition fee is required.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/EP02/03259, which claimed a priority date of 26 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 October 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, 26 September 2003.

On 17 September 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 translation of the international application; a preliminary amendment; and an executed declaration. The declaration was executed by: Ulrich Meier as an inventor and Paul Nef and Marco Lorez on behalf of deceased inventor, Hans Oetiker.

On 13 January 2004, the Office of PCT Legal Administration mailed "Decision on Papers under 37 CFR 1.42" which indicated that the declaration filed on 17 September 2003 was not in compliance with 37 CFR 1.42 and 37 CFR 1.497(a)(3).

On 12 July 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 Decision on Papers under 37 CFR 1.42 mailed 13 January 2004 within the time period set therein.

On 28 July 2004, applicants filed "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action." In a Decision on Petition under 37 CFR 1.181, applicants' petition was dismissed without prejudice.

On 25 August 2004, applicants filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

In response to the Notification of Abandonment mailed 12 July 2004, applicants state that the Decision mailed 13 January 2004 was not received. With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement). Applicants have satisfied item (1) and (2) above.

Applicants' petition filed 25 August 2004 satisfies all of the items above. Applicant's counsel attests that the Office action was not received and that a search of the file jacket indicated the Office action was not received. Applicant also submits a copy of the docket record where the non-received office action would have been entered had it been received.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED** and the holding of abandonment has been withdrawn.

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 the attached "Decision on Papers under 37 CFR 1.42." Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time 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
Tel: (571) 272-3298
Fax: (571) 273-0459

Enclosures: Decision on Papers under 37 CFR 1.42 mailed 26 October 2004

26 OCT 2004

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark M. Newman
Barnes & Thornburg
750 17th Street, N.W. Suite 900
Washington, D.C. 20006

In re Application of	:	
OETIKER et al.	:	DECISION ON
Application No.: 10/469,912	:	PAPERS UNDER 37 CFR 1.42
PCT No.: PCT/EP02/03259	:	
Int. Filing Date: 22 March 2002	:	
Priority Date: 26 March 2001	:	
Attorney Docket No.: 967/40967	:	
For: HOSE CLAMP		

This is a response to the declaration filed 17 September 2003 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/EP02/03259, which claimed a priority date of 26 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 October 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, 26 September 2003.

On 17 September 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 translation of the international application; a preliminary amendment; and an executed declaration. The declaration is executed by: Ulrich Meier as inventor and Paul Nef and Marco Lorez on behalf of deceased inventor, Hans Oetiker.

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 17 September 2003 is executed by Ulrich Meier as an inventor and Paul Nef and Marco Lorez as the "legal representatives" of the deceased inventor, Hans Oetiker. The declaration submitted appears to have been executed by the proper party

under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(a) and (b).

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 17 September 2003 provides this information with respect to the legal representatives, but does not include the residence, citizenship, and post office address for the deceased the inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(a)(3) and 37 CFR 1.63.

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."

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 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
Fax: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **September 12, 2007**

TO SPE OF : ART UNIT **1626**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/469918** Patent No.: **7126003 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

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

Thank You For Your Assistance

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

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

Comments: _____

Joseph K. McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE — **Art Unit** 1626

31 AUG 2005

#9

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 Neimark
BROWDY AND NEIMARK, P.L.L.C.
Suite 300
624 Ninth Street, N.W.
Washington, DC 20001

In re Application of Valeri G. GNEDENKO, et al. Application No.: 10/469,926 PCT No.: PCT/IL02/00125 Int. Filing Date: 18 February 2002 Priority Date: 05 March 2001 Attorney Docket No.: GNEDENKO4 For: APPARATUS FOR PROCESSING WASTE WITH DISTRIBUTION/MIXING CHAMBER FOR OXIDIZING FLUID	DECISION ONPETITION UNDER 37 CFR 1.181

This decision is in response to the "COMMUNICATION RE COMMUNICATION FROM PTO DATED JULY 27, 2005" filed 09 August 2005, which is being treated as a petition under 37 C.F.R. 1.181 requesting withdrawal of the Notification of Abandonment of Application (Form PCT/DO/EO/909) issued by the Office on 11 August 2005 and acceptance of a copy of the declaration of the inventors filed with the petition as being submitted on 22 April 2004 in the above-captioned application. The petition is **GRANTED** as follows:

No petition fee is required.

The evidence submitted by applicant, which includes a copy of the postcard receipt with a USPTO mailroom stamped date of 22 April 2004 itemizing all the papers submitted on filing in the above-captioned application, is sufficient to establish that the declaration of the inventors has been received in the Office on 22 April 2004. The postcard receipt clearly shows that a "Response to Notification of Defective Response with Substitute Declaration" for application No. 10/469,926 bearing docket No. GNEDENKO4 was addressed to the "USPTO". Accordingly, acceptance of a copy of the declaration of the inventors as being filed on 22 April 2004 is appropriate. The Notification of Abandonment of Application (Form PCT/DO/EO/909) issued by the Office on 11 August 2005 is hereby VACATED.

Since the communication dated 22 April 2004 was filed four months after the mailing date of the Notification of Missing Requirements of 22 December 2003, which set a two-

months' time limit for response, an amount of $420.00 is needed to cover the fee required under 37 CFR 1.17 for a two-months' extension of time for response to the Office action. Accordingly, $690.00 will be charged to Deposit Account No. 02-4035 including the $420.00 mentioned above and the $270.00 fee for 15 additional claims in excess of 20 mentioned in the Notice of Missing Requirements previously issued.

The application is being returned to the United States Designated/Elected Office for further processing including the entry of the declaration submitted with the petition as being filed on 22 April 2004.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/LES:hn

Tel: (571) 272-3290

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAY 01 2007

OFFICE OF PETITIONS

ADE & COMPANY
1700 360 MAIN STREET
WINNIPEG MANITOBA R3C 3Z3 CA
CANADA

In re Application of G.R. Barrie Webster, et al. Application No. 10/469,928 Filed: February 25, 2004 Attorney Docket No. 84676-402	: : : : :	ON PETITION

This is a decision in response to the petition, filed December 20, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 27, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On October 26, 2006, a Notice of Abandonment was mailed. In response, on December 20, 2006 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $750; and (3) the requisite statement of unintentional delay.

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

The application is being referred to Technology Center AU 1626 for consideration of the response filed December 20, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patent
United States Patent and Trademark Office
P.O. Box 145
Alexandria, VA 22313-145
www.uspto.go

JUN 17 2005

Eitan Pearl Latzer & Cohen Zedek
10 Rockefeller Plaza
Suite 1001
New York, NY 10020

In re application of	:	**DECISION ON PETITION**
Lior Golan et al.	:	**TO MAKE SPECIAL**
Application No. 10/469,951	:	**(ACCELERATED**
Filed: March 30, 2004	:	**EXAMINATION)**
For: TRANSACTION SYSTEM	:	

This is in response to the petition filed on September 8, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are no directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dew: 06/01/05

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

#7

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

COPY MAILED
DEC 12 2006
OFFICE OF PETITIONS

In re Application of Nigel Seddon et al Application No. 10/469,963 Filed: October 30, 2003 Attorney Docket No. 540-450	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 20, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 21, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 20, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3662 for appropriate action in the normal course of business on the reply received November 14, 2006.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 13 2007

Technology Center 2100

Martin D. Moynihan
PRTSI, Inc.
P. O. Box 16446
Arlington VA 22215

In re Application of:
Assaf Hasson et al.
Application No. 10/469,994
Filed: September 16, 2003
For: APPARATUS AND METHOD FOR EFFECIENT REPRESENTATION OF PERIODIC AND NEARLY PERIODIC SIGNALS FOR ANALYSIS

DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2) & (b)(2), filed December 21, 2006 requesting acceptance of color photographs.

The petition requests that the color drawings of Figures 3 and 6, not specifically identified in the petition, but identified in pages 4-5 of Applicant's response filed December 21, 2006 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee, three (3) sets of color drawings of Figures 3 and 6 and a request for amendment to the specification at page 14 line 2 containing the required notification described above.

The petition is **GRANTED**.

The application file is being forwarded to the Group technical support staff for entry of the proposed amendment filed with this petition. From there, the application file will be forwarded to Publications Branch to complete preparation for issue.

Kakali Chaki
Quality Assurance Specialist,
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

COPY MAILED
OCT 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Benenowski et al.	:	DECISION ON PETITION TO
Application No. 10/469,996	:	WITHDRAW HOLDING OF
Filed: 28 January, 2004	:	ABANDONMENT
Atty Docket No. 03144	:	

This is a decision on the petition, filed on 17 July, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on 19 April, 2006, stating that the application was abandoned for failure to timely file a proper reply to the final Office action mailed on 9 August, 2005. An amendment after final rejection was filed on 9 November, 2005, but was determined not to constitute a proper reply under 37 CFR 1.113(a) to the final rejection.

Petitioners assert that the Notice of Abandonment should be withdrawn because a timely reply was filed. Specifically, petitioners assert that a Request for Continued Examination (RCE) and a one (1) month extension of time were timely filed on 9 December, 2005, in response to the final Office action.

A review of the record reveals that an RCE Request and fee and a one (1) month extension of time and fee were in fact filed on 9 December, 2005.

Upon review, it is noted that the reply filed on 9 December, 2005, was a timely and proper response to the Office action mailed on 9 August, 2005. As such, there is no abandonment in fact. The Office regrets the error.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 3617 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

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

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Yvon Cormier	: DECISION ON REQUEST FOR
Patent Number	: 7601720	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/469,999	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1097** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANTHONY CASTORINA
G E EHRLICH
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

FAX RECEIVED
AUG 04 2005
OFFICE OF PETITIONS

In re Application of
Tal Fishman
Application No. 10/470,000
Filed: September 17, 2003
Attorney Docket Number: 26415

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee by June 23, 2005 in response to the Notice of Allowance mailed March 23, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner files the instant petition under 37 CFR 1.137(b). [1]

Receipt is also acknowledged of the revocation and power of attorney signed by assignee. However, a review of the power of attorney discloses that it is unacceptable since it is not in compliance with 37 CFR 3.73(b) in that the putative assignee has not established its right to take action in accordance with 37 CFR 3.73(b). Specifically, petitioners have not provided documentary evidence of a chain of title from the original owner to the assignee, nor shown that documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*i.e.* reel and frame number). Upon completion and submission of a Certificate Under 37 CFR 3.73(b) form, the power

---

[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)).

of attorney will be acceptable.

Petitioners are advised that in accepting this petition, the Office is construing the entire delay statement made by counsel as a declaration that the above scenario is the case. Petitioners **must** notify the Office if this is an incorrect interpretation. See 37 CFR 1.34.

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 undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

INTEL/BLAKELY
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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

HENRY M FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK NY 10118

COPY MAILED
JUN 2 8 2004
OFFICE OF PETITIONS

Applicant: Wohlrab et al.
Appl. No.: 10/470,026
Filed: July 29, 2003
Title: LINEAR DRIVE DEVICE FOR OPENING AND CLOSING MOLDING TOOLS AND FOR APPLYING A CLOSING FORCE THEREON
Attorney Docket No.: WOHLRAB-7
Pub. No.: US 2004/0091570 A1
Pub. Date: May 13, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on June 15, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication published in correctly listing the second inventors's name as "R?uuml;diger".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The application was properly published and the second inventors name was correctly listed, as "Rüdiger" on the pregrant publication. The patent application publication includes a front page containing information similar to that contained on the front page of a patent, and the drawings (if any) and specification (including claims) of the published application, which is the image version of the publication.[2]

---

[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).

[2] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57025 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63 (Oct. 10, 2000) (final rule).

Applicant's request for a corrected patent application publication on June 15, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

23 FEB 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COVINGTON & BURLING
Patent Docketing
1201 Pennsylvania Ave., N.W.
Washington, DC 2004-2401

In re Application of	:	
DURRANT, Linda G. *et al*	:	
U.S. Application No.: 10/470,045	:	
PCT No.: PCT/GB02/00354	:	**DECISION**
Int. Filing Date: 28 January 2002	:	
Priority Date: 26 January 2001	:	
Attorney Docket No.: 028438.00001-US01	:	
For: POLYPEPTIDES CAPABLE OF	:	
BINDING TO CD64 COMPRISING ONE	:	
OR MORE . . .	:	

Applicants' "Request to Correct Filing Receipt" filed via facsimile on 29 November 2005 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 16 March 2004 recorded the Power of Attorney as "Andrea Reister - 36253." The Power of Attorney should indicate "Customer Number 26853."

Accordingly, the filing receipt mailed 16 March 2004 is **VACATED**.

A new filing receipt will be mailed with this decision.

This application is being forwarded to Tech Center 1600 for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 30 2006

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

Mark B Wilson
Fulbright & Jaworski
Suite 2400
600 Congress Avenue
Austin TX 78701

In re Application of	:
Meinke et al.	:
Serial No.: 10/470,048	: PETITION DECISION
Filed: February 6, 2004	:
Attorney Docket No.: SONN:035US	:

This is in response to the petition under 37 CFR § 1.59(b), filed August 7, 2006, to expunge information from the above identified application.

Petitioner requests that the document entitled "Invoice Number: 10416613" which was scanned in as the last pages of the Transmittal Letter filed July 25, 2003, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, applicants' petition is GRANTED.

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

George C. Elliott

George Elliott
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100125

DATE : February 9, 2010

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction on Patent No.: 7534503

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:

Corrects typographical error

SPE: /D. Lawrence Tarazano/ **Art Unit** 1794

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

MICHAEL J. BADAGLIACCA
STAAS & HALSEY
1201 NEW YORK AVENUE, N.W., STE 700
WASHINGTON, DC 20005

COPY MAILED

MAY 2 4 2004

OFFICE OF PETITIONS

NOTICE

In re Application of :
Byoung-Woo Cho :
Application No. 10/470,057 :
Filed: July 24, 2003 :
Attorney Docket No. 1749.1001

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

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

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

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

This file is being forwarded to Technology Center AU 3765.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL J. BADAGLIACCA
STAAS & HALSEY
1201 NEW YORK AVENUE, N.W., STE 700
WASHINGTON, DC 20005

COPY MAILED

MAY 24 2004

OFFICE OF PETITIONS

In re Application of :
Byoung-Woo Cho :
Application No. 10/470,058 :
Filed: July 24, 2003 :
Attorney Docket No. 1749.1002

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 3765.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

COPY MAILED

MAR 22 2006

OFFICE OF PETITIONS

Applicant: Goldsmith et al.
Appl. No.: 10/470,062
Filing Date: March 7, 2005
Title: METHOD FOR EVOLVING A CELL HAVING DESIRED PHENOTYPE AND EVOLVED CELLS
Attorney Docket No.: GOLDSMITH=3
Pub. No.: US 2005/0158860 A1
Pub. Date: July 21, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on September 20, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material error, as the front page of the publication omits the provisional application.

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

The error in 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 error in 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 error in the benefit claim on the front page of the publication is not a material mistake because 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

[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).

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 April 1, 2005, a Filing Receipt was mailed by the Office, which improperly listed the benefit claim. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a Corrected 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 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 O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/470,062	01/04/2004	1636	515	GOLDSMITH3	21	14	2

CONFIRMATION NO. 3994

CORRECTED FILING RECEIPT

OC000000018341106

001444
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

Date Mailed: 03/22/2006

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

Applicant(s)

Neil Goldsmith, Oxford, UNITED KINGDOM;
Alexandra M. P. Santana Sorensen, Holte, DENMARK;
Soren V. Nielsen, Allerod, DENMARK;

Power of Attorney: The patent practitioners associated with Customer Number **001444**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/DK02/00057 01/25/2002
which claims benefit of 60/300,438 06/26/2001

Foreign Applications

DENMARK PA 2001-00129 01/25/2001
DENMARK PA 2001-00680 05/01/2001

If Required, Foreign Filing License Granted: 03/21/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/470,062

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method for evolving a cell having desired phenotype and evolved cells

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COHEN, PONTANI, LIEBERMAN &
PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

COPY MAILED

MAR 1 4 2008

OFFICE OF PETITIONS

In re Application of

Toussaere, et al.

Application No. 10/470,064

Filed: December 1, 2003

Attorney Docket No. 33901-211PUS

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 13, 2008.

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

This application became abandoned on July 20, 2007, after no response was received to the restriction/election requirement mailed June 19, 2007. The notice allowed a shortened period for reply of one (1) month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed January 9, 2008.

The instant petition maintains that the restriction/election requirement was mailed to an incorrect address. A review of the application file history reveals that a "Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address" was filed June 11, 2007, but not entered by the USPTO until June 22, 2007. In the interim, on June 19, 2007, the election/restriction requirement was mailed to previous attorney of record.

Based on the aforementioned, it appears that the application was improperly held abandoned as the election/restriction requirement was not mailed to the correspondence address of record.. The holding of abandonment is withdrawn, accordingly.

The application will be directed to Technology Center 1700, GAU 1792 for further processing including remailing of the election/restriction requirement and resetting of the period set for reply thereto.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

21 MAY 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
www.uspto.gov

Adam L.K. Philipp
Pacwest Center, Suites 1600-1900.
1211 SW Fifth Avenue
Portland, Oregon 48099

In re Application of	:
Glassco, et al.	:
Application No.: 10/470,066	:
PCT No.: PCT/IB02/01981	:
Int. Filing Date: 23 January 2002	: DECISION
Priority Date: 27 January 2001	:
Attorney's Docket No.: 109886-130214	:
For: METHOD AND APPARATUS FOR MANAGING	:
PUBLICATION AND SHARING OF DATA	:

This decision is in response to applicant's "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS AND REQUEST FOR ENTRY OF CUSTOMER NUMBER 25943" filed on the 12 December 2003 indicating that the declaration of the inventors was filed at the time of filing the international application.

BACKGROUND

On 23 January 2002, applicant filed international application PCT/IB02/01981 that claimed priority of an earlier United States application filed 07 August 2000. 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 for the national stage in the United States expired at midnight on 27 July 2003.

On 22 July 2003, applicant filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a preliminary amendment, and the basic national fee of $900 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/470,066.

On 26 November 2003, the United States Patent and Trademark Office in its capacity as an Elected Office mailed out 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 applicant was required to file an oath/declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for providing the oath or declaration later than thirty months from the priority date were required. The Notice set a two month extendable time period for response.

On 12 December 2003, applicant filed the current response indicating that the declaration of the inventors was filed at the time of filing the international application..

DISCUSSION

37 CFR 1.497, states in part:

> (a) 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 that:
> (1) Is executed in accordance with either §§ 1.66 or 1.68;
> (2) Identifies the specification to which it is directed;
> (3) Identifies each inventor and the country of citizenship of each inventor; and
> (4) States that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

A review of the application file reveals that applicant provided the declaration of inventorship on filing of the international application. However, the declaration is not properly executed. It appears that the attorney pieced together two separate complete declarations into one composite declaration or an inventor was presented with an incomplete declaration. What is required is one declaration where all inventors have signed or separate complete declarations. Thus, the requirements of 37 CFR 1.497 have not been met and the declaration is unacceptable.

CONCLUSION

The "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 applicant was required to file an oath/declaration and a surcharge fee mailed 26 November 2003 is hereby **VACATED**.

In light of the fact that the declaration has now been deemed unacceptable, this application is being returned to the United States Designated/Elected Office for preparation of 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 applicant is required to file a new oath/declaration that complies with 37 CFR 1.497 and the required surcharge fee.

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

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

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

Mail Date: 06/09/2010

Applicant	: Daniel Kobler	: DECISION ON REQUEST FOR
Patent Number	: 7645868	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/470,073	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1193** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Reginald Finn
ALBIHNS STOCKHOLM AB
Box 5581, Linnegatan 2
114 85 Stockholm, Sweden

MAIL

FEB 2 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
SVENSSON et al.
Application No. 10/470,096
Filed: December 23, 2003
For: APPARATUS AND METHOD FOR PROCESSING PIPELINED DATA

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on February 02, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of February 02, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

21 DEC 2004

#4

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

Burton A. Amernick
Connolly Bove Lodge & Hutz LLP
1990 M Street, N.W., Suite 800
Washington, DC 20036-3425

In re Application of BASTIOLI et al	:	
U.S. Application No.: 10/470,098	:	
PCT Application No.: PCT/EP02/00760	:	
Int. Filing Date: 25 January 2002	:	
Priority Date Claimed: 25 January 2001	:	DECISION
Attorney Docket No.: 22106-00036-US1	:	
For: BINARY MIXTURES OF BIODEGRADABLE	:	
ALIPHATIC POLYESTERS AND PRODUCTS	:	
OBTAINED FROM THESE	:	

This is in response to applicant's "Request to Withdraw Holding of Abandonment" filed 19 November 2004 and "Request to Withdraw Holding of Abandonment" filed 09 December 2004, which are being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 25 January 2002, applicant filed international application PCT/EP02/00760, which claimed priority of an earlier Italy application filed 25 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 25 July 2003.

On 25 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 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 06 January 2004, applicant purportedly filed an executed declaration.

On 04 November 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 19 November 2004, applicant filed a request to withdraw the holding of abandonment.

On 02 December 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that there were insufficient funds remaining in applicant's deposit account to charge the fee for filing a late declaration.

On 09 December 2004, applicant filed a request to withdraw the holding of abandonment.

DISCUSSION

A review of the application file reveals that the declaration filed on 06 January 2004 is not present. However, because applicant has satisfied the requirements of 37 CFR 1.8(b), the copy of the declaration filed 19 November 2004 is considered to be timely filed. Therefore, the Notification of Abandonment mailed 04 November 2004 was sent in error. Furthermore, the Notification of Abandonment mailed 09 December was sent erroneously instead of a Notification of Defective Response (Form PCT/DO/EO/916). The $130.00 surcharge for filing a late declaration will be charged to Deposit Account No. 22-0185.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 04 November 2004 and the Notification of Abandonment (Form PCT/DO/EO/909) mailed 02 December 2004 are hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 25 January 2002, and a date under 35 U.S.C. 371(c) of 19 November 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: 571-272-3303
Facsimile: 571-273-0459

23 JUN 2004

#6

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

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue N.W.
Washington, D.C. 20004

In re Aplication of	:	DECISION ON
MANKEE et al	:	
PCT No.: PCT/GB02/00221	:	
Application No: 10/470,101	:	
Int. Filing Date: 17 January 2002	:	PETITION UNDER
Priority Date: 26 January 2001	:	
Attorney's Docket No.: 056222-5038	:	
For: NOVEL FRAGRANCE COMPOUNDS	:	37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR 1.47" filed on 10 December 2003. The petition fee of 130.00 has been charged to Deposit Account No: 50-0310 as stipulated in the petition.

BACKGROUND

On 17 January 2002, petitioner filed international application PCT/GB02/00221, which claimed priority to an earlier application filed 26 January 2001. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 01 August 2002.

On 25 July 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 06 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) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from its 06 November 2003 date of mailing, in order to avoid abandonment of the national stage application.

On 10 December 2003, petitioner filed the present petition, a declaration in support of filing on behalf of omitted inventor Jamie B. Mankee accompanied, inter alia, an executed Declaration without the signatures of Jamie B. Mankee.

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), (2), and (4) of 37 CFR 1.47(a) but not requirement (3) under 37 CFR 1.47(a).

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h).

Regarding requirement (2), in this case, it has been sufficiently demonstrated as shown by the declaration of Clare Matthews (paragraph 7 and exhibit 4) that a copy of the application papers were presented to the non-signing inventor, Jamie B. Mankee. Petitioner states that the application papers were sent to Mr. Mankee on June 12, 2003 and that no reply was received. In addition, Ms. Coulter called Mr. Mankee on July 23, 2003 and August 5, 2003 and that he verbally refused to sign the Declaration. He sent a letter dated September 10, 2003 confirming his refusal to sign the declaration that was sent to him.

Regarding requirement 3, petitioner has not provided a statement of the last known address of the missing inventor.

Regarding requirement 4, petitioner has provided an executed declaration signed by David Munro, Karl Swift, and Kim Yarwood on their behalf and on the behalf of the nonsigning joint inventor Jamie Mankee.

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

-02 FEB 2005

#46

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

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue N.W.
Washington D.C. 20004

In re Application of	:	
MANKEE et al	:	DECISION ON RENEWED
PCT No.: PCT/GB02/00221	:	
Application No: 10/479,101	:	PETITION UNDER
Int. Filing Date: 17 January 2002	:	
Priority Date: 26 January 2001	:	37 CFR 1.47(a)
Attorney's Docket No.: 056222-5038	:	
For: NOVEL FRAGRANCE COMPOUNDS	:	

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 20 July 2004.

BACKGROUND

In a decision from this Office on 28 June 2004, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that petitioner had not provided a statement of the last known address of the missing inventor, Jamie B. Mankee.

On 20 July 2004, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 28 June 2004 with respect to accepting the above application without the signature of nonsigning inventor Jamie B. Mankee. Filed with the renewed petition is a statement of the last known address of Jamie Mankee.

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 20 July 2004 has satisfied requirement 3 under 37 CFR 1.47(a) since a statement of the last known address of Jamie Mankee has been provided. Thus satisfying all the requirements under 37 CFR 1.47(a).

Consequently, the current record does sufficiently establish that Jamie Mankee refused to join in the application.

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 **10 December 2003.**

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

Leonard Smith
PCT Legal Examiner
PCT Legal Office

02 FEB 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

Jamie Mankee
66 Volante Drive
Sittingbourne
Kent
ME10 2JJ, England

In re Aplication of
MANKEE et al
PCT No.: PCT/GB02/00221
Application No: 10/470,101
Int. Filing Date: 17 January 2002
Priority Date: 26 January 2001
Attorney's Docket No.: 056222-5038
For: NOVEL FRAGRANCE COMPOUNDS

Dear Mr. Mankee:

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.

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

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue N.W.
Washington, D.C. 20004

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

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED

APR 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Kenichi Ishiga	:	
Application No. 10/470,102	:	DECISION GRANTING PETITION
Filed: October 28, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 116674	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 1, 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 March 26, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
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.*

24 MAR 2004

#5

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

JENKENS & GILCHRIST, PC
1445 ROSS AVENUE
SUITE 3200
DALLAS, TX 75202

In re Application of EDPALM, Hanna Application No.: 10/470,120 PCT No.: PCT/EP01/15224 Int. Filing Date: 24 December 2001 Priority Date: 25 January 2001 Attorney's Docket No.: 47253-00068USPX For: METHOD AND APPARATUS FOR OPTIMISED INDEXING RECORDS OF STATIC DATA WITH DIFFERENT LENGTHS	DECISION ON PETITION UNDER 37 CFR 1.182

This decision responds to "Inventor Name Change" filed with the United States Patent and Trademark Office on 23 February 2004. It has been treated as a petition under 37 CFR 1.182. The petition fee will be charged to deposit account no. 10-0447, as authorized.

BACKGROUND

On 24 December 2001, applicants filed international application PCT/EP01/15224 claiming a priority date of 25 January 2001. On 01 August 2002, a copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office. On 27 July 2002, applicants filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 25 July 2003.

On 23 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 23 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 23 February 2004, applicants submitted the instant petition, a response to the notification of missing requirements and the fee for a two month extension of time.

DISCUSSION

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application,

which includes any change effected under PCT Rule 92bis. The record does not reflect any such requests under Rule 92*bis* during the international stage.

The inventor in the international application is Christian Edpalm. The inventor on the declaration is Hanna Edpalm. Applicant has provided a change of name from the Swedish Patent Office listing a change of name for Nils Christian Edpalm.

If the inventor's name has legally changed, the inventor must provide a statement listing both of the inventor's names, indicating that they are one and the same person and identifying the mechanism by which the name change was effected. MPEP 605.04(c).

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

A proper response as indicated above 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. Extensions of time are available under 37 CFR 1.136(a).

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

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

24 MAY 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

JENKENS & GILCHRIST, PC
1445 ROSS AVENUE
SUITE 3200
DALLAS, TX 75202

In re Application of EDPALM, Hanna Application No.: 10/470,120 PCT No.: PCT/EP01/15224 Int. Filing Date: 24 December 2001 Priority Date: 25 January 2001 Attorney's Docket No.: 47253-00068USPX For: METHOD AND APPARATUS FOR OPTIMISED INDEXING RECORDS OF STATIC DATA WITH DIFFERENT LENGTHS	DECISION ON PETITION UNDER 37 CFR 1.182

This decision responds to "Response to the Decision On Petition Under 37 CFR 1.182," filed with the United States Patent and Trademark Office on 13 May 2004.

BACKGROUND

On 24 December 2001, applicants filed international application PCT/EP01/15224 claiming a priority date of 25 January 2001. On 01 August 2002, a copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office. On 27 July 2002, applicants filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 25 July 2003.

On 23 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 23 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 23 February 2004, applicants submitted a petition, a response to the notification of missing requirements and the fee for a two month extension of time.

On 24 March 2004, the Office mailed Decision On Petition Under 37 CFR 1.182, dismissing applicants' petition without prejudice.

On 13 May 2004, applicants submitted the instant renewed petition.

DISCUSSION

The renewed petition under 37 CFR 1.182 and the accompanying statement from the inventor whose name has changed fulfill the requirements of 37 CFR 1.182. Applicants declare that Christian Edpalm and Hanna Edpalm are one and the same person and that the inventor's name was legally changed.

CONCLUSION

For the above reasons, the Petition Under 37 CFR 1.182 is **GRANTED**.

The application has an international filing date of 24 December 2001 under 35 U.S.C. §363 and a date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) of 23 February 2004. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

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

23 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
www.uspto.gov

Bernard Lau
HOFFMANN-LA ROCH INC.
Law Department
340 Kingsland Street
Nutley, New Jersey 07110-1199

In re Application of	:	
Guy GEORGES et al.	:	
US Application No.: 10/470,121	:	DECISION ON
PCT Application No.: PCT/EP02/00705	:	
Int. Filing Date: 24 January 2002	:	PETITION
Priority Date: 27 January 2001	:	
Attorney Docket No.: 20838	:	UNDER 37 CFR 1.181
For: TRICYCLIC LACTAM AND SULTAM	:	
DERRIVATIVES AND THEIR USE AS	:	
HISTONE DEACETYLASE INHIBITORS	:	

This is a decision on the papers applicants filed at the PCT Help Desk by facsimile on 22 September 2004. These papers were a copy of a previously submitted "REQUEST FOR CORRECTED NOTICE OF ACCEPTANCE OF APPLICATION." The papers are being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 24 January 2002, applicant filed international application PCT/EP02/00705, which designated the United States and claimed a priority date of 27 January 2001. Accordingly, the 30-month deadline for entry into the U.S. national stage expired at midnight on 28 July 2003 (27 July 2003 was a Sunday).

On 24 July 2003, applicants filed national stage papers for this international application. The requisite basic national fee and an executed declaration of the inventors was included with the 24 July 2003 filing.

On 27 November 2003, a NOTIFICAITON OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (From PCT/DO/EO/903) was mailed to applicant. This form indicated that the "DATE OF RECEIPT OF 35 U.S.C. 371(C)(1), (C)(2) and (c)(4) REQUIREMENTS" was 24 July 2003 and that the "DATE OF RECEIPT OF ALL 35 U.S.C. 371 REQUIREMENTS" was 27 July 2003.

Applicant initially filed this request for correction with the USPTO on 18 December 2003, however, this request was never acted upon and a copy of the earlier request was sent to the PCT Help Desk on 22 September 2004.

DISCUSSION

35 U.S.C. 371(b) reads as follows:

> "(b) Subject to subsection (f) of this section , the national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2) , or under article 39(1)(a) of the treaty."

MPEP 1893.03(b) indicates that "the Date of Completion of all 35 U.S.C. 371 Requirements included on the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903)" will be:

> ". . .the latest of:
>
> (A) the date of submission of the basic national filing fee:
>
> (B) the date of submission or communication of the copy of the international application:
>
> (C) the date of submission of the translation of the international application if the international application is not in the English language:
>
> (D) the date of submission of an oath or declaration of the inventor in compliance with 35 U.S.C. 371(c)(4) (see 37 CFR 1.497(c) for an explanation of when an oath or declaration will be accepted as complying with 35 U.S.C. 371(c)(4)):
>
> (E) the earlier of 30 months from the priority date or the date of request for early processing under 35 U.S.C. 371(f) if requested prior to 30 months from the priority date (Form PCT/DO/EO/903 will indicate the date early processing was requested):
>
> (F) if a request for early processing has not been requested prior to 30 months from the priority date, the date of submission of any translation of the annexes to the international preliminary examination report if the annexes are filed within the time period set in a Notice of Missing Requirements (Form PCT/DO/EO/905) requiring either a translation of the international application or an oath or declaration: and

(G) the date of submission of any surcharge for submitting the oath or declaration later than 30 months from the priority date."

An inspection of the file wrapper for this application reveals that applicants did not request early processing under 35 U.S.C. 371(f) and that the requirements of 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) were complied on 24 July 2003, prior to 27 July 2003 -- the expiration of 30 months from the priority date.

Thus, according to MPEP 1893.03(b) the Date of Completion of all 35 U.S.C. 371 Requirements would be as indicated above in (E) and would be 30 months from the priority date -- 27 July 2003. The basic national fee, the copy of the international application, and the declaration were all submitted prior to the 30 month date. No request for early processing under 35 U.S.C. 371(f) was made and the international application was in English so no translations were necessary.

Clearly, the Notification of Acceptance mailed on 17 November 2003 is correct.

DECISION

The petition is **DISMISSED**.

The 17 November 2003 NOTIFICAITON OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (From PCT/DO/EO/903) is correct.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Paul A. Bell
PCT Special Programs Examiner
Telephone (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN - 5 2005

GEORGE W. JOHNSTON
HOFFMAN-LA ROCHE INC
340 KINGSLAND STREET
NUTLEY NJ 07110

In re Application of	:
Guy Georges et al	:
Serial No.: 10/470,121	: PETITION DECISION
Filed: July 24, 2003	:
Attorney Docket No.: 20838	:

This is a response to the petitions under 37 CFR 1.59(b), filed September 28, 2004, to expunge information from the above identified application.

Petitioner requests that documents submitted December 22, 2003, as part of a status letter inquiry and entitled "Petition" and having a different Serial Number appended be expunged from the file as having been filed inadvertently. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

A review of the file shows applicants' statements to be correct. Inasmuch as all papers in this file have been converted to an imaged document file, the paper is not physically returnable. However, access to the document has been closed and it will not be accessible by the public.

The petition is **GRANTED**.

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

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JUN 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Scott B. Guthery	:	DECISION ON PETITION
Application No. 10/470,128	:	
Filed: May 12, 2004	:	
Attorney Docket Number: **08-1715-WO-US**	:	

This is a decision on the petition filed May 6, 2009 to revive the above identified application under 37 CFR 1.137(a) and alternatively under 37 CFR 1.137(b).

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

This application became abandoned on March 25, 2009, for failure to pay the issue fee in response to the Notice of Allowance mailed December 24, 2008, and which set a three (3) month period for reply. Accordingly, a Notice of Abandonment was mailed April 20, 2009.

Petitioner asserts that the Notice of Allowance was mailed to prior counsel and neither became aware of the Notice of Allowance until April 24, 2009 when prior counsel received the Notice of Abandonment.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee as set forth in § 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in

> filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Petitioner has not presented any evidence to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), as petition has not proven non-receipt.

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

This petition, as filed in the alternative under 37 CFR 1.137(b), is granted.

As the present petition was filed and decided under both 37 CFR 1.137(a) and (b), counsel's deposit account no. 13-2490 has been charged in the amount of $540 for the unavoidable petition and $1620 for the unintentional petition.

The issue fee in the amount of $1510.00, and publication fee in the amount of $300 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

PTO/SB/61 (03-09)
Approved for use through 04/30/2009. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional) 08-1715-WO-US

First Named Inventor: Scott B. Guthery Art Unit: 2454
Application Number: 10/470,128 Examiner: Larry D. Donaghue
Filed: May 12, 2004

Title: Communications Network with Smart Card

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

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

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

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

1. Petition fee

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

☑ Other than small entity – fee $ 540.00 (37 CFR 1.17(l)).

2. Reply and/or fee

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

☐ has been filed previously on _____ .

☐ is enclosed herewith.

B The issue fee of $ 1810

☐ has been filed previously on _____ .

☑ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Thomas J. Loos/	May 6, 2009
Signature	Date
Thomas J. Loos	60,161
Typed or printed name	Registration Number, if applicable
300 S. Wacker Drive, Suite 3200	(312) 913-3338
Address	Telephone Number
Chicago, IL 60606	
Address	

Enclosure
☑ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unavoidable delay
☑ Issue Fee Transmittal and Change of Status to Large Entity Letter

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

I hereby certify that this correspondence is being:

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

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date _____ Signature _____

Typed or printed name of person signing certificate _____

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

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

/Thomas J. Loos/	May 6, 2009
Signature	Date
Thomas J. Loos	60,161
Typed or printed name	Registration Number, if applicable

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

The Notice of Allowance for this case was mailed on December 24, 2008 to prior counsel. On March 12, 2009, MBHB (counsel to the Petitioner) was given power of attorney for this case. However, neither the Petitioner nor MBHB become aware of the notice of allowance until April 24, 2009 when MBHB received the Notice of Abandonment. Since learning of the application abandonment on April 24, 2009, the Petitioner and MBHB have worked diligently in responding to the Notice of Abandonment.

Petitioner is paying the outstanding issue fee simultaneously with the filing of this petition. For these reasons, revival of the application being unavoidably abandoned is respectfully requested.

ALTERNATIVE PETITION

Should this petition be denied, Petitioner requests this petition be converted to a petition to revive an unintentionally abandoned application. The entire delay in payment of the issue fee until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

The USPTO is authorized to credit any overpayment or deduct any additional fees required for this filing, including but not limited to fees related to the alternative petition and the issue fee, from Deposit Account No. 13-2490.

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

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

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

Mail Date: 04/21/2010

Applicant	: Scott B. Guthery	: DECISION ON REQUEST FOR
Patent Number	: 7571257	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/470,128	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1282** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN -6 2005

In re Application of	:	
Angelo Li Vigni et al.	:	
Serial No. 10/470,130	:	DECISION ON PETITION
Filed: July 25, 2003	:	TO WITHDRAW AS ATTORNEY
For: RIGID PACKAGE FOR	:	
TOBACCO PRODUCTS	:	

By papers filed on July 21, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

Applicant is advised that the current correspondence address for this application is:

Timothy J. Klima, Esq.
Harbin, King & Klima
500 Ninth Street, SE
Washington, DC 20003

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

J. Scott Davidson
Davidson Berquist
4501 North Fairfax Drive, Suite 920
Arlington, VA 22203

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

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

Mail Date: 04/21/2010

Applicant	: Brian MacCraith	: DECISION ON REQUEST FOR
Patent Number	: 7655475	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/470,133	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1131** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

FEB 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Shigetsugu Okamoto	:	
Application No.: 10/470,153	:	ON PETITION
Filed: July 24, 2003	:	
Attorney Docket No.: 1035-461	:	

This is a decision on the petition, filed February 11, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 23, 2008, 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 2629 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

18 NOV 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nixon & Vanderhye, PC
1100 N. Glebe Road
8th Floor
Arlington, VA 22201-4714

In re Application of KOVERECH et al	:	
U.S. Application No.: 10/470,158	:	
PCT Application No.: PCT/IT01/00614	:	
Int. Filing Date: 04 December 2001	:	DECISION
Priority Date Claimed: 21 December 2000	:	
Attorney Docket No.: 2818-164	:	
For: USE OF ISOVALERYL L-CARNITINE FOR THE PREPARATION OF A MEDICAMENT FOR THE PREVENTION AND CURE OF OSTEOPOROSIS	:	

This is in response to applicant's "Petition Under Rule 1.137(b) to Revive Unintentionally Abandoned Application" filed 24 July 2003.

BACKGROUND

On 04 December 2001, applicant filed international application PCT/IT01/00614, which claimed priority of an earlier Italy application filed 21 December 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 27 June 2002. The thirty-month period for paying the basic national fee in the United States expired on 21 June 2003.

International application PCT/IT01/00614 became abandoned as to the United States for failure to timely pay the basic national fee.

On 24 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 in prosecuting this case (i.e. filing the declaration and paying the filing fee) 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. Applicant is advised that the declarations filed 27 July 2003 are improper because neither declaration lists all of the inventors.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

COPY MAILED

DEC 0 1 2004

OFFICE OF PETITIONS

Applicant: Sato
Appl. No.: 10/470,166
International Filing Date: December 12, 2002
Title: PREPREG PRODUCTION METHOD AND PREPEG PRODUCTION DEVICE AND PREPREG OBTAINED BY THE PRODUCTION METHOD AND PRODUCTION METHOD FOR INSULATING LAYER ATTACHED COPPER FOIL AND INSULATING LAYER ATTACHED COPPER FOIL OBTAINED BY THE PRODUCTION METHOD
Attorney Docket No.: 2922-459
Pub. No.: US 2004/0062858 A1
Pub. Date: April 1, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on June 1, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication includes error in the foreign priority information as the application is listed as "2001-20764," not "2002-20764" as listed in the Declaration.

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 typographical error in the foreign priority information on the front page of the published patent application is an Office error but it is not a material error, as required by 37 CFR 1.221(b). The error in the foreign priority claim is not a material mistake because 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. 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).

specification and claims were accurately published, thus one can read and understand the content of the application. The error also does not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

On November 20, 2003, a Filing Receipt was mailed with the error in the foreign priority claim. To avoid this type of problem in the future, applicants' representative should make request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

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

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

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

The application will be examined in due course.

Inquiries relating to this matter may be directed to the undersigned at (571) 272-7709.

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
OCT 25 2006
OFFICE OF PETITIONS

ROTHWELL FIGG ERNST & MANBECK PC
1425 K STREET NW
SUITE 800
WASHINGTON DC 20005

In re
Sato, et al.
Application No. 10/470,166
Filed: July 24, 2003
Attorney Docket No. 2922-0459

: DECISION REGARDING
: PATENT TERM ADJUSTMENT

This decision is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT", filed July 26, 2006, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

The Office determined a patent term adjustment of two hundred forty-two (242) days based on an adjustment for PTO delay of two hundred seventy (270) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by twenty-eight (28) days of applicant delay pursuant to 37 C.F.R. § 1.704(b), for the filing of an Amendment on March 22, 2005.

Applicants state that they should be assessed further delay of twenty-two (22) days "from March 22, 2005 [sic] (when a response was filed with an extension of time) to April 13, 2005 [sic] (when a further extension of time was verbally authorized for Examiner's amendment)".

While the Office thanks Applicants for their good faith and candor, the determination of two hundred forty-two (242) days of patent term adjustment is correct. As Applicant did not file a supplemental reply on April 13, 2006, but rather conducted a telephone interview, no applicant delay should have been assessed.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

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

Kery A Fries

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

30 S 2003

43

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

Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

In re Application of	:	
Nieuwoudt	:	
US Application No.: 10/470,168	:	
PCT Application No.: PCT/ZA00/00012	:	**DECISION ON**
International Filing Date: 25 January 2000	:	**PETITION FOR REVIVAL**
Priority Date: 25 January 2000	:	**UNDER 37 CFR 1.137(b)**
Attorney's Docket No.: HAHN24.001APC	:	
For: RETAINING DEVICE FOR A	:	
CONVEYOR BELT ASSEMBLY	:	

This decision is in response to the petition under 37 CFR 1.137(b), filed on 23 July 2003, which is being **DISMISSED** as follows.

BACKGROUND

On 25 January 2000, Applicant filed international application PCT/ZA00/00012. A copy of the international application was communicated from the International Bureau to the USPTO on 02 August 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 24 August 2001, prior to 25 August 2001, the end of the 19th month from the 25 January 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 25 July 2002.

The basic national fee was not paid on or before 25 July 2002. The international application became abandoned as to the United States on 26 July 2002.

DISCUSSION

The petition encloses, *inter alia,* a transmittal letter for entry into the national stage in the United States, along with the $450 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5), and the $650 petition fee (small entity).

However, to be grantable in the instant case, 37 CFR 1.137(b) also requires a statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the grantable §1.137(b) petition was unintentional. In that respect, the petition is accompanied by a "Declaration of Jan Harmes Nieuwoudt," which is basically a statement by the sole inventor

named in the application, Jan Harmes Nieuwoudt ("Nieuwoudt"), regarding the circumstances under which the application became abandoned as to the United States.

According to this statement:

(1) Nieuwoudt entered into a business agreement with a business partner, whose identity is not revealed in the petition;

(2) The terms of the agreement is such that Nieuwoudt's partner would market products made from the claimed invention in this application;

(3) Nieuwoudt's partner would be responsible for making the arrangements for timely entry into the national stage in the United States by 25 July 2002;

(4) On 25 July 2002, Nieuwoudt was informed by his partner of the latter's decision against entering into the national stage in the United States;

(5) Due to the short notice, Nieuwoudt was unable to make arrangements for entry of this application into the national stage in the United States;

(6) A year later, the instant petition was filed.

The Office notes that:

(A) Nieuwoudt is listed as the sole inventor in this application which, according to the published international application and the available USPTO records, has not been assigned. Therefore, Nieuwoudt appears to be the party responsible for ensuring timely entry of this application into the national stage in the United States.

If Nieuwoudt indeed has agreed to let his business partner decide on whether to enter into the national stage in the United States, and the latter decided against doing so for marketing reasons, the delay in paying the basic national fee results directly from a deliberately chosen course of action, and cannot be considered "unintentional." MPEP 711.03(c)(III)(C)(1) (Rev. 1, Feb. 2003).

(B) A period of one year elapsed since Nieuwoudt allegedly learned that his partner would not file papers for entering into the national stage in the United States. Petitioner has not explained why it took one year to file the instant petition. If the delay is also driven by a business strategy (i.e., if Nieuwoudt waited until the claimed invention is proven marketable), the delay is not "unintentional." MPEP 711.03(c)(III)(D) (Rev. 1, Feb. 2003).

In summary, the burden is on Nieuwoudt to show that the **entire** delay (from when the basic national fee was due, until the filing of a **grantable** §1.137(b) petition) was "unintentional" within the meaning of §1.137(b). MPEP 711.03(c)(III)(F) (Rev. 1, Feb. 2003).

CONCLUSION

In view of the above, the instant petition is **DISMISSED without prejudice.**

Any further correspondence with respect to this matter should be addressed to:

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
PO Box 1450
Alexandria, VA 22313-1450

Leonard Smith
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

03 DEC 2003

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of NIEUWOUDT	:	
U.S. Application No.: 10/470,168	:	
PCT Application No.: PCT/ZA00/00012	:	
Int. Filing Date: 25 January 2000	:	DECISION
Priority Date Claimed: (none)	:	
Attorney Docket No.: HAHN24.001APC	:	
For: RETAINING DEVICE FOR A CONVEYOR BELT ASSEMBLY	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 24 November 2003.

BACKGROUND

On 25 January 2000, applicant filed international application PCT/ZA00/00012. A copy of the international application was communicated to the USPTO from the International Bureau on 02 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 24 August 2001, 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 25 July 2002.

International application PCT/ZA00/00012 became abandoned as to the United States for failure to timely pay the basic national fee.

On 23 July 2003, applicant filed a petition under 37 CFR 1.137(b).

On 30 September 2003, this Office mailed a decision dismissing the 23 July 2003 petition.

On 24 November 2003, applicant filed the present renewed petition under 37 CFR 1.137(b).

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. The supplemental affidavit of Jan Harmes Nieuwoudt establishes with reasonable certainty that Hubert De Villiers Barnard did not have full authority concerning entry into the national stage in the United States and that the failure to timely enter the national stage was unintentional. Furthermore, Nieuwoudt's supplemental affidavit sufficiently demonstrates that the delay from the time Nieuwoudt realized that the national stage deadline had been missed until the filing of the present petition was unintentional.

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 25 January 2000, and a date under 35 U.S.C. 371(c) of 23 July 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

03 DEC 2003

#3

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 Lesht
Cook, Alex, McFarron, Manzo, Cummings & Mehler Ltd.
200 West Adams Street - Suite 2850
Chicago, IL 60606

In re Application of PANKOW, Mark et al. Application No.: 10/470,170 PCT No.: PCT/US01/02532 Int. Filing Date: 26 January 2001 Priority Date: 28 January 2000 Docket No.: 0285-0031.05 For: CONTACT LENS TREATMENT APPARATUS	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 23 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

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 LESHT
COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER, LTD.
200 WEST ADAMS STREET - SUITE 2850
CHICAGO, IL 60606

COPY MAILED

AUG 14 2007

OFFICE OF PETITIONS

In re Application of	:	
PANKOW et al	:	
Application No.: 10/470,170	:	DECISION ON PETITION
Filing Date: January 26, 2001	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 0285-0031.05	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 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 January 30, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on May 1, 2007.

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

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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.
10/470,171	07/23/2003	Maria L Garcia	20815YP	1979

210 7590 01/02/2008
MERCK AND CO., INC
P O BOX 2000
RAHWAY, NJ 07065-0907

EXAMINER
PAK, MICHAEL D

ART UNIT	PAPER NUMBER
1646	

MAIL DATE	DELIVERY MODE
01/02/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN - 2 2008

MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

In re Application of	:
Maria L. Garcia et al	:
Serial No.: 10/470,171	: PETITION DECISION
Filed: July 23, 2003	:
Attorney Docket No.: 20815YP	:

This is in response to the petition under 37 CFR 1.144, filed October 1, 2007, requesting review and withdrawal of the examiner's incomplete response letter mailed September 11, 1007, in response to applicants' election following a Lack of Unity requirement..

BACKGROUND

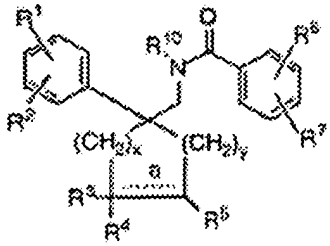
A review of the file history shows that this application was filed under 35 U.S.C. 371 and was accepted on July 23, 2003, and contained claims 1-17. In a first Office action mailed June 26, 2006, the examiner set forth a six-way Lack of Unity requirement. That requirement is not petitioned at this time. However, the Lack of Unity requirement also included a requirement for an election of species. Applicants replied to the Lack of Unity requirement on July 24, 2006, by electing Group II, with traverse, and as a species Compound A and Compound B.

On September 11, 2007, more than a year later, the examiner mailed out a letter indicating that applicants election was not fully responsive to the Lack of Unity requirement in that applicants elected two, rather than one, species and required applicants to cure the deficiency.

Applicants filed this petition of the restriction requirement on October 1, 2007.

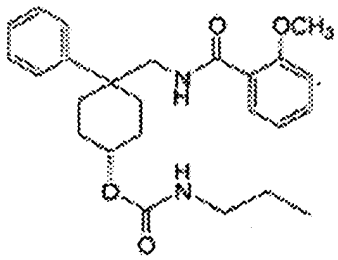
DISCUSSION

Applicants' claims are directed to methods for identifying maxi-K channel blockers in general. Claim 5 sets forth a specific potassium channel blocker compound defined by Formula I, as shown:



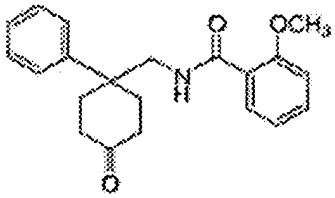
As is clear from the structure a number of R groups are attached to the Nitrogen and ring structures. It is also clear that the middle ring (containing the "a") is a variable size ring. Due to these R groups, an election of species was required, but no Lack of Unity was determined to exist between the variable ring structures.

When applicants replied to the Lack of Unity and election of species requirement, a specific Group was elected and a species. The species elected was compound A and (its ester or salt) compound B. Both of these compounds are set forth in claims 11 and 16 and are as shown:



Compound A

and



Compound B

However claims 11 and 16 were not within the claims defined for elected Group II, but the elected compounds are within the scope of the above structure. Further, a search involving either compound A or compound B would likely yield results showing the other inasmuch as the same basic structure would be searched.

In view of the above, applicants' reply to the Lack of Unity and election of species requirement is considered to be full and complete and to not require a further election or definition of species.

DECISION

The petition is **GRANTED.** The letter mailed September 11, 2007, is withdrawn and vacated.

The application will be forwarded to the examiner for further action 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.

Christopher Low
Director TC 1600 (acting)
for:
John LeGuyader
Director, Technology Center 1600

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

ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Andrew Jamieson	: DECISION ON REQUEST FOR
Patent Number	: 7262054	: RECALCULATION of PATENT
Issue Date	: 08/28/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/470,180	: OF WYETH
Filed	: 12/22/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

04 NOV 2004

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Alan Israel
KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER
489 Fifth Avenue
New York, New York 10017

In re Application of:	:	
CHOPPING, Geoffrey, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/470,204	:	37 CFR 1.47(a)
PCT No.: PCT/GB02/00145	:	
International Filing Date: 14 January 2002	:	
Priority Date: 30 January 2001	:	
Attorney's Docket No.: P/63208	:	
For: PARTIALLY INTERCONNECTED	:	
NETWORKS	:	

This decision is issued in response to applicants' "Petition Under Rule 47(a)" filed 26 March 2004. Applicants have paid the required petition fee.

BACKGROUND

On 14 January 2002, applicants filed international application PCT/GB02/00145 which claimed a priority date of 30 January 2001 and which designated the United States. On 08 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., 30 July 2003.

On 24 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 30 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 26 March 2004, applicants filed a response to the Notification Of Missing Requirements (with required extension fee). The response included payment of the required surcharge, a declaration executed by one of the two inventors, and the petition considered herein. The petition seeks acceptance of the application without the signature of the nonsigning inventor, Richard John PROCTOR, whom applicants assert has refused to join in the application.

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 addresses of the nonsigning inventor. Item (2) is therefore 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 one of the named inventors and containing an unsigned signature block for the nonsigning inventor. This declaration can be accepted as having been signed by the inventor on his 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 application. In such cases, section 409.03(d) of the MPEP requires that the 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." Applicants here have provided a firsthand statement (with supporting documentation) demonstrating that the nonsigning inventor has been provided with copies of the complete application, has been asked to execute the necessary documents, and has failed to respond to such correspondence. The submitted materials are accepted as demonstrating the nonsigning inventor's refusal to execute the application. Item (4) is therefore satisfied.

Based on the above, applicants here have satisfied all the requirements for a grantable petition.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) for acceptance of the application without the signature of nonsigning inventor Richard John PROCTOR 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 the last known address set forth in the petition materials, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The 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 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 26 March 2004.

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

04 NOV 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

Richard John PROCTOR
28 Diprose Road
Corfe Mullen
Wimborne, Dorset BH21 2HU
UNITED KINGDOM

In re Application of: CHOPPING, Geoffrey, et al.
U.S. Application No.: 10/470,204
PCT No.: PCT/GB02/00145
International Filing Date: 14 January 2002
Priority Date: 30 January 2001
Attorney's Docket No.: P/63208
For: PARTIALLY INTERCONNECTED NETWORKS

Dear Mr. PROCTOR:

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

Counsel of Record:
Alan Israel
KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER
489 Fifth Avenue
New York, New York 10017

16 NOV 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

KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER
489 Fifth Avenue
New York, NY 10017

In re Application of CHOPPING, Geoffrey *et al* U.S. Application No.: 10/470,205 PCT No.: PCT/GB02/00148 Int. Filing Date: 14 January 2002 Priority Date: 30 January 2001 Attorney Docket No.: P/63219 For: PARTIALLY INTERCONNECTED NETWORKS	**DECISION ON PETITION UNDER 37 CFR 1.47(a)**

This is a decision on the "Petition Under Rule 47(a) filed on 26 March 2004.

BACKGROUND

On 03 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/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond.

On 26 March 2004, applicants submitted a response which was accompanied by, *inter alia*, a declaration signed by one of the co-inventors; the instant petition; a "Declaration Under Rule 47(a)" ("Decl."); Exhibits 1-3; the $130.00 petition fee; and a three-month extension and $950.00 fee.

DISCUSSION

Petitioner claims that one of the two joint inventors, Richard John Proctor, refuses to sign the declaration in the above-captioned application. Hence, a petition under 37 CFR 1.47(a) was submitted with the instant response.

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 or cannot be located; (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 nonsigning joint inventor.

Concerning item (1), the $130.00 petition fee has been paid.

The 37 CFR 1.47(a) applicant completes item (3) by listing the last known address of the nonsigning inventor, Richard John Proctor, on the declaration as:

28 Diprose Road
Corfe Mullen
Wimborne, Dorset BH21 2HU
Great Britain

Regarding item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two joint inventors. Section 409.03(a)(A) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> 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.

Both the inventors' names, residences, post office addresses and citizenship are typed on this declaration as required by 37 CFR 1.497(a) and (b). Therefore, item (4) of 37 CFR 1.47(a) is satisfied.

Regarding item (2), applicants provided a declaration by Anthony Ferns who states that a declaration and cover letter were sent to the nonsigning inventor at his home address on 19 November 2003 with reminder letters sent 16 December 2003 and 06 January 2004 requesting that he sign and return the declaration. Decl. at ¶ 5. After receiving no response, Mr. Ferns claims that he sent "the specification, drawings, claims and the Declaration" to Mr. Proctor using a private courier on 10 February 2004. Id. at ¶ 6. These papers were delivered and signed by "PROCTOR" on 11 February 2004. Id. at ¶ 7. Mr. Ferns claims that Mr. Proctor "has not responded to requests and has a history of failing to execute such documents when requested to do so in the past." Id. at ¶ 4.

The 37 CFR 1.47(a) applicant included copies of the 10 February 2004 mailing in exhibit 1. A copy of the DHL Shipment Airwaysbill (No. 2822681256) for the 10 February 2004 mailing is included as exhibit 2. A detailed report of Airwaysbill No. 2822681256 is included as exhibit 3.

Applicants' burden in proving that an inventor refuses to cooperate is explained in section 409.03(d) of the MPEP which states, in part:

> 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 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.

In this petition, the 37 CFR 1.47(a) applicant has provided only a copy of the cover letter and papers mailed 10 February 2004 along with confirmation that it was delivered and signed for by a "Proctor." However, the petitioner must also provide copies of the letters mailed 19 November 2003, 16 December 2003 and 06 January 2004 as discussed in paragraph 5 of the declaration by Mr. Ferns. This evidence is in direct support of petitioners' opinion that Mr. Proctor's conduct constitutes a refusal. In addition, the 37 CFR 1.47(a) applicant should attempt to contact Mr. Proctor by telephone or email to verify that he refuses to cooperate.

For the reasons listed above, item (2) of 37 CFR 1.47(a) is not satisfied. Hence, it is not appropriate to accept this application under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

16 MAR 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

KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER
489 Fifth Avenue
New York, NY 10017

In re Application of
CHOPPING, Geoffrey *et al*
U.S. Application No.: 10/470,205
PCT No.: PCT/GB02/00148
Int. Filing Date: 14 January 2002
Priority Date: 30 January 2001
Attorney Docket No.: P/63219
For: PARTIALLY INTERCONNECTED NETWORKS

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on the papers filed 18 January 2005 and 03 February 2005 which are treated as a renewed petition under 37 CFR1.47(a).

BACKGROUND

On 16 November 2004, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed for failing to satisfy all of the requirements of 37 CFR 1.47(a). Applicants were given two-months to respond.

On 18 January 2005, applicants submitted a "Renewed Petition Under Rule 47(a)" which was accompanied by copies of several letters requested by the 16 November 2004 decision.

On 03 February 2005, applicants filed a response which included a declaration executed by the nonsigning joint inventor, Richard John Proctor.

DISCUSSION

The 37 CFR 1.47(a) applicants timely responded to the prior decision on 18 January 2005. Petitioners then submitted a declaration executed by the nonsigning joint inventor, Richard John Proctor, on 03 February 2005.

This declaration complies with 37 CFR 1.497(a) and (b). The petition under 37 CFR 1.47(a) is no longer required.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 14 January 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 03 February 2005.

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

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

HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas TX 75202

COPY MAILED
JUL 09 2008
OFFICE OF PETITIONS

In re Patent No. 7,283,229 :
Issue Date: October 16, 2007 :
Application No. 10/470,208 : ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. 10287.59 :

This is in response to the REPLY TO DENIAL OF REQUEST UNDER 37 CFR 3.81(b) filed June 4, 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**.

By decision mailed May 13, 2008, a prior REQUEST UNDER 37 CFR 3.81(b) was dismissed. The request included the processing fee under 37 CFR 1.17(i), a Request for Certification of Correction Under 37 CFR 1.323 and the fee set forth in 37 CFR 1.20(a) for issuance of a certificate of correction. The request for a certificate of correction was dismissed by the Certificate of Corrections Branch because no decision granting the request had been issued by the Office of Petitions.

On June 4, 2008, petitioner submitted their request to the Office of Petitions for decision. A review of the record reveals that only Precision System Science Co., Ltd. was named on the form PTOL-85B. Petitioner requests that the above-identified patent be corrected to state the names of all three assignees, Precision System Science Co., Ltd., The Furukawa Electric Co., Ltd., and Fi-Techno Co., Ltd., and requests that a Certificate of

[1] *See* MPEP 1309, subsection II, Official Gazette at 1283 OG 148 (June 22, 2004) or Final Register at 69 FR 29865 (May 26, 2004).

Correction be issued identifying all three assignees. Petitioner submits a "Certificate of Correction" for this purpose.

Both petitioner's evidence and Office records show that the assignment of the above-identified application to Precision System Science Co., Ltd., The Furukawa Electric Co., Ltd., and Fi-Techno Co., Ltd., was submitted for recording in the Office on March 15, 2004 before issuance of the patent (Reel/Frame 015071/0781) on October 16, 2007. This was also prior to payment of the Issue Fee on September 11, 2007.

Receipt of the required $130 processing fee and the required $100 certificate of correction fee received March 20, 2008 is acknowledged.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. 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 has been notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

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

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

COPY MAILED

DEC 07 2005

OFFICE OF PETITIONS

Applicant: Gobel
Appl. No.: 10/470,214
International Filing Date: February 12, 2004
Title: ADHESION PROMOTERS FOR METAL/POLYMER BONDS
Attorney Docket No.: 91436-387
Pub. No.: US 2004/0259992 A1
Pub. Date: December 23, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on February 21, 2005, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication, as the title of the invention "ADHESION PROMOTERS FOR METAL/POLYMER BONDS" is misprinted as "ADHESIVES FOR METAL POLYMER COMPOSITES," paragraphs [0001] and [0036] should each be broken into two paragraphs, paragraph [0033] "isobornyl" is misprinted as "isobomyl" and paragraph [0043] the phrased "for example silanised," is misprinted as "for example silanised."

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 errors noted by requestor on the front page of the publication wherein the original title of the invention "ADHESIVES FOR METAL POLYMER COMPOSITES," and not the amended title "ADHESION PROMOTERS FOR METAL/POLYMER BONDS" was printed and in paragraphs [0001] and [0036], which should each be broken into two paragraphs, paragraph [0033], wherein "isobornyl" is misprinted as "isobomyl" and in paragraph [0043], wherein 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).

phrase "for example silanised," is misprinted as "for example silanised" are not material Office errors under 37 CFR 1.221. The error noted by requestor with respect to the misspelling in this published application is due to the poor quality of the text in the application. The text of the word is blurry. The other errors noted by requestor are s Office errors but the mistakes are minor typographical errors, which are clearly understandable to one of ordinary skill in reading the specification and the claims. The mistake is a minor typographical error, which is clearly understandable from reading the application, as terms are not read in a vacuum. The mistake 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.

Applicant should file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52. When, the text in the application, which is small and close together, which makes it blurry and not clear, also makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition.

On September 1, 2004, a Filing Receipt was mailed, which did not properly list the title of the invention. 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

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

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

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

SCHLUMBERGER RESERVOIR COMPLETIONS
SCHLUMBERGER TECHNOLOGY CORPORATION
PATENT COUNSEL
P.O. BOX 1590
ROSHARON, TX 77583

COPY MAILED

MAY 3 0 2007

OFFICE OF PETITIONS

In re Application of
SMITH, et al.
Application No. 10/470,215
Filed: March 17, 2004
Attorney Docket No. 101.0001

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 4, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Robert A. Van Someren appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Robert A. Van Someren desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence of record.

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

The application file is being referred to Technology Center Art Unit 3672 for consideration of the amendment filed October 23, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: **ROBERT A. VAN SOMEREN**
P.O. BOX 2107
CYPRESS, TX 77410-2107

24 FEB 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

Roger S. Burleigh
ERICSSON, INC.
6300 Legacy Drive
M/S EVW 2-C-2
Plano, TX 75024

In re Application of:	:	
PAPANIKOLAOU, Thomas, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/470,224	:	
PCT No.: PCT/SE02/00127	:	
International Filing Date: 24 January 2002	:	
Priority Date: 24 January 2001	:	
Atty Docket No.: P14048-US1	:	
For: AN ARRANGEMENT AND A	:	
METHOD RELATING TO ACCESS	:	
OF APPLICATIONS/SERVICES	:	

This decision is issued in response to applicants' "Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181" filed 02 December 2004. No petition fee is required.

BACKGROUND

On 24 January 2002, applicants filed international application PCT/SE02/00127 which claimed a priority date of 24 January 2001 and which designated the United States. On 01 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., 24 July 2003.

On 24 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 18 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 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 18 October 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 respond to the Notification Of Missing Requirements.

On 02 December 2004, applicants filed the petition considered herein. The petition asserts on 07 January 2004 applicants filed via facsimile a timely response to the Notification Of Missing Requirements, including an executed declaration and the required surcharge. Attached

to the petition are copies of the materials purportedly filed on 07 January 2004, as well as a copy of a facsimile confirmation sheet confirming transmission of this document on 07 January 2004.

DISCUSSION

Based on applicants' statements in the present petition, the attached materials (and the "Certificate Of Mailing Or Transmission" contained thereon), and the copy of applicants' "Transmission Verification Report" confirming the nine-page transmission to the PCT Operations facsimile number on 07 January 2004, the materials attached to the present petition will be treated as having been submitted on 07 January 2004. The submission is therefore considered a timely response to the Notification Of Missing Requirements mailed 18 December 2003.[1] The Notification of Abandonment, based as it was on applicant's purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately vacated. See: 37 CFR 1.8(b), and MPEP section 711.03(c)(B).

A review of the declaration attached to the petition confirms that the declaration is in compliance with 37 CFR 1.497, and, pursuant to the authorization contained on the materials submitted 07 January 2004, Deposit Account No. 50-1379 will be charged the required surcharge.

CONCLUSION

Applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 18 October 2004 is hereby **VACATED**.

This application is being returned 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) is 02 December 2004.

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

[1] It is noted that for all purposes other than timeliness, the materials will be treated as having been filed on 02 December 2004, the filing date of the only copy of these materials present in the application file (i.e., the filing date of the present petition)

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

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO TX 75024

COPY MAILED
NOV 20 2008

In re Application of	:	
Meyer et al.	:	
Application No. 10/470225	:	ON PETITION
Filing or 371(c) Date: 07/24/2003	:	
Attorney Docket Number:	:	
P13730-US1	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed October 8, 2008.

This Petition is hereby **granted**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 31, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 1, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that Applicant has filed (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The petition fee and fee for filing the Notice of Appeal have been charged to Applicant's deposit account as authorized in the petition and Notice of Appeal.

The application is being referred to Technology Center Art Unit 2616 to await the brief in support of appeal.

Applicant has two (2) months from the mailing date of this Decision to file an appeal brief. Extensions of time are available under 37 CFR 1.136(a). Accord, MPEP 1215.01

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

21 JUL 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

Edwin J. Gale
KIRBY EADES GALE BAKER
PO Box 3432 Station D
Ottawa on KIP 6N9
CANADA

In re Application of:	:	
ZHENG, Zhifu, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/470,264	:	
PCT No.: PCT/CA02/00141	:	
International Filing Date: 06 February 2002	:	
Priority Date: 07 February 2001	:	
Atty Docket No.: 47369	:	
For: METHOD FOR THE PRODUCTION OF PLANT SEED WITH MODIFIED FIBRE CONTENT AND MODIFIED SEED COAT	:	

This decision is issued in response to the "Request To Withdraw Holding Of Abandonment" filed 14 July 2005, treated herein as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 06 February 2002, applicants filed international application PCT/CA02/00141 which claimed a priority date of 07 February 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., 06 August 2003.

On 06 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 13 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 was required.

On 14 October 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 respond to the Notification Of Missing Requirements.

On 14 July 2004, the petition considered herein was filed. The petition asserts that on 11 March 2004 applicants filed a timely response to the Notification Of Missing Requirements,

including an executed declaration. Attached to the petition is a copy of the materials purportedly filed on 11 March 2004 (including the executed declaration), as well as a copy of a return postcard that itemizes these materials and bears a USPTO receipt stamp dated 11 March 2004.

DISCUSSION

Based on the statements in the present petition and the attached return postcard, the materials attached to the present petition, including the executed declaration, will be treated as having been submitted on 11 March 2004. The submission is therefore considered a timely response to the Notification Of Missing Requirements mailed 13 January 2004.

The Notification of Abandonment mailed 14 October 2004, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately vacated. A review of the declaration attached to the petition confirms that the declaration is in compliance with 37 CFR 1.497.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 14 October 2004 is hereby **VACATED**.

This application is being returned 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) is 11 March 2004.

It is noted that above-named counsel of record did not submit the present petition. A copy of this decision will be forwarded to the attorney who filed the petition. However, absent submission of a proper change of counsel and correspondence address, future communications with respect to this application will be mailed only to above-named counsel of record.

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

cc: Allen C. Turner
TRASK BRITT, PC
P.O. Box 2550
Salt Lake City, Utah 84110-2550

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/9/07

Paper No.: —

TO SPE OF : ART UNIT 2615

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/420279 Patent No.: 7120266 B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE

2615
Art Unit

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

15 SEP 2003

Glenn E. J. Murphy
Henkel Corporation Patent Department
2500 Renaissance Blvd., Suite 200
Gulph Mills, PA 19406

In re Application of	:	
Speckmann et al.	:	
U.S. Application No. 10/470,281	:	
PCT Application No.: PCT/EP01/06810	:	
International Filing Date: 15 June 2001	:	DECISION ON PETITION
Priority Date: 4 August 2000	:	UNDER 37 CFR 1.10(e)
For: PARTICLE-SHAPED ACETONITRILE	:	
DERIVATIVES AS BLEACH ACTIVA-	:	
TORS IN SOLID DETERGENTS	:	

This decision is in response to the 23 July 2003 "Petition under 37 CFR 1.10(e)." The petition is **GRANTED** as follows.

BACKGROUND

On 15 June 2001, Applicants filed international application PCT/EP01/06810, which claimed priority of an earlier application filed on 04 August 2000. A copy of the international application, in German, was communicated from the International Bureau to the USPTO on 14 February 2002. The period for paying the basic national fee is 30 months and ended at midnight on 04 February 2003.

The instant petition asserts that the basic national fee was timely deposited in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service ("Express Mail") on 04 February 2003. However, the USPTO record does not show receipt of the basic national fee on or before 04 February 2003.

DISCUSSION

Under 37 CFR 1.10(e), in the instant case, Applicants may petition the Commissioner to consider the papers as having been filed in the USPTO on the day they were deposited in the USPS "Express Mail," i.e., 04 February 2003, provided that:

(1) The petition is filed promptly after Applicants became aware that the USPTO has no evidence of receipt of the application papers deposited in the "Express Mail" on 04 February 2003;

(2) The petition includes:

(a) a copy of the previously mailed application papers showing the "Express Mail" mailing label number;

(b) a copy of any returned postcard receipt; MPEP section 503 (Rev. 1, Feb. 2003).

(c) a copy of the "Express Mail" mailing label showing the "date-in";

(d) a copy of any other official notation by the USPS relied upon to show the date of deposit; and

(e) a statement establishing, to the satisfaction of the Commissioner:
(i) deposit of the application papers on 04 February 2003;
(ii) items (a), (b), (c), (d) above are true copies of their respective originals;

(3) The number of the "Express Mail" mailing label was placed on the application transmittal prior to the 04 February 2003 mailing by "Express Mail."

The Office may require additional evidence in determining whether the application papers were indeed deposited as "Express Mail" with the USPS on 04 February 2003. 37 CFR 1.10(f).

The instant petition encloses a copy of the papers allegedly mailed on 04 February 2003, including, *inter alia*, a copy of a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 (Form PTO 1390), authorizing the USPTO to charge the $900 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5) to Deposit Account No. 01-1250. This transmittal form bears an "Express Mail" mailing label number "EV192784287US" on the front page (item 2(a)).

As to item (2)(b), the petition is accompanied by a copy of a return postcard, not date-stamped by the USPTO. The postcard, also including the above "Express Mail" mailing label number, lists and itemizes the papers being mailed with the postcard. The Office has verified through the USPS electronic database available to the USPTO that the papers mailed under this label number had been accepted by the USPS on 04 February 2003 at 4:10 pm (item (2)(d)).

With respect to item (2)(c), the "Express Mail" mailing label, a copy of which is also enclosed with the petition, indicates a USPS "date-in" as well as a USPS date-stamp of "04 February 2003."

The petition has also met the remaining requirements.

The Office concludes that the papers submitted with the instant petition are true copies of those deposited as "Express Mail" with the USPS on 04 February 2003. The originals apparently are lost.

CONCLUSION

In view of the above, the basic national fee and the national stage papers (English translation of the international application; preliminary amendment) are considered filed in the USPTO on 04 February 2003. 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 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).

Boris Milef
PCT Legal Examiner
PCT Legal Office

RC Tang
Petitions Attorney
PCT Legal Office
Telephone: 703-308-1315
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

COPY MAILED
SEP 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Baskaran et al.	:	
Application No. 10/470,287	:	DECISION ON PETITION
Filed: July 22, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. SEMT120863/P02-0052	:	

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed March 17, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for benefit of priority to the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by a supplemental ADS including a reference to the prior-filed provisional application. While a reference to the prior-filed provisional application 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)(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)(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)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed provisional application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1,370 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.

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

Any questions concerning this decision on petition may be directed to Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/30/07

TO SPE OF : ART UNIT 3753 (Eric Kuhl)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/470288 Patent No.: 6999668

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: _____

_____

_____

_____

_____

_____ SPE

_____ Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/30/07

TO SPE OF : ART UNIT 3753 (Eric Keasel)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/470288 Patent No.: ~~6999668~~ 7,032,618

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: _____

Eric Keasel — SPE

3753 — Art Unit

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

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: Karin Caldwell	: DECISION ON REQUEST FOR
Patent Number	: 7645721	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/470,296	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **792** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE D. Wong

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/420,326

Paper No.: _____

DATE : 9/15/05

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction on Patent No.: 6914563

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:

SPE

2821
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

0 9 MAY 2007

Gary M. Nath
Nath & Associates
1030 15th Street, NW
Sixth Floor
Washington, DC 20005

In re Application of	:	
RETTGER et al.	:	
Application No.: 10/470,331	:	
Filed: February 4, 2004	:	DECISION ON PETITION
Attorney Docket No.: 25365	:	
For: METHOD OF AND APPARATUS FOR UPGRADING AND GASIFYING HEAVY HYDROCARBON FEEDS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 2, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

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

(2) the surcharge set forth in § 1.17(t); and

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

unintentional.

The petition does not comply with item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment to the specification filed concurrently therewith. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

---

[1] *Note* 37 CFR 1.121

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

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

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298 .

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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

15 AUG 2007

Gary M. Nath
Nath & Associates
1030 15th Street, NW
Sixth Floor
Washington, DC 20005

In re Application of	:	
RETTGER et al.	:	
Application No.: 10/470,331	:	
Filed: February 4, 2004	:	DECISION ON PETITION
Attorney Docket No.: 25365	:	
For: METHOD OF AND APPARATUS FOR UPGRADING AND GASIFYING HEAVY HYDROCARBON FEEDS	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 22, 2007 and supplemental renewed petition under 37 CFR 1.78(a)(3), filed August 6, 2007 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Anthony Smith, Attorney Advisor, at (571) 272-3298. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/470,331	02/04/2004	1764	1686	25365	49	4

CONFIRMATION NO. 2468

CORRECTED FILING RECEIPT

OC000000025338825

20529
NATH & ASSOCIATES
112 South West Street
Alexandria, VA 22314

Date Mailed: 08/13/2007

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

Applicant(s)

Philip Rettger, Walnut Lake, CA;
Randall Goldstein, Moraga, CA;
Jim Arnold, Alberta, CANADA;
Yoram Bronicki, Rehovot, ISRAEL;
J Robert Friday, Grantham, NH;

Power of Attorney:

Gary Nath--26965

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/IL02/01032
which is a CIP of 10/025,996 12/26/2001 PAT 6,702,936

Foreign Applications

If Required, Foreign Filing License Granted: 07/26/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/470,331

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method of and apparatus for upgrading and gasifying heavy hydrocarbon feeds

Preliminary Class

208

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).

02 DEC 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark M. Friedman
c/o Discovery Dispatch
9003 Florin Way
Upper Marlboro, MD 20772

In re Application of	:	
HEIFETZ, Raphaez	:	
Application No.: 10/470,332	:	DECISION ON PETITION
PCT No.: PCT/US01/04116	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 09 February 2001	:	
Priority Date: 10 February 2000	:	
Attorney Docket No.: 1248/27	:	
For: FLEXIBLE REFLECTIVE INSULATING STRUCTURES	:	

The petition to revive under 37 CFR 1.137(b) filed 28 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 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. 06-2140 will be 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

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

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

COPY MAILED

APR 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
John S. Minami et al	:	
Application No. 10/470,365	:	DECISION ON PETITION
Filed: July 25, 2003	:	TO MAKE SPECIAL UNDER
Attorney Docket No. IREA0013	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed February 17, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2616 for action on the merits commensurate with this decision.

Denise Pothier for

Amelia Au
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

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

COPY MAILED

JUN 29 2006

OFFICE OF PETITIONS

In re Application of :
Sawyer, et al. :
Application No. 10/470,395 :
Filed: January 8, 2004 :
Attorney Docket No. 29342/35745A :
For: CARBOLINE DERIVATIVES

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed February 21, 2006 (certificate of mailing date February 15, 2006) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit the issue fee, publication fee, and a completed PTOL-85b in response to the August 23, 2005 Notice of Allowance and Fee(s) Due, which set a three period for reply. No reply being received, the Office contended that this application became abandoned on November 24, 2005. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Petitioners allege that the August 23, 2005 Notice of Allowance and Fee(s) Due was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a copy of the mail log and docket records where the requirements would have been entered had the August 23, 2005 Notice of Allowance and Fee(s) Due been received. In addition, practitioner referenced the records in the petition and stated that a review of the application's file jacket for the August 23, 2005 Notice of Allowance and Fee(s) Due was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center AU 1625 for the re-mailing of the August 23, 2005 Notice of Allowance and Fee(s) Due (and the Notice of Allowability mailed on the same date) with a new period set for reply.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

05 APR 2004

#5

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

MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON, DC 20036-3307

In re Application of	:	
KIRK et al.	:	
Application No.: 10/470,419	:	DECISION ON REQUEST
PCT No.: PCT/CA02/00118	:	
Int. Filing Date: 30 January 2002	:	UNDER
Priority Date: 01 February 2001	:	
Attorney Docket No.: 62-257-PCT	:	37 CFR 1.497(d)
For: ELECTROCHEMICAL CELL STACKS	:	

This decision is in response to the "PETITION TO CHANGE INVENTIVE ENTITY UNDER 37 CFR § 1.497(d)" filed 21 January 2004.

BACKGROUND

On 30 January 2002, applicant filed international application PCT/CA02/00118, 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 (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 29 July 2003, applicants filed a transmittal letter 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 05 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 an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a TWO (2) MONTH extendable period for response.

On 21 January 2004, applicants filed the instant "PETITION TO CHANGE INVENTIVE ENTITY UNDER 37 CFR § 1.497(d)" which was accompanied by, *inter alia*, a declaration of inventors.

DISCUSSION

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this

section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

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

(2) The processing fee set forth in Sec. 1.17(i); and

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

(4) Any new oath or declaration required by paragraph (f) of this section.

Applicants have satisfied items (1) and (2). As to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation. As to item (3), the petition states "[n]o assignment has been filed in this application." This statement has been construed as meaning that the "an assignment has not been executed by any of the original named inventors." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

The declaration of inventors filed 21 January 2004 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The request under 37 CFR 1.497(d) 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 in accordance with this decision, that is for processing the application in the name of Donald W. KIRK, Steven J. THORPE, and John W. GRAYDON as inventors and for according the application a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **21 January 2004**.

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

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

MAY - 4 2005

In re Application of	:	
Gianfranco D'Amato	:	
Serial No. 10/470,431	:	DECISION ON PETITION
Filed: December 30, 2003	:	TO MAKE SPECIAL
For: CARDBOARD CONTAINER FOR	:	
DRINKS AND PROCESS THEREFOR	:	

Applicant's petition, filed April 4, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Andrew J. Patch
Young & Thompson
745 South 23rd Street
Arlington, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

FEB 24 2006

OFFICE OF PETITIONS

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

In re Application of :
Akira Nonomura et al :
Application No. 10/470,434 : ON PETITION
Filed: July 28, 2003 :
Attorney Docket No. 240702US3PCT :

This is a decision on the petition, filed February 23, 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 10, 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 1731 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Akira Nonomura et al :
Application No. 10/470,434 :
Filed: July 28, 2003 :
Attorney Docket No. 240702US3PCT :

ON PETITION

This is a decision on the petition, filed February 23, 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 10, 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 1731 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).

09 DEC 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

Akerman Senterfitt
Post Office Box 3188
West Palm Beach, FL 33402-3188

In re Application of	:	
BIERMANN et al.	:	
Application No.: 10/470,437	:	DECISION ON SUBMISSION
Filing Date: 28 July 2002	:	
Attorney Docket No.: 6900-17	:	
For: A METHOD FOR THE REMOVAL OF	:	
MERCURY FROM A GAS STREAM	:	

This is a decision on applicant's "Petition under 37 CFR 1.182" filed in the United States Patent and Trademark Office (USPTO) 06 December 2004. The petition fee has been charged to applicants' deposit account per their authorization.

On 12 June 2002, applicants filed a transmittal letter concerning a filing under 35 U.S.C. 371 directed to PCT/NL02/00052, accompanied by, *inter alia*, the basic national fee.

On 28 July 2003, applicants filed a second transmittal letter concerning a filing under 35 U.S.C. 371 of international application no. PCT/NL02/00052. accompanied by, *inter alia*, the basic national fee. Applicant also filed an executed declaration, which incorrectly identified international application no. PCT/NL02/00659 and referenced attorney docket number #6900-15. The USPTO assigned application no. 10/470,437 to the papers, as the national stage of international application no. PCT/NL02/00659 to this application.

On 06 December 2004, applicant filed the instant petition under 37 CFR 1.182 to correct the international application number to PCT/NL02/00052 in U.S. application 10/470,437 and to request that U.S. application no. 10/470,437 filed on 28 July 2003 be treated as a filing under 35 U.S.C. 111(a) as a continuation of PCT/NL02/00052.

The petition under 37 CFR 1.182 to correct the international application no. to PCT/NL02/00052 in 10/470,437 is **GRANTED**. Applicant's request to treat the application papers filed on 28 July 2003 as a filing under 35 U.S.C. 111(a) is **GRANTED**.

Applicant is advised that he is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/470,437) and the international application (PCT/NL02/00052) designating the United States were copending on 28 July 2003. In order to obtain benefit of the earlier international application, applicant must make reference to the previous application and state the relationship. The required reference may either be in an application data sheet or the specification must contain or be amended to contain such reference in the first sentence.

An appropriate passage would be, "This is an continuation of international application PCT/NL02/00052, filed 23 January 2002, which designated the United States and is now abandoned." Applicant must provide this reference within four (4) months from the filing date. *See* 37 CFR 1.78(a)(2)(ii). *See also* MPEP §1896. Applicant wish to file a petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121 or 365(c) for the benefit of a prior-filed application. *See* 37 CFR 1.78(a)(3).

The application will be forwarded to the United States Designated/Elected Office for removal of the Article 20 papers.

This application is being forwarded to Office of Initial Preliminary Examination (OIPE) for further processing in accordance with this decision. The application will then be examined in due course.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286
Facsimile: 571-273-0459

CMK/LS

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 6,2007

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No./10/470462 patent no.7081739

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.

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

Comments: OK to enter B.T. 9/23/08

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2838
Art Unit

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,946,717	2005-09-20	10/470,481	2003-07-25	8822.60040 / 17627

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	/Christopher P. Maiorana/	Date (YYYY-MM-DD)	2010-03-01
Name	Christopher P. Maiorana	Registration Number	42829

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6946717
Issue Date: September 20,2005
Application No. 10470481
Filed: July 25,2003
Attorney Docket No. 8822.60040 / 17627

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

This is a decision on the electronic petition, filed March 1,2010 ,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 March 1,2010 . 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.

19 AUG 2004

#6

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

Dinsmore Shohl LLP
One Dayton Centre
One South Main Street
Suite 500
Dayton, OH 45402-2023

In re Application of Parke, Terrence James Application No.: 10/470, 510 PCT No.: PCT/AU02/00084 Int. Filing Date: 29 January 2002 Priority Date: 29 January 2001 Attorney's Docket No.: TEJ 0002 PA For: SELF CLEANING SHREDDING DEVICE HAVING MOVABLE CLEANING RINGS	DECISION ON REQUEST UNDER 37 CFR 1.42

This decision is in response to applicant's submission of a declaration under 35 USC 371 filed in the United States Patent and Trademark Office on 19 April 2004. The declaration includes an indication that inventor Terence James Parke is deceased. It has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 29 January 2002, applicant filed international application PCT/AU02/00084, claiming a priority date of 29 January 2001. A demand for international preliminary examination was filed on 26 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 August 2002. The deadline for entry into the national stage in the United States was 29 July 2003.

On 29 July 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.

On 18 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) and the surcharge for late filing of the oath or declaration were required.

On 21 January 2004, applicant submitted a declaration and the fee for late filing of the oath or declaration.

On 25 February 2004, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the 21 January 2004 declaration did not comply with 37 CFR 1.497(a)-(b).

On 19 April 2004, applicant submitted a "Response to Notification of Defective Response," accompanied by the fee for a three month extension of time and a declaration indicating the inventor is deceased.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

In this case, the declaration is executed by the legal representative for the deceased inventor. It provides the necessary information for the deceased inventor and the legal representative. The declaration complies with both 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 an international filing date of 29 January 2002 under 35 U.S.C. §363 and a date of 19 April 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.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

19 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

Dinsmore Shohl LLP
One Dayton Centre
One South Main Street
Suite 500
Dayton, OH 45402-2023

In re Application of Parke, Terrence James Application No.: 10/470, 510 PCT No.: PCT/AU02/00084 Int. Filing Date: 29 January 2002 Priority Date: 29 January 2001 Attorney's Docket No.: TEJ 0002 PA For: SELF CLEANING SHREDDING DEVICE HAVING MOVABLE CLEANING RINGS	DECISION ON REQUEST UNDER 37 CFR 1.42

This decision is in response to applicant's submission of a declaration under 35 USC 371 filed in the United States Patent and Trademark Office on 19 April 2004. The declaration includes an indication that inventor Terence James Parke is deceased. It has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 29 January 2002, applicant filed international application PCT/AU02/00084, claiming a priority date of 29 January 2001. A demand for international preliminary examination was filed on 26 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 August 2002. The deadline for entry into the national stage in the United States was 29 July 2003.

On 29 July 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.

On 18 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) and the surcharge for late filing of the oath or declaration were required.

On 21 January 2004, applicant submitted a declaration and the fee for late filing of the oath or declaration.

On 25 February 2004, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the 21 January 2004 declaration did not comply with 37 CFR 1.497(a)-(b).

On 19 April 2004, applicant submitted a "Response to Notification of Defective Response," accompanied by the fee for a three month extension of time and a declaration indicating the inventor is deceased.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

In this case, the declaration is executed by the legal representative for the deceased inventor. It provides the necessary information for the deceased inventor and the legal representative. The declaration complies with both 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 an international filing date of 29 January 2002 under 35 U.S.C. §363 and a date of 19 April 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.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF ALBERT WAI KIT CHAN
ALBERT WAI KIT CHAN
WORLD PLAZA SUITE 604
141 07 20TH AVENUE
WHITESTONE, NY 11357

COPY MAILED
NOV 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Pedro S. Sola	:	
Application No. 10/470,527	:	ON PETITION
Filed: December 22, 2003	:	
Attorney Docket No. 788-PCT-US	:	

This is a decision in response to the communication filed by facsimile transmission on October 18, 2006, requesting that a petition under 37 CFR 1.137(b), filed October 18, 2006, be disregarded.

The request is GRANTED.

A review of the record discloses that a petition to revive was filed on October 18, 2006, along with a check for the requisite petition fee. On the same day, petitioner submitted the present request to disregard the petition. Apparently, petitioner also issued a stop payment on the $750 check submitted with the petition to revive under 37 CFR 1.137(b). As a result of applicant's action, a returned check fee of $50 was applied against the U.S. Patent and Trademark Office by our financial institution. Since, this fee must be recovered, the $50 return check fee will be charged to counsel's deposit account No. 50-1891 using the general authorization filed October 16, 2006.

The application is being referred to Technology Center AU 1755 to await the filing of the appeal brief.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

12 FEB 2004

#3

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

Seth M. Nehrbass
Garvey, Smith, Nehrbass, & Doody, LLC
3838 N. Causeway Blvd., Suite 3290
Metairie, LA 70002

In re Application of KINGSLEY, Simon Philip et al. Application No.:10/470,546 PCT Application No.: PCT/GB02/00170 International Filing Date: 17 January 2002 Priority Date: 22 January 2001 Attorney Docket No.: A03151US (98148.29) For: DIELECTRIC RESONATOR ANTENNA WITH MUTUALLY ORTHOGONAL FEEDS	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 30 July 2003 is **GRANTED**.

BACKGROUND

On 17 January 2002, international application number PCT/GB02/00170 was filed. This application claims priority on a British application filed on 22 January 2001. The International Bureau transmitted a copy of the international application on 25 July 2002. The deadline for paying the basic national fee for the United States National Stage was thirty months from the priority date, that is 22 July 2003.

On 30 July 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a petition to revive, the corresponding petition fee, and the basic national 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 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 proper reply, (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.) A proper reply requires payment of the basic national fee and a copy of the international application, if such a copy has not already been communicated by the International Bureau.

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). Applicants' payment of the basic national fee constitutes a proper reply because a copy of the international application was already communicated by the International Bureau. Applicants have paid the petition fee. A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Accordingly, all requirements 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.

Leonard Smith
PCT Legal Examiner
PCT Legal Administration

Ankur Parekh
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

21 JUL 2004

#7

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

Adam J. Cermak
P.O. Box 7518
Alexandria, VA 22307-7518

In re Application of BUECHI, Dirk *et al* U.S. Application No.: 10/470,556 PCT No.: PCT/IB02/00281 Int. Filing Date: 30 January 2002 Priority Date: 30 January 2001 Attorney Docket No.: 003-069 For: BURNER SYSTEM AND METHOD FOR OPERATING IT	:	**DECISION ON PETITION UNDER 37 CFR 1.47(a)**

This is a decision on applicants' "Petition Under 37 C.F.R. § 1.47(a): Inventors Refuse to Sign" ("Pet.") filed on 29 April 2004.

BACKGROUND

On 29 October 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee must be provided. Applicants were given two months to respond.

On 29 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 four of the six listed co-inventors; a four-month extension of time and a $1,480.00 fee; and a declaration of Anett Fabian ("Decl.").

DISCUSSION

The 37 CFR 1.47(a) applicant claims that two of the six joint inventors, Mr. Christian Oliver Paschereit and Mr. Peter Stoll, refuse 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. Paschereit is listed as:

Lohengrinstrasse 29
D-14109 Berlin
Germany

The address of Mr. Stoll is listed as:

Erbachstrasse 2
D-72119 Ammerbuch-Poltringen
Germany

With regards to item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by four of the six joint inventors on behalf of the two nonsigning joint inventors. 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). 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 Anett Fabian who

states that she mailed a complete copy of the application and declaration to Mr. Paschereit on 26 June 2003. Decl. at ¶ 2. Ms. Fabian claims that she "spoke with Mr. Paschereit on the telephone" on 03 November 2003, where he "acknowledged receipt of the application and Declaration and refused to join in the application by signing the Declaration." Id. at ¶ 4. Ms. Fabian also claims that a complete copy of the application was mailed to Mr. Stoll on 23 September 2003. Id. at ¶ 2. However, there was no evidence provided that she attempted to contact Mr. Stoll to determine if he had received the application and declaration.

This evidence is not sufficient to meet the requirements outlined in the MPEP above. The 37 CFR 1.47(a) has not provided copies of the documents (cover letters are sufficient) sent to the nonsigning inventors on 26 June 2003 and 23 September 2003. This evidence is required. Moreover, the 37 CFR 1.47(a) should also attempt to contact Mr. Stoll to determine if he received a copy of the application and declaration and determine if he is willing to sign the documents. If a telephone number is unavailable, petitioner should attempt to verify the address by using the internet. In addition, if any of the nonsigning joint inventors provides a reason for their refusal to cooperate, the 37 CFR 1.47(a) applicant should provide this 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.

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 SEP 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
www.uspto.gov

Adam J. Cermak
P.O. Box 7518
Alexandria, VA 22307-7518

In re Application of
BUECHI, Dirk *et al*
U.S. Application No.: 10/470,556
PCT No.: PCT/IB02/00281
Int. Filing Date: 30 January 2002
Priority Date: 30 January 2001
Attorney Docket No.: 003-069
For: BURNER SYSTEM AND METHOD FOR OPERATING IT

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition" filed via facsimile on 21 September 2004.

BACKGROUND

On 21 July 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 21 September 2004, applicants filed the instant renewed petition which was accompanied by, *inter alia*, an executed declaration signed by Peter Stoll; a copy of email between Declarant Fabian and Mr. Paschereit; a hand-written note by Declarant Fabian; a copy of a letter dated 26 June 2003; and accompanying English translations.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the non-signing joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the non-signing joint inventor. Items (1), (3) and (4) of 37 CFR 1.47(a) have been satisfied in the original petition.

Regarding item (2), the 37 CFR 1.47(a) applicant failed to provide copies of the documents sent to the nonsigning inventors and any other documentary evidence as is relevant. In the renewed petition, the 37 CFR 1.47(a) applicant provided an executed declaration by Mr. Peter Stoll which is in compliance with 37 CFR 1.497(a) and (b). Thus, no further evidence is required concerning Mr. Stoll.

With regard to Mr. Paschereit, the 37 CFR 1.47(a) applicant has submitted

copies of correspondence with accompanying English translations which indicate that a complete copy of the above-captioned application was provided to the nonsigning inventor. A copy of the cover letter which was sent to Mr. Paschereit dated 26 June 2004 was also submitted. The 37 CFR 1.47(a) applicant also claims in the renewed petition that after receiving the application papers for "roughly six weeks, Declarant Fabian spoke with Mr. Paschereit on the telephone and orally received his refusal to join in the application." This evidence is sufficient to show a refusal to cooperate by Mr. Paschereit and meets the requirements of 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 30 January 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 21 September 2004.

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457; (571) 372-3302 after 01 October 2004

23 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
www.uspto.gov

Mr. Paschereit
Lohengrinstrasse 29
D-14109 Berlin
Germany

In re Application of
BUECHI, Dirk *et al*
U.S. Application No.: 10/470,556
PCT No.: PCT/IB02/00281
Int. Filing Date: 30 January 2002
Priority Date: 30 January 2001
Attorney Docket No.: 003-069
For: BURNER SYSTEM AND METHOD
FOR OPERATING IT

Mr. Paschereit:

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 372-3302 after 01 October 2004

Adam J. Cermak
P.O. Box 7518
Alexandria, VA 22307-7518

20 MAY 2004

4 5

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

Adam J. Cermak
Law Office of Adam J. Cermak
P.O. Box 7518
Alexandria, VA 22307

In re Application of BUECHE, et al. PCT No.: PCT/IB02/00282 Application No.: 10/470,557 Int. Filing Date: 30 January 2002 Priority Date: 30 January 2001 Atty. Docket No.: 003-070 For: METHOD FOR PRODUCING A BURNER SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "Petition Under 37 C.F.R. 1.47(a): Inventors Refuse to Sign" filed 29 April 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 30 January 2002, applicant filed international application PCT/IB02/00282, which claimed priority of an earlier application filed 30 January 2001. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 08 August 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 30 July 2003.

On 30 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); an English translation of the international application and a First Preliminary Amendment. An executed oath or declaration was not included.

On 06 February 2004, 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 given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 29 April 2004, applicant responded with the present petition to accept the combined declaration and power of attorney without the signature of joint inventors Christian Oliver

Pascherit and Peter Stoll accompanied by a declaration executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventors. The petition was also accompanied by a petition for a one-month extension of time and payment of the appropriate petition fee.

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. With the filing of the present petition and accompanying papers, applicant has satisfied items 1-3.

As to item (4), applicant has a combined declaration and power of attorney executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventor. However, the filed declaration does not comply with 37 CFR 1.497 (a)-(b). The Manual of Patent Examining Procedure (MPEP) Section 201.03 states, in part:

> An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

As to the filed declaration, pages 3-5 are identical. This suggests that the declaration was assembled from numerous declarations or that the signing inventors returned only their signature pages. Either version renders the declaration non-compliant.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) 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. 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 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: (703) 305-0130
Fax: (703) 308-6459

19 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

Adam J. Cermak
Law Office of Adam J. Cermak
P.O. Box 7518
Alexandria, VA 22307

In re Application of	:	
BUECHE, et al.	:	
U.S. Application No.: 10/470,557	:	
PCT No.: PCT/IB02/00282	:	DECISION ON RENEWED
Int. Filing Date: 30 January 2002	:	
Priority Date: 30 January 2001	:	PETITION UNDER
Attorney Docket No.:003-070	:	
For: METHOD FOR PRODUCING A	:	37 CFR 1.47(a)
BURNER SYSTEM	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 20 July 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 20 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 20 July 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.

Applicant has presently filed compliant combined declarations and powers of attorney executed by the remaining inventors on their own behalf and on behalf of the non-signing inventors, Christian Oliver Pascherit and Peter Stoll. 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 30 January 2002 under 35 U.S.C. 363, and will be given a date of **20 July 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 inventors at their last known addresses 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

19 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

Mr. Christian Oliver Paschereit
Lohengrinstrasse 29
D-14109 Berlin
GERMANY

In re Application of
BUECHE, et al.
PCT No.: PCT/IB02/00282
Application No.: 10/470,557
Int. Filing Date: 30 January 2002
Priority Date: 30 January 2001
Atty. Docket No.: 003-070
For: METHOD FOR PRODUCING A BURNER SYSTEM

Dear Mr. Paschereit:

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, the law firm 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

Adam J. Cermak
Law Office of Adam J. Cermak
P.O. Box 7518
Alexandria, VA 22307
United States of America

19 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

Mr. Peter Stoll
Erbachstrasse 2
D-72119 Ammerbuch-Poltringen
GERMANY

In re Application of
BUECHE, et al.
PCT No.: PCT/IB02/00282
Application No.: 10/470,557
Int. Filing Date: 30 January 2002
Priority Date: 30 January 2001
Atty. Docket No.: 003-070
For: METHOD FOR PRODUCING A BURNER SYSTEM

Dear Mr. Stoll:

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, the law firm 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

Adam J. Cermak
Law Office of Adam J. Cermak
P.O. Box 7518
Alexandria, VA 22307
United States of America

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

BRENT A. JOHNSON
ALLERGAN, INC.
LEGAL DEPARTMENT
2525 DUPONT DRIVE--T2-7H
IRVINE CA 92612

COPY MAILED
AUG 0 6 2003
OFFICE OF PETITIONS

In re Application of	:	
Old et al.	:	
Application No. 10/470,566	:	DECISION GRANTING PETITION
Filed: 9 April, 2003	:	
Attorney Docket No. 17366-CON(AP)	:	

This is a decision on the petition under 37 CFR 1.10(e)[1] filed on 24 July, 2003, requesting that the above-identified application be accorded a filing date of 9 April, 2003.

---

[1] 37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

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

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in 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 Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Petitioners allege that the application was deposited in "Express Mail" service with the U.S. Postal Service on 9 April, 2003. In support, petitioner provided a copy of the Express Mail label, receipt No. EL385560770US, showing a date in of "4-9". Although the "date-in" appears to be incomplete, the Express Mail Label also contains an official USPS postmark dated 9 April, 2003. The same Express Mail receipt number was referred to on the itemized Utility Patent Application Transmittal sheet submitted with the present petition. Petitioners have also provided, *inter alia*, a copy of 26 pages of specification (written description) and nine (9) pages containing claims, one (1) page of abstract, a declaration and power of attorney, five (5) pages of a preliminary amendment, and an Information Disclosure Statement, as well as an itemized postcard bearing an "Office date" stamp of 9 April, 2003.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" (or Official USPS postmark date) on the Express Mail label.[2] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on 9 April, 2003.

The application will be processed and examined with a filing date of 9 April, 2003, using the application papers supplied on 24 July, 2003.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 9 April, 2003, using the application papers supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at 703 308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] MPEP 513.

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

RONALD C. FEDUS
ENZO BIOCHEM, INC.
9TH FLOOR
527 MADISON AVENUE
NEW YORK, NY 10022-4304

COPY MAILED

SEP 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Elazar Rabbani	:	
Application No. 10/470,567	:	ON PETITION
Filed: April 15, 2003	:	
Attorney Docket No. Enz-51(C2)	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed November 26, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 27, 2005.

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

This matter is being referred to the Office of Initial Patent Examination.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

COPY MAILED

OCT 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
RABBANI	:	
Application No. 10/470,567	:	DECISION DISMISSING PETITION
Filed: April 15, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Enz-51	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 29, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

A petition under 37 CFR 1.78(3) requires a surcharge of $1370. This amount has been charged to petitioner's authorized deposit account.

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

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

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

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

Please note that, while the substitute specification submitted on March 29, 2007 includes a clean version, petitioner did not provide a specification with markings showing all the changes relative to the immediate prior version of the specification of record. See 37 CFR 1.125(c).

Any inquiries concerning this decision may be directed to Denise Pothier at (571) 272-4787. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1635 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/470,567	04/15/2003	1635	1442	Enz-51(C2)	32	15

CONFIRMATION NO. 5472

CORRECTED FILING RECEIPT

28171
ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK, NY 10022

OC000000026517832

Date Mailed: 10/30/2007

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

Applicant(s)

Elazar Rabbani, New York, NY;

Power of Attorney:
Ronald Fedus--32567

Domestic Priority data as claimed by applicant

This application is a CON of 08/801,733 02/14/1997 ABN
which is a CON of 07/988,256 12/09/1992 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 11/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/470,567**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Method for rendering a system immunologically compatible utilizing a nucleic acid construct, a nucleic acid construct for inhibiting or regulating the function of an immune response (Ir) gene and an

immunologically compatible system containing a nucleic acid construct for inhibiting or regulating the function of an immune response (Ir) gene

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARINA T. LARSON
OPPEDAHL & LARSON, LLP
P.O. BOX 5068
DILLON, CO 80435

COPY MAILED

AUG 13 2003

OFFICE OF PETITIONS

In re Application of	:	
Fong, et al.	:	DECISION GRANTING
Application No. 10/470,568	:	PETITION
Filed: March 24, 2003	:	
Attorney Docket No. MSK.P-031-DV2	:	

This is a decision on the petition styled, "Petition For Assignment of Serial Number and Filing Date," which has been treated as a petition under 37 CFR 1.10(e), filed June 9, 2003.

Please note, the papers submitted June 9, 2003, have been assigned application number 10/470,568. Please direct all future correspondence to this application number.

Petitioners allege that the application was deposited in Express Mail service on March 24, 2003. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV253456910US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of March 24, 2003. Petitioner requests that the application be accorded a filing date of March 24, 2003.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 515. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on March 24, 2003.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of March 24, 2003.

Since the instant petition has been granted, no petition fee is required.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of March 24, 2003 and issuance of a filing receipt.

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

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

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.

Lawrence E. Laubscher, Sr.
Suite 300
745 South 23rd Street
Arlington, VA 22202

COPY MAILED

DEC 1 5 2003

OFFICE OF PETITIONS

In re Application of
Pasquini et al.
Application No. 10/173,098
Filed: June 18, 2002
Attorney Docket No. 19418

In re Application of
Pasquini et al.
Application No. 10/470,569
Filed: June 2, 2003
Title: ANTISEPTIC TAMPON AND METHOD OF PREPARING IT

DECISION GRANTING PETITION

This is a decision on the PETITION TO THE DIRECTOR, filed August 22, 2003, which is properly treated as a petition under 37 CFR § 1.53(e), requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of June 2, 2003.

On May 21, 2003, a non-final Office action was mailed in application No. 10/173,098. On petition, applicants provided *prima facie* evidence in the form of a return postcard receipt that on June 2, 2003, applicants had submitted a divisional application under 37 CFR § 1.53(d). This divisional application included a 14 page specification, 4 claims, 1 sheet of formal drawings, a declaration, a check for $375 for payment of the filing fees, a preliminary amendment and an Information Disclosure Statement. The postcard shows that the papers filed also included a request for CPA under 37 CFR § 1.53(d) based on prior application No. 10/173,098.

CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May

29, 2000[1]. Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114. However, continued examination under 37 CFR § 1.114 does not apply to an application unless prosecution in the application is closed. On June 2, 2003, prosecution in application No. 10/173,098 was not closed.

On August 22, 2003, applicants filed the present petition under 37 CFR § 1.53(e). Applicants indicated that they did not want the request for a CPA to be treated as a request for continued examination under 37 CFR § 1.114. Rather, applicants requested that the improper CPA be converted to an application under 37 CFR § 1.53(b). With the present petition, applicants submitted a complete copy of the prior application as originally filed, a preliminary amendment, an information disclosure statement, a copy of the executed declaration from the prior application, and paid the petition fee.

The petition is granted.

The original 14 page specification, the one sheet of drawings, and the copy of the executed declaration filed June 2, 2003, have been located in application No. 10/173,098.

The application under 37 CFR 1.53(b) filed on June 2, 2003, has been assigned application No. 10/470,569. The copy of the CPA request, the present petition, the copy of the application papers filed August 22, 2003 (the specification, executed declaration, drawings, the preliminary amendment, and the information disclosure statement) and the application papers filed June 2, 2003, have been placed in application No. 10/470,569. A copy of the CPA request and the present petition will be retained in application No. 10/173,098 to complete the record therein. All further correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 10/470,569, not application No. 10/173,098.

The Office finance records will be corrected to show that the $375.00 filing fee received on June 2, 2003, and the $130.00 petition fee received on August 22, 2003, were paid in application No. 10/470,569, not in application No. 10/173,098.

Application No. 10/470,569 will be forwarded to the Office of Initial Patent Examination for further processing as an

---

[1] Section 1.53(d) has been amended to provide that an application may be filed as a CPA under 1.53(d) only if the application is for a design patent (either an original or reissue design application) and the prior nonprovisional and the prior nonprovisional application (of which the CPA is a continuation or divisional) is a design application that is complete as defined by § 1.51(b). See Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications, Final Rule, 68 FR 32376 (May 30, 2003), effective July 14, 2003.

application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of June 2, 2003, using the application papers filed June 2, 2003.

Application No. 10/173,098 is being returned to Technology Center 3761 for further processing.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Nancy Johnson at (703) 305-0309.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

NJ

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

Crawford PLLC
1270 Northland Drive
Suite 390
St. Paul MN 55120

COPY MAILED
AUG 2 0 2003
OFFICE OF PETITIONS

In re Application of :
Fandrianto et al. :
Application No. 10/470,571 :
Filed: March 1, 2001 :
Attorney Docket No. 8X8S.051C2 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10(e), filed July 8, 2003, requesting that a utility application entitled "Video Compression/Decompression Processing And Processors" be assigned an application number and accorded a filing date of March 1, 2001.

Petitioner alleges that the application was deposited in Express Mail service with the United States Postal Service (USPS) on March 1, 2001. In support of the allegation, petitioner provided a copy of the Express Mail label, receipt No. EL735699410US, showing a date-in of March 1, 2001. The same Express Mail receipt number was referred to in the copy of the original application papers submitted with the present petition.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label. See MPEP 513. This is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on March 1, 2001.

Accordingly, the petition is **granted**.

The Office finance records will be corrected to indicate that the statutory basic filing fee of $710.00 submitted on March 1, 2001, was paid in application No. 10/470,571, not in application No. 09/098,106.

This application file will be forwarded to the Office of Initial Patent Examination for processing as a new utility application with the filing date of March 1, 2001.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

HOWREY SIMON ARNOLD & WHITE, LLP
BOX 34
301 RAVENSWOOD AVE.
MENLO PARK CA 94025

COPY MAILED

SEP 12 2003

OFFICE OF PETITIONS

In re Application of Richard Murray Application No. 10/470,576 Filed: August 5, 2003 Attorney Docket No. 05882.0156.CNUS02	DECISION GRANTING PETITION

This is a decision on the petition filed August 27, 2003, requesting that a nonprovisional application entitled "Novel Methods of Diagnosing and Screening for Modulators of Tissue Remodeling and Treating Related Diseases" (Docket No. 05882.0156.CNUS02) be assigned an application number and accorded a filing date of August 5, 2003.

In the present petition, applicant explains that applicant submitted the present continuation application to the USPTO by Express Mail on August 5, 2003. Applicant further explains:

> However, the mail was damaged during handling in the U.S. Postal Service. When the mail was delivered to the U.S. Patent and Trademark Office, it was stamped with a received date of August 6, 2003, then it was marked refused. The package was returned to our office on August 25, 2003.

Petition dated August 27, 2003, p. 1.

In support of the assertion, applicant submitted the following: 1) a copy of receipt of Express Mail Label No. EL6151283US, with a date-in of August 5, 2003; 2) a note from the USPS stating that the mail was damaged during handling in the USPS; 3) a returned package from the USPS; and, 4) a copy of the application papers as filed and two replacement checks. The Office notes that the petition of extension of time, included in the papers mailed in the package, contained a OIPE date-stamp of August 5, 2003.

Upon review of the evidence and the circumstances of this case, the petition is granted. The application papers have been assigned application No. 10/470,576. No petition fee is necessary.

This application is being forwarded to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of August 5, 2003.

Telephone inquiries relative to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

OIPE JC42
AUG 27 2003
PATENT & TRADEMARK OFFICE

Paper No. 10

FEB 8 2002

Bruce A. Kaser
MILLER NASH WIENER HAGER & CARLSEN
4400 Two Union Square
601 Union Street
SEATTLE, WA 98101-2352

RECEIVED
AUG 28 2003
OFFICE OF PETITIONS

In re Application of	)	
GOSS	)	DECISION ON PETITION
Application No. 08/742,146	)	TO WITHDRAW HOLDING
Filed: October 13, 1996	)	OF ABANDONMENT
For: PAD PRINTER	)	

This is a decision on the petition, filed September 4, 2001, to withdraw the holding of abandonment of the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to pay the required issue fee within the statutory period of three months from the mailing date of October 28, 1997 of the Notice of Allowance. A Notice of Abandonment was mailed on March 11, 1999.

Petitioner states that a request for a file wrapper continuation-in-part application (FWC-CIP) was filed via Express Mail on January 28, 1998. The petition includes a copy of a request for filing a continuation-in-part application under 37 CFR 1.62, bearing a Certificate of Express Mailing dated January 28, 1998, and a copy of the Express Mail label showing a "date in" of January 28, 1998. A copy of a return postcard which acknowledges receipt by the Patent and Trademark Office on January 28, 1998 has been supplied.

The petition, however, does not comply with 37 CFR § 1.10(e) in that the Office was not promptly informed of the previous timely mailing. Moreover, the response to the Office action comprises a request for filing a continuation-in-part application under 37 CFR 1.62; however, 37 CFR 1.62 was deleted effective December 1, 1997. A continuation-in-part application filed under former 37 CFR 1.62 on or after December 1, 1997 is treated as an improper application. See MPEP 201.06(b). Accordingly, the showing of record is that an improper application was filed on January 28, 1998.

BEST AVAILABLE COPY

Applicant is advised to file a petition under 37 CFR 1.53(e) and $130 petition fee (37 CFR 1.17(i)) to have the improper application filed under former 37 CFR 1.62 converted to an application filed under 37 CFR 1.53(b). The petition under 37 CFR 1.53(e) must include: (1) the $130.00 petition fee, (2) a true copy of the prior application, as originally filed, (3) any amendments entered in the prior application, (4) any amendments submitted but not entered in the prior application and directed to be entered in the application papers filed under former 37 CFR 1.62, and (5) an executed oath or declaration under 37 CFR 1.63 and the surcharge required by 37 CFR 1.16(e). The true copy of the prior application, any amendments entered in the prior application, and any preliminary amendment submitted with the 37 CFR 1.62 application papers will constitute the original disclosure of the resulting application under 37 CFR 1.53(b).

Any petition under 37 CFR 1.53(e) to have the application converted to an application filed under 37 CFR 1.53(b) must be submitted within **TWO MONTHS** of the date of this decision (37 CFR 1.181(f)) or the application may be returned or otherwise disposed of and the filing fee, if submitted, will be refunded less the $130 handling fee (37 CFR 1.21(n)). THIS TIME LIMIT MAY NOT BE EXTENDED PURSUANT TO 37 CFR 1.136.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors, Electrical
and Optical Systems and Components

HP/jc

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Delbert J. Barnard
Barnard & Pauly, P.S.
P.O. Box 58888
Seattle, WA 98138-1888

COPY MAILED
NOV 04 2003
OFFICE OF PETITIONS

In re Application of
Duke Goss
Application No. 10/470,578
Filed: January 28, 1998
Title: PAD PRINTER HAVING BEARING MEMBERS

In re Application of
Duke Goss
Application No. 08/742,146
Filed: October 31, 1996
Title: PAD PRINTER HAVING BEARING MEMBERS

DECISION ON PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. 1.53(e)," filed August 27, 2003. This petition is properly considered as a petition under § 1.182[1], requesting that an application filed under former 37 CFR 1.62 be treated as an application filed under 37 CFR 1.53(b) and be accorded a filing date of January 28, 1998.

The petition is **GRANTED**.

On October 28, 1997, a Notice of Allowance was mailed in application No. 08/742,146. This Notice set a three (3) month statutory period for reply, with no extensions of time obtainable under § 1.136(a). No proper reply having been received, application No. 08/742,146 became abandoned effective January 29, 1998. A Notice of Abandonment was mailed on March 11, 1999.

---

[1] § 1.182 Questions not specifically provided for.
All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h). The instant situation is not specifically provided for in the rules.

On September 4, 2001, applicant filed a petition to withdraw the holding of abandonment. This petition was properly dismissed by decision mailed February 8, 2002 (and remailed June 23, 2003). However, the petition included *prima facie* evidence in the form of a stamped postcard receipt that on January 28, 1998, applicant had filed a request for a file wrapper continuation-in-part application and a preliminary amendment. As an application filed under former 1.62 is considered an improper application[2], applicant was advised of the option of filing a petition under 1.53(e) to have the improper application under former 37 C.F.R. 1.62 converted into an application filed under 37 C.F.R. 1.53(b).

In response, applicant filed the instant petition, which included:

(A) the $130.00 petition fee;
(B) a true copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR § 1.53(d);
(C) any amendments entered in the prior nonprovisional application;
(D) any amendments submitted but not entered in the prior nonprovisional application and directed to be entered in the application papers filed under 37 CFR § 1.53(d); and
(E) an executed oath or declaration under 37 CFR § 1.63, if one has not already been submitted with the application papers filed under 37 CFR § 1.53(d).

MPEP 706.07(h).

In view thereof, the petition is granted.

The application under 37 CFR 1.53(b) filed on January 28, 1998, has been assigned application No. 10/470,578. The request under 1.62, the present petition, the copy of the application as originally filed, including the executed declaration and power of attorney from the prior application, and the preliminary amendment have been placed in application No. 10/470,578. A copy of the request under 1.62 and the present petition will be retained in application No. 08/742,146 to complete the record therein. All further correspondence concerning the application under 37 CFR 1.53(b) filed January 28, 1998 should be directed to application No. 10/470,578, <u>not application No. 08/742,146</u>.

The Office finance records will be corrected to show that the $130.00 petition fee and $65 late surcharge fee paid on August 27, 2003, were paid in application No. 10/470,578, <u>not in application No. 08/742,146</u>.

Application No. 08/742,146 will be forwarded to Files Repository.

Application No. 10/260,003 will be forwarded to the Office of Initial Patent Examination for processing as an application filed under 37 CFR 1.53(b), <u>not under 37 CFR 1.53(d)</u>, **<u>with a filing date of January 28, 1998</u>**, using the copy of the original application papers submitted on August 27, 2003.

---

[2] 37 CFR 1.62 was deleted effective December 1, 1997.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

DARBY & DARBY P.C.
POST OFFICE BOX 5257
NEW YORK NY 10150-5257

COPY MAILED

SEP 2 2 2003

OFFICE OF PETITIONS

In re Application of	: DECISION GRANTING PETITION
Cinghita et al.	: AND
Application No. 10/470,579	: NOTICE TO FILE
Filed: 4 September, 2002	: MISSING PARTS
Attorney Docket No. 3282/OK310	:

This is a decision on the petition filed on 3 September, 2003, which is being treated as a petition under 37 CFR 1.53(e)(2), requesting that the above-identified application be accorded a filing date of 4 September, 2002, with 32 pages of specification, and four (4) sheets of drawings as the original disclosure of the application.

The petition is granted.

Petitioners assert that the application papers described above were deposited in USPS Express Mail service on 4 September, 2002, were assigned application No. 10/235,952, the same application number assigned to another application filed by the same practitioner, and were misplaced by the Office. In support, petitioners have supplied two postcards, both dated 9/4/02 and bearing Application No. 10/235,952. One of the postcards itemizes the filing of 32 pages of specification, and four (4) sheets of drawings and identifies the application by the first named inventor's name, attorney docket number, and invention title. The other postcard identifies the first named inventor's name, attorney docket number, and invention title which have been assigned to Application No. 10/235,952.

An inspection of the postcards reveals that they both bear the same Express Mail number, EV187598826US. Petitioners obviously mailed two separate applications in the same envelope. Since one of the applications was in fact received, petitioners may not rely on the mailing by Express Mail as evidence that the present

application was received on 4 September, 2002. Where there is a dispute as to the contents of correspondence submitted to the Office, an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what documents and or fees were filed in the Office with such correspondence a petition under 37 CFR 1.10 is inappropriate.[1] A petition under 37 CFR 1.10(e) is only appropriate where the correspondence was sent by Express Mail but nothing was received by the Office. In future filings, petitioners should file each application in a separate Express Mail envelope to avoid the predicament which has occurred.

Nevertheless, since the itemized receipt postcard for the present application does bear an Office-date stamp of 9/4/02, albeit with a different serial number, the postcard does serve as evidence that the present application papers were received in the USPTO on 9/4/02. As a review of the contents of the file of Application No. 10/235,952 reveals that the present application papers are not contained therein, it is concluded that the application papers were received on 9/4/02, but were misplaced after receipt in the USPTO. The application papers are therefore entitled to a filing date of 4 September, 2002.

The application papers supplied on 3 September, 2003, have been placed in a new file wrapper, and assigned Application No. 10/470,579. All future correspondences regarding this application should be directed to that application number.

The petition fee will be credited to counsel's deposit account, No. 04-0100, as authorized in petition.

The application papers supplied on 3 September, 2003, omitted a signed oath or declaration in compliance with 37 CFR 1.63 and the required filing fee. Petitioners must therefore submit an oath or declaration in compliance with 37 CFR 1.63, the basic filing fee, and a surcharge for their late filing within TWO (2) MONTHS of the mailing date of this decision. Extensions of time in accordance with 37 CFR 1.136(a) are available. Applicants' response should be directed to the Office of Initial Patent Examination (OIPE).

The application is being forwarded to OIPE for processing as an application under 37 CFR 1.53(b) with a filing date of 4 September, 2002, using the application papers filed on supplied

with the present petition, and to await receipt of the filing fee(s), an executed oath or declaration, and the surcharge for their late filing.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

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

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

COPY MAILED

APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Luchiana CINGHITA et al.	:	
Application No. 10/470,579	:	DECISION ON PETITION
Filed: September 04, 2002	:	
Attorney Docket No. **03282/000K310-US0**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 07, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed August 31, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on November 01, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the corrected drawings is accepted as having been unintentionally delayed.

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

This application is being referred to Publishing Division for further processing in accordance with this decision on petition.

David Buoci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

ROGER W. PARKHURST
PARKHURST & WENDEL
1421 PRINCE STREET
SUITE 210
ALEXANDRIA VA 22314-2805

COPY MAILED
SEP 25 2003
OFFICE OF PETITIONS

In re Application of
Ichimura
Application No. 08/985,904
Filed: December 5, 1997
Attorney Docket No. DAIN:440

DECISION GRANTING PETITION

In re Application of
Ichimura
Application No. 10/470,580
Filed: April 9, 2003
For: LOW REFRACTIVE INDEX SiO_2 FILM AND PROCESS FOR PRODUCING THE SAME

This is a decision on petition under 37 CFR § 1.53(e) filed June 17, 2003, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of April 9, 2003.

On October 9, 2002, a final Office action was mailed in application No. 08/985,904, which set a three (3) month shortened statutory period for reply. In response, applicant submitted a petition for a three (3) month extension of time, a request for a CPA under 37 CFR § 1.53(d) based on prior application No. 08/985,904, and the requisite fees on April 9, 2003. However, CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May 29, 2000.[1] Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.

[1] An earlier CPA was filed in application No. 08/985,904 on August 31, 2001. Thus, 37 CFR § 1.53(d)(1)(i) does not permit the filing of a further CPA.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114.

On April 24, 2003, a Notice of Improper Request For Continued Examination (RCE) was mailed, stating that the RCE was improper because the RCE was not accompanied by a submission as required by 37 CFR § 1.114. The Notice further stated that since the application was not under appeal, the time period set forth in the final Office action continued to run from the mailing date of the action. Because applicant did not submit a submission with the RCE, the application became abandoned on April 10, 2003. A Notice of Abandonment was mailed on June 2, 2003.

On June 17, 2003, petitioner filed the present petition under 37 CFR § 1.53(e). Petitioner requested that the Office to accept the application under 37 CFR § 1.53(d) filed April 9, 2003, as a proper application under 37 CFR § 1.53(b). Petitioner indicated that petitioner erred in improperly designating the papers submitted on April 9, 2003 as a CPA, due to the fact that a prior application under 37 CFR § 1.53(d) was filed after May 29, 2000. With the present petition, Petitioner submitted a complete copy of the prior application as originally filed, a preliminary amendment, a copy of the executed declaration previously filed, and paid the petition fee.

The petition is <u>granted</u>.

The application under 37 CFR § 1.53(b) filed on April 9, 2003, has been assigned application No. 10/470,580. The CPA request, the present petition, the copy of the application as originally filed, the preliminary amendment, and the copy of the executed declaration have been removed from the file of application No. 08/985,904 and have been placed in application No. 10/470,580. A copy of the CPA request and the present petition will be retained in application No. 08/985,904 to complete the record therein. All further correspondence concerning the application under 37 CFR § 1.53(b) should be directed to application No. 10/470,580, <u>not application No. 08/985,904.</u>

The Office finance records will be corrected to show that the $750.00 filing fee and the $130.00 petition fee, were paid in application No. 10/470,580, <u>not in application No. 08/985,904.</u>

Application No. 08/985,904 will be forwarded to Files Repository.

Application No. 10/470,580 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR § 1.53(b), <u>not under</u>

37 CFR § 1.53(d), **with a filing date of April 9, 2003,** using the copy of the original application papers submitted on June 17, 2003.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

DANIEL LONG
BAE SYSTEMS
65 SPIT BROOK ROAD
NASHUA, NH 03061

COPY MAILED

NOV 2 0 2003

OFFICE OF PETITIONS

In re Application of
Keith Struckman
Application No. 10/470,590
Deposited: September 17, 2003
TITLE: Near Field To Far Field DF Antenna Array Calibration Technique

DECISION ON PETITION

This is a decision on the "PETITION TO ACCORD A FILING DATE AS OF THE DATE OF DEPOSIT AS 'EXPRESS MAIL,'" filed September 17, 2003, requesting that the above-identified application be accorded a filing date of May 14, 2003.

The petition under § 1.10(e) is **DISMISSED**.

Application papers in the above-identified application were received in the Office by way of deposit with the USPS Express Mail service on September 17, 2003.

Petitioner maintains that the application papers in the above-identified application were originally timely filed by Express Mail Post Office To Addressee service on May 14, 2003, in accordance with the procedures set forth in 37 CFR 1.10, and that the Express Mail package was received in the Office on May 15, 2003. However, applicant has not been charged for the application, and has received neither a return postcard nor an official filing receipt. Although only one application is considered received by the Office, petitioner maintains that the relevant Express Mail package contained two applications, separated by a metal clip. Moreover, petitioner contends that both applications are entitled to the date of deposit in Express Mail service as their filing date. In support, petitioner has supplied copies of:

- the original application papers, which do not show an Express Mail mailing label number thereon;
- a separate Certificate under 37 CFR 1.10 of Mailing by "Express Mail," showing Express Mail mailing label No. EU792464678US thereon, and itemizing the papers being transmitted;
- Express Mail mailing label No. EU792464678US, with a date-in thereon of May 14, 2003;

- the USPS Track & Confirm Internet record, showing that the Express Mail package shipped under label No. EU792464678US was accepted, May 14, 2003, 1:40 pm, LONDONDERRY, NH 03053; and

- applicant's return postcard receipt, which does not bear an Office date-stamp acknowledging receipt and only identifies the contents of one application as being filed.

Patent Attorney Joseph Funk states that the application papers supplied on petition are a true copy of all originally deposited correspondence. The petition further includes a declaration by attorney Funk as to the date and time of the original deposit of the application papers into Express Mail service.

The present copies of the application papers have been assigned the above-identified application number. All future correspondence regarding this application should be directed to that application number, 10/470,590.

37 CFR 1.10(e) states:

> Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS <u>but not received by the Office,</u> may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that: (emphasis added)

A review of the Official Record at the Office indicates that correspondence filed by Express Mail service in the Express Mail envelope labeled EU792464678US was in fact received by the Office. The records of the Office support a conclusion that a single application was received in the Office in that mailing, and that that application was other than the one at issue on petition. That application, as petitioner notes, has been processed by the Office and assigned an application number. Moreover, the application file for that application has been reviewed and it contains no papers other than those filed in that application. Since a portion of the allegedly larger correspondence was actually received by the Office, the relief set forth in 37 CFR 1.10(e) is not available. See "Communications With the Patent and Trademark Office" 61 Fed. Reg. 56439, 56443 (1996). Further, as the records of the Office contain documents corresponding to the correspondence at issue the Office will rely on the contents of its official record of the contents of such correspondence in the absence of convincing evidence (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document that is not among the official record. See MPEP 513. Petitioner's copy of their unstamped postcard is not persuasive evidence that the second application was among the papers deposited in the Express Mail mailing.

Petitioner may be correct that nowhere in the MPEP is an applicant expressly prohibited from placing more than one

application in an envelope[1]. However, by doing so, petitioner has placed himself in the position of not being able to rely on § 1.10(e) to have a missing portion of the mailing, one of the multiple applications purportedly placed in the Express Mail envelope, considered filed in the Office on the USPS deposit date. See MPEP 513, Deposit as Express Mail with US Postal Service[2].

Moreover, neither petitioner's evidence nor any evidence of record is convincing that the application should otherwise be considered filed on May 14, 2003.

The filing fee of $750.00 has been charged to deposit account No. 19-0130 as authorized in the application papers received September 17, 2003.

The application is being forwarded to Initial Patent Examination Division for processing this application with a filing date of September 17, 2003, using the application papers received on that date.

Any inquiry directed to this matter should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

---

[1] Petitioner should note 37 CFR 1.4(c) which suggests that each application be submitted as a separate paper.

[2] 37 CFR 1.10(e) applies only in those situations in which the correspondence at issue was lost in toto (i.e., the entire correspondence was not delivered to the Office). Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application), an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. Rather, where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

DANIEL LONG
BAE SYSTEMS
65 SPIT BROOK ROAD
NASHUA, NH 03061

COPY MAILED

MAY 2 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Keith Struckman	:	
Application No. 10/470,590	:	LETTER
Deposited: September 17, 2003	:	
TITLE: Near Field To Far Field DF	:	
Antenna Array Calibration Technique	:	

This letter is to advise applicant that 9 sheets of drawings and a declaration deposited May 14, 2003 have been entered into the file record of the above-identified application.

Petitioner is advised that this does not change the decision mailed November 20, 2003, dismissing the petition under § 1.10(e) filed September 17, 2003. It has always been recognized that these papers were received in the Office by deposit on May 14, 2003 (albeit with the papers of another application). However, the petition was dismissed because petitioner had not shown that sufficient papers were filed in this application on May 14, 2003, to entitle this application to a filing date of May 14, 2003. Applicant still has not made such a showing.

All future correspondence regarding this application should be directed to application number, 10/470,590.

The application is being forwarded to Initial Patent Examination Division for processing this application **with a filing date of September 17, 2003**, using the application papers received on that date; and the declaration and 9 sheets of drawings deposited May 14, 2003.

Any inquiry directed to this matter should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

DANIEL LONG
BAE SYSTEMS
65 SPIT BROOK ROAD
NASHUA, NH 03061

COPY MAILED

JUL 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Keith Struckman	:	DECISION DISMISSING
Application No. 10/470,590	:	PETITION
Deposited: September 17, 2003	:	
TITLE: Near Field To Far Field DF	:	
Antenna Array Calibration Technique	:	
	:	

This is a decision on the "REQUEST TO RECONSIDER DISMISSAL OF PETITION TO ACCORD A FILING DATE AS OF THE DATE OF DEPOSIT AS 'EXPRESS MAIL,'" filed July 8, 2004, requesting that the above-identified application be accorded a filing date of May 14, 2003.

The petition is granted to the extent that the decision mailed November 10, 2003 has been reconsidered; however, the petition under § 1.10 remains **DISMISSED**.

On September 17, 2003, applicants filed the initial petition under § 1.10(e), asserting that all of the application papers (necessary to accord an application a filing date) in the above-identified application were received in the Office by way of deposit with the USPS Express Mail service on May 14, 2003. Petitioner requested that the Office accord a filing date of May 14, 2003. The petition included a copy of the papers as petitioner maintained they were originally filed.

By decision mailed November 20, 2003, the petition was dismissed. Petitioner failed to establish to the satisfaction of the Director that sufficient papers were deposited in this application on May 14, 2003, such that this application is entitled to a filing date of May 14, 2003. Rather, it was only determined that the Office received nine (9) sheets of drawings in the above-identified application. The application papers received September 17, 2003 (along with the drawings received May 14, 2003) were assigned application No. 10/470,590 and accorded a

filing date of September 17, 2003 (the date of receipt of sufficient papers to entitle the application to a filing date).

On instant request for reconsideration, petitioner continues to maintain that an Express Mail package containing the instant application and another application were deposited with the United States Patent and Trademark Office (USPTO) by way of deposit with the United States Postal Service on May 14, 2003. Petitioner maintains that the express mail package included:

- the papers for the other application; and
- the instant application ("missing BAE application" comprising:

  (a) Patent specification, including abstract and claims, for Near Field To Far Field DF Antenna Array Calibration Technique (32 Sheets),

  (b) Drawing for patent specification (9 Sheets of drawing),

  (c) Assignment,

  (d) Recordation Form Cover Sheet - Patents Only (PTO/SB/1619A),

  (e) Certificate under 37 CFR 1.20 of Mailing by Express Mail (PTO/SB/05),

  (f) New Utility Patent Application Transmittal (PTO/SB/05),

  (g) Declaration For Patent Application (37 CFR 1.63) And Power of Attorney,

  (h) Return Postcard,

  (i) List of Information Provided by Applicant (Form PTO-1449),

  (j) Copy of U.S. patent 5,039,991 listed in PTO-1449,

  (k) Copy of U.S. patent 5,721,554 listed in PTO-1449,

  (l) Copy of IEEE paper "Direction Finding Using Correlation Techniques" listed in Form PTO-1449,

  (m) Non-publication Request Under 35 USC 122(b)(2)(B)(i)(PTO/SB/35), and

  (n) Fee Transmittal (PTO/SB/17) indicating that the BAE deposit account was to be charged.

In support thereof, petitioner argues that: 1) Filing of two applications in one express mailing package appeared to be approved by the USPTO per MPEP Chapter 500, Section 501. Each patent application was complete and marked as a separate

application, was separated by a metal clip, and each package had its own patent office Express Mailing Certificate (Form PTO/SB/93); 2) Receipt of the instant application is evidenced by applicant's receipt back of the "Notice of Recordation of Assignment Document" that was filed with the missing BAE application (the one alleged to have been filed on May 14, 2003); 3) Receipt of the instant application on May 14, 2003 is further evidenced by the discovery of the sheets of drawings from this application, among the papers in the other application, considered by the Office as deposited on May 14, 2003; and 4) on the same date that the attorney mailed the missing BAE application to the USPTO via express mail, he also mailed a duplicate package via first class mail to Ms. Gloria Abbasciano of BAE Systems. The mailing included the same papers filed in the Office for the BAE application. The petition includes statements of fact of Gloria Abbasciano and attorney Joseph E. Funk.

Petitioner's evidence and arguments have been considered, but not found persuasive that the application papers assigned application No. 10/470,590 and presently accorded a filing date of September 17, 2003, are entitled to an earlier filing date of May 14, 2003.

As stated in 35 U.S.C. 111(a)(4):

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

Furthermore, MPEP 513 provides that:

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application), an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. Rather, where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

In this instance, the contents of the Express Mail package deposited May 14, 2003 are at issue. An Express Mail mailing label evidences a date of deposit of an application, but does not evidence the specific papers filed in an application. For this purpose, applicants may rely on a itemized postcard properly identifying the items being filed. Petitioner, possibly because the decision was made to place two applications in the same envelope, does not have a return postcard to put into evidence. See MPEP 503. As the application transmittal is not reviewed

upon receipt for accuracy of the contents being deposited, an application transmittal is not prima facie evidence of the papers deposited in the Office.

Petitioner has not overcome the conclusion that all of the items required for a filing date were not deposited on May 14, 2003. Papers not present in the USPTO on the date of deposit will not be considered a part of the original application disclosure. The application file is the Official record of what was received in the Office in an application. Considering petitioner's acknowledgment that two applications were placed in the same envelope, the application file for the other application was reviewed. A review of both files revealed only that for the purposes of according a filing date nine (9) sheets of drawings were among the papers filed on May 14, 2003. Thus, only those drawings are considered deposited in the Office on May 14, 2003. As drawings alone are insufficient for the purposes of according a filing date, the finding of the drawings in the other application is not sufficient to entitle applicants to a filing date of May 14, 2003.

Applicant contends that patent office personnel would not be recording the BAE assignment with the serial number for the other application unless those papers had been concurrently received as contended by the applicant. This evidence is somewhat persuasive that the assignment papers were received on May 14, 2003 with the other application. Nonetheless, receipt of assignment papers does not establish the receipt of other papers. The evidence supports a conclusion that the assignment papers were received in the Office with the application papers for the other application. However, an application including only drawings and a recorded assignment is still not entitled to a filing date.

Petitioner further argues that on the same date that the attorney mailed the missing BAE application to the USPTO via express mail, he also mailed a duplicate package via first class mail to Ms. Gloria Abbasciano of BAE Systems. The mailing included the same papers filed in the Office for the BAE application. Ms. Abbasciano's statement that she received the complete application in her mailing is not convincing that the Office received a complete copy of the application in their mailing. This statement is even less convincing in light of the facts of the case which indicate that Ms. Abbasciano's mailing would not have been identical to the mailing to the USPTO inasmuch as it would have included only the BAE application.

Furthermore, attorney Joseph Funks' statement is not convincing. An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. It is acknowledged that given the filing of the two applications in the same envelope some papers for this application were misplaced in the other application. However, the evidence is insufficient to conclude that those papers present in neither application were actually received in the Office and misplaced. Attorney Funks' statement, and other evidence, are not more persuasive than the record of what was filed as shown by the official files.

The application will be processed with a filing date of September 17, 2003.

Any inquiry directed to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

COPY FROM PARENT APPLICATION.

FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

In re Application of	:	
Jonkman, et al.	:	
Application No. 09/432,624	:	ON PETITION
Filed: November 3, 1999	:	
Attorney Docket No. 38469/177--	:	

This is a decision on the petition under 37 CFR 1.182(a), filed October 30, 2003, to have papers filed as a continuing application of the above-cited application recognized.

The petition is **GRANTED.**

Petitioner has established that on, March 18, 2003, papers constituting a continuing application of the above-cited application were filed with the Patent and Trademark Office, but that a filing date was not accorded the papers. A review of the papers filed March 18, 2003, reveals that the papers, including a specification, claims, drawings, formal drawings, oath or declaration, were in order such that a filing date of March 18, 2003, should be accorded the papers.

Accordingly, the application papers filed March 18, 2003, have been assigned application serial number 10/470,593 and will be accorded a filing date of March 18, 2003. A copy of this decision will be placed in application files of both 09/432,624 and 10/470,593.

Petitioner will be refunded the petition fee of $130.00.

The application file 09/432,624 will be forwarded to the Files Repository and application file 10/470,593 will be sent to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

/S/
Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Morrison & Foerster, LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102-3915

COPY MAILED
DEC 24 2003
OFFICE OF PETITIONS

In re Application of
Tetsuro Asano et al.
Application No. 10/470,594
Filed: October 14, 2003
Attorney Docket No. 492322014000

: DECISION DISMISSING PETITION

This is a decision on the "PETITION FOR FILING DATE" filed October 14, 2003, requesting that the above-identified application accompanying the petition be accorded a filing date of October 10, 2003.

Petitioners argue that the application should be accorded a filing date of October 10, 2003, "the date upon which it would have been received had the PTO Mail Room been properly open for business." Petitioners state that applicants' attorney "took good faith steps to ensure that the application was filed at the PTO on October 10, 2003, but those efforts were thwarted by conditions at the PTO beyond the control of either the applicants or their attorneys." The petition is accompanied by declarations of Devin Mayberry and Ernest Peterson who are with the courier service employed by applicants' attorney's law firm. Petitioners state that the declarations demonstrate "it was not possible to file the papers safely at the PTO Mail Room last Friday, October 10, 2003, as the result of an emergency at the PTO that apparently resulted from a power failure."

The evidence and arguments submitted by petitioners have been considered but they are not convincing that this application was, in fact, received in the USPTO on October 10, 2003, or anytime prior to October 14, 2003.

35 U.S.C. § 21(a) provides that:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

37 CFR 1.6(a) provides that correspondence received in the Patent and Trademark Office is stamped with the date of receipt in the Office with few exceptions such as correspondence filed in accordance with 37 CFR 1.10(a) is stamped with the date of deposit as "Express Mail" with the United States Postal Service. There was no postal service interruption or emergency on October 10, 2003, and the application was not filed by "Express Mail." Accordingly, the application is only entitled to the October 14, 2003 receipt date as the filing date of the application.

Petitioners noted in the petition that "because of the time circumstances surrounding the events at the PTO on Friday, October 10, 2003, it was too late in the day for filing by Express Mail to be possible even if such a filing were accepted by the PTO as sufficient to preserve a filing date." This statement is not understood since some post offices accept "Express Mail" until midnight. Furthermore, 37 CFR 1.10 permits correspondence delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) to be accorded the date of deposit as its filing date. Thus, the application could have been deposited in "Express Mail" in accordance with 37 CFR 1.10 on October 10, 2003, and thus been accorded a filing date of October 10, 2003.

In view of the above, the petition is dismissed.

Petitioners are advised that the U.S. Patent and Trademark Office (USPTO) published a notice in the Official Gazette acknowledging that on October 10, 2003, at approximately 5:00 p.m., the USPTO facility at Crystal Plaza Two, including the Customer Service Window, was evacuated due to fire. As indicated in the notice, correspondence was still accepted at the Customer Service Window via the drop box but the USPTO did not place any notice advising the public of the availability of the drop box. The notice further stated that "[i]n light of this emergency situation, the USPTO will consider October 10, 2003, as a 'federal holiday within the District of Columbia' for purposes of 35 U.S.C. § 21. Therefore, any action or fee due on Friday, October 10, 2003, will be considered timely for purposes of e.g., 35 U.S.C. §§ 119, 120, 133 and 151, if the action were taken, or the fee paid, on the next succeeding business day on which the USPTO was open, that is, Tuesday, October 14, 2003." See "*Emergency Closure of the Customer Service Window On Friday, October 10, 2003*," 1267 *Off. Gaz. Pat. Office* 100 (November 18, 2003).

Any request for reconsideration should be filed within **TWO MONTHS** of this decision in order to be considered timely (see 37 CFR 1.181(f)) and should be directed as follows:

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

By FAX: (703) 872-9306
Attn: Eugenia Jones
Office of Patent Legal Administration

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

After mailing of this decision, the $130.00 petition fee will be charged to counsel's deposit account No. 03-1952, as authorized in the petition.

Thereafter, the application will be forwarded to Initial Patent Examination Division for further processing with a filing date of **October 14, 2003**, using the application papers filed on that date. Initial Patent Examination Division will mail a Notice to File Missing Parts requiring the filing fee and an executed oath or declaration.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

COPY MAILED

FEB 2 5 2005

OFFICE OF PETITIONS

In re Application of Ilan, et al. Application No. 10/470,598 Filed: December 8, 2003 Attorney Docket No. Enz-59(D7) For: NOVEL THERAPEUTIC VACCINATION PROCESSES, AND USEFUL COMPOSITIONS THEREFOR	DECISION GRANTING PETITION

This is a decision on the correspondence, filed January 20, 2005, requesting in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed August 10, 2004 and accordation of a December 8, 2003 filing date to the above-identified application. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on December 8, 2003. On August 10, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on December 8, 2003 because no drawing was present, as is required by 35 U.S.C. 113. It is noted that the specification filed on December 8, 2003 describes drawing figures. In response to the Notice, petitioners filed the present petition.

It is noted that the above-identified application contains process claims. As stated in MPEP 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence.)

MPEP 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, but filed without drawings will be treated as an

application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains process claims. Therefore, the above-identified application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date.

In view of the above, the "Notice" mailed August 10, 2004 was mailed in error and is hereby withdrawn. The petition is **granted**. The $400.00 petition fee charged to deposit account no. 05-1135 will be credited to the same account.

Regarding the formal drawings submitted with the instant petition, petitioners do not assert that they were deposited in the PTO on December 8, 2003. Either the drawings were present in the Office on the filing date of the application or they were not. If they were not present on the filing date, they cannot be considered a part of the original disclosure of the application. The formal drawings submitted with the instant petition will not be processed as part of the application papers because petitioners have not shown that they were filed on December 8, 2003.

If applicants desire that the drawing figures be added to the application, the appropriate procedure is by way of amendment requesting entry of the figures. Any such amendment should be filed prior to the first action on the merits and the examiner will consider the figures for new matter. See MPEP § 608.02.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **December 8, 2003**. The application is entitled to a filing date of December 8, 2003 without drawing figures.

Telephone inquiries specific to this matter 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

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK, NY 10022

COPY MAILED

FEB 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Ilan, et al. :
Application No. 10/470,599 :
Filed: December 8, 2003 :
Attorney Docket No. ENZ-59(D5) :

DECISION GRANTING PETITION

This is a decision on the petition filed January 19, 2004, that is responsive to the "Notice Of Incomplete Nonprovisional Application" (the "Notice") mailed August 10, 2004.

On December 8, 2003, the application was deposited.

On August 10, 2004, the Office of Initial Patent Examination mailed the Notice stating that the application had not been accorded a filing date because drawings were not filed, but appeared to be necessary for understanding of the invention claimed. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on January 19, 2004, maintaining that the application contained at least one process or method claim and, therefore, drawings were not necessary for the understanding of invention claimed.

It has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process, method, or composition claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claims 1, 23, 34, 43, 55, 58, 60, 61, 64, 66, 69, and 70 are process claims and that claims 72, 73, 74, and 76 are composition claims. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, was entitled to the filing date of December 8, 2003.

In view of the above, the petition is **granted.** The Notice of Incomplete Nonprovisional Application is vacated, accordingly.

The petition fee of $400.00 will be refunded, in due course.

The drawings filed on January 19, 2004, are noted, but will not be entered at this time. If petitioner would like the drawings to become of record, petitioner may request the drawings be entered by way of amendment.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 8, 2003.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

FEB 0 2 2005

OFFICE OF PETITIONS

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

In re Application of
Yaron Ilan et al.
Application No. 10/470,600
Filed: December 8, 2003
Attorney Docket No. ENZ-59(D6)

: DECISION GRANTING
: PETITION

This is a decision on the filing date petition, filed January 20, 2005, which is being treated under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of December 8, 2003.

The application was filed on December 8, 2003 without drawings.[1] Accordingly, on August 10, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on January 20, 2005, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and the Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

In view of the above, the Notice mailed August 10, 2004, is hereby withdrawn. The application is accorded a filing date of December 8, 2003, without drawings.

---

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

The petition is granted. In view thereof, no petition fee is due and petitioner's deposit account no. 05-1135 will be credited in the amount of $400.00.[3]

It should be noted that the requirement for an oath or declaration was if in fact drawings were determined to be necessary for the understanding of the invention. Since it has been determined that drawings are not necessary, a newly executed oath or declaration is not required.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 8, 2003, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[3]Effective December 8, 2004, the fee for a petition under 1.53 was set at $400.00.

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/1/05

2 Serial/Patent # 10/470,600

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	/	1/20/05	$ 400.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 400.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 05--1135

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

method or process claims

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Patricia Faison-Ball TITLE: Attorney

SIGNATURE: Patricia Faison-Ball PHONE: 2 3212

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alice Fuller DATE: 2/2/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

COPY MAILED

FEB 02 2005

OFFICE OF PETITIONS

In re Application of
Yaron Ilan et al.
Application No. 10/470,601
Filed: December 8, 2003
Attorney Docket No. ENZ-59(D2)

: DECISION GRANTING
: PETITION

This is a decision on the filing date petition, filed January 5, 2005, which is being treated under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of December 8, 2003.

The application was filed on December 8, 2003 without drawings.[1] Accordingly, on August 10, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on January 5, 2005, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and the Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

In view of the above, the Notice mailed August 10, 2004, is hereby withdrawn. The application is accorded a filing date of December 8, 2003, without drawings.

---

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

The petition is granted. In view thereof, no petition fees are due and none have been charged.

It should be noted that the requirement for an oath or declaration was if in fact drawings were determined to be necessary for the understanding of the invention. Since it has been determined that drawings are not necessary, a newly executed oath or declaration is not required.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 8, 2003, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

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

Patricia Faison Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK, NY 10022

COPY MAILED

JUN 10 2008

OFFICE OF PETITIONS

In re Application of Ilan et al. :
Application No. 10/470,601 :
Filing Date: December 8, 2003 :
Attorney Docket No. Enz-59(D2) :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 2008, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 30, 2007, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on October 31, 2007. A Notice of Abandonment was mailed on February 15, 2008.

The instant petition requests revival of the application.

The petition includes, or is accompanied by,

(1) The petition fee of $770,
(2) A reply to the outstanding non-final Office action, and
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Technology Center Art Unit 1648 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

COPY MAILED

FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of
Yaron Ilan et al.
Application No. 10/470,602
Filed: December 8, 2003
Attorney Docket No. ENZ-59(D3)

: DECISION GRANTING
: PETITION

This is a decision on the filing date petition, filed January 18, 2005, which is being treated under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of December 8, 2003.

The application was filed on December 8, 2003 without drawings.[1] Accordingly, on August 10, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on January 18, 2005, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and the Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

In view of the above, the Notice mailed August 10, 2004, is hereby withdrawn. The application is accorded a filing date of December 8, 2003, without drawings.

---

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

The petition is granted. In view thereof, no petition fee is due and petitioner's deposit account no. 05-1135 will be credited in the amount of $400.00.[3]

It should be noted that the requirement for an oath or declaration was if in fact drawings were determined to be necessary for the understanding of the invention. Since it has been determined that drawings are not necessary, a newly executed oath or declaration is not required.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 8, 2003, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[3]Effective December 8, 2004, the fee for a petition under 1.53 was set at $400.00.

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/1/05

2 Serial/Patent # 10/470,602

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	—	1/18/05	$ 400.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 400.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 05--1135

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Method or process claims

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Patricia Faison-Ball TITLE: Attorney

SIGNATURE: Patricia Faison-Ball PHONE: 2 3212

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kell DATE: 2/2/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

FEB 0 2 2005

OFFICE OF PETITIONS

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

In re Application of
Yaron Ilan et al.
Application No. 10/470,603
Filed: December 8, 2003
Attorney Docket No. ENZ-59(D4)

: DECISION GRANTING
: PETITION

This is a decision on the filing date petition, filed January 19, 2005, which is being treated under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of December 8, 2003.

The application was filed on December 8, 2003 without drawings.[1] Accordingly, on August 10, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on January 19, 2005, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and the Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

In view of the above, the Notice mailed August 10, 2004, is hereby withdrawn. The application is accorded a filing date of December 8, 2003, without drawings.

---

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

The petition is granted. In view thereof, no petition fee is due and petitioner's deposit account no. 05-1135 will be credited in the amount of $400.00.[3]

It should be noted that the requirement for an oath or declaration was if in fact drawings were determined to be necessary for the understanding of the invention. Since it has been determined that drawings are not necessary, a newly executed oath or declaration is not required.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 8, 2003, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[3]Effective December 8, 2004, the fee for a petition under 1.53 was set at $400.00.

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/1/05

2 Serial/Patent # 10/470,603

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	—	1/19/05	$ 400.00
	Issue			$
	Cert. of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 400.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 05--1135

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Method or process claims

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Patricia Larson-Ball TITLE: attorney

SIGNATURE: Patricia Larson-Ball PHONE: 2-3212

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kell DATE: 2/2/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 04-04

Paper No. 4

KENT E. GENIN
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

COPY MAILED

APR 23 2004

OFFICE OF PETITIONS

In re Application of	:	
Obura et al.	:	
Application No. 10/470,605	:	DECISION GRANTING PETITION
Filed: 13 June, 2003	:	
Attorney Docket No. 7482/17	:	

This is a decision on the petition filed on 24 March, 2004, which is treated as a petition under 37 CFR 1.10(e)[1], requesting that the above-identified application be accorded a filing date of 13 June, 2003. This is also a decision on the petition under 37 CFR 1.183, filed on 24 March, 2004 (Express Mail date 13 June, 2003), requesting waiver of the requirements of 37 CFR 1.52 and 1.96(c) that a "computer program listing appendix" be submitted on compact disc.

---

[1] 37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

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

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in 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 Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The petition is **granted**.

Petition Under 37 CFR 1.10(e).

Petitioners allege that the application was deposited in "Express Mail" service with the U.S. Postal Service on 13 June, 2003. In support, petitioner provided a copy of the Express Mail label, receipt No. EV329001283US, showing a Date-in of 13 June, 2003. The same Express Mail receipt number was referred to on the itemized Utility Patent Application Transmittal sheet submitted with the present petition. Petitioners has provided a copy of, *inter alia*, 28 pages of specification (including one (1) title page and one (1) page of abstract), and nine (9) sheets of drawings, a declaration, a Preliminary Amendment, and a transmittal of compact discs.

Petitioners have also provided a copy of a postcard receipt, identifying the application by attorney docket number, first named inventor's last name, and the correspondence address, itemizing the above-identified items, and bearing an "Office-date" stamp of 13 June, 2003.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label.[2] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on 13 June, 2003.

The application will be processed and examined with a filing date of 13 June, 2003, using the copies of the application papers supplied with the present petition.

Petition Under 37 CFR 1.183.

Petitioners request waiver of the rules and leave to submit the "computer program listing appendix" in microfiche format rather than on a compact disc, or, alternatively, on compact discs holding digital images of the original microfiche appendix. Petitioners assert that the present application is a continuation of prior-filed application No. 09/129,332, filed 5 August, 1998, for which a microfiche appendix was submitted under prior 37 CFR 1.96, which permitted submission a computer program listing

[2] MPEP 513.

appendix in microfiche form, and for which a microfiche appendix was submitted. Petitioners further assert an electronic version of the original program listing is no longer available.

In view of the particular circumstances of this case when viewed in totality, and in light of petitioners' submission of the computer program listing appendix in microfiche form, 37 CFR 1.96(c) is waived to the extent that petitioners may submit a microfiche copy of the computer program listing appendix in lieu of a compact disc copy in accordance with 37 CFR 1.96(c).

In view of the above, the petition is granted. A petition fee of $130.00 will be charged for the petition under 37 CFR 1.183 as authorized on the application transmittal sheet filed with the present petition.

The application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of 13 June, 2003, using the application papers supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW 03-04

Paper No. 3

HELLER EHRMAN WHITE & MCAULIFFE
1666 K STREET, NW, SUITE 300
WASHINGTON DC 20006

COPY MAILED

APR 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Mueller et al.	:	
Application No. 10/470,606	:	DECISION GRANTING PETITION
Filed: 3 July, 2003	:	
Attorney Docket No. 38005-0180	:	

This is a decision on the petition styled under 37 CFR 1.181, filed on 19 February, 2004, which is treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of 3 July, 2003.

The petition is granted.

Petitioner asserts that the above-identified application was filed on 3 July, 2003, but was subsequently lost in the U.S. Patent and Trademark Office. In support, petitioner presents a return postcard bearing a USPTO "Office-date" stamp dated 3 July, 2003. The postcard itemizes the filing of, *inter alia*, 43 pages of specification, 35 claims, and 20 sheets of drawings, and identifies the application by first named inventor's name, attorney docket number, invention title, and the attorney's law firm's name and address. The petition was also accompanied by 43 pages of specification, including an abstract and 35 claims, and 20 sheets of drawings. Petitioner requests that the application be accorded a filing date of 3 July, 2003, the date that the specification, claims, and drawings were filed in the USPTO.

In view of petitioners' postcard receipt, the evidence is convincing that the application papers deposited on 3 July, 2003, included, *inter alia*, 43 pages of specification, and 20 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application was complete on filing and entitled to a filing date of 3 July, 2003.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application has been assigned Application No. 10/470,606. All future correspondence regarding this application should reference this number.

The application file is being forwarded to Office of Initial Patent Examination for further processing with a filing date of 3 July, 2003, using the copy of the specification, claims, and drawings supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

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
DRW 04-04

RICHARD R MICHAUD
MCCORMICK PAULDING & HUBERT
185 ASYLUM STREET
CITYPLACE II
HARTFORD CT 06103-3402

COPY MAILED

APR 23 2004

OFFICE OF PETITIONS

In re Application of :
Mogens Ostegarrd-Nielsen :
Application No. 09/622,498 :
Filed: 23 October, 2000 :
Attorney Docket No. 6485 01WOUS :
:
: ON PETITION

In re Application ~~of~~ :
Mogens Ostegarrd-Nielson :
ok Application No. 10/470,607 :
Filed: 10 February, 2003 :
Attorney Docket No. 6485-01 WOUS :

This is a decision on the petition filed on 9 February, 2004, styled as a petition to treat a Continued Prosecution Application (CPA) as an application filed under 37 CFR 1.53(b), which is treated as a petition under 37 CFR 1.182.

The petition is granted to the extent indicated.

The above-identified application was filed on 23 October, 2000 as a national stage under 35 U.S.C. § 371 of PCT/SE99/02037, filed on 10 November, 1999. A final Office action was mailed on 9 October, 2002. On 10 February, 2003, a CPA was filed, accompanied by an amendment and a extension of time. The CPA was entered in the file as an RCE filed under 37 CFR 1.114, accompanied by a proper submission. A Notice of Allowance and Issue Fee Due and Notice of Allowability were mailed on 9 April, 2003. Corrected drawings were submitted on 24 June, 2003, and on 11 July, 2003 (certificate of mailing date 9 July, 2003) the issue fee was paid. The application issued as U.S. Patent No. 6,616,589 on 9 September, 2003. The petition filed on 9 February, 2004, was dismissed on 24 February, 2004.

STATUTE AND REGULATION

37 CFR 1.53(d) states, in pertinent part:

(1) A continuation or divisional application (but not a continuation-in-part) of a prior nonprovisional application may be filed a continued prosecution application under this paragraph, provided that:

(I) the prior nonprovisional application is either:

...

(C) The national stage of an international application that was filed under 35 U.S.C. 363 before May 29, 2000, and is in compliance with 35 U.S.C. 371; and

(ii) The application under this paragraph is filed before the earliest of:

(A) Payment of the issue fee on the prior application, unless a petition under § 1.313(c) is granted in the prior application;

(B) Abandonment of the prior application; or

(C) Termination of proceedings on the prior application.

(2) The filing date of a continued prosecution application is the date on which a request on a separate paper for an application under this paragraph is filed. An application filed under this paragraph:

...

(iv) Includes the request for an application under this paragraph, will utilize the file jacket and contents of the prior application, including the specification, drawings and oath or declaration from the prior application, to constitute the new application, and will be assigned the application number of the prior application for identification purposes.; and\

(v) Is a request to expressly abandon the prior application as of the filing date of the request for an application under this paragraph.

Section 201.06(d) of the Manual of Patent Examination Procedure (MPEP) states, in pertinent part:

> If application papers are in any way designated as a CPA filing under 37 CFR 1.53(d) (*e.g.*, contain a reference to 37 CFR 1.53(d), CPA, or continued prosecution application), the application papers will be treated by the Office as a CPA filed under 37 CFR 1.53(d), even though the application papers also contain other inconsistent designations (*e.g.*, the papers are also designated as an application filed under 37 CFR 1.53(b)).

OPINION

The present request for reconsideration requests that the CPA filed on 10 February, 2003, be considered "erroneous" and that the specification, claims, drawings, allegedly filed on 10 February, 2003, be considered a division under 37 CFR 1.53(b) of the present application, and that the present application not be considered abandoned in favor of the CPA filed on 10 February, 2003.

Petitioners' arguments have been carefully considered, but are not persuasive. At the outset, petitioner contends that a copy of the specification, claims, and drawings were filed on 10 February, 2003, along with the preliminary amendment and CPA request, but were lost after receipt in the Office. In support, petitioner points to the postcard receipt, bearing an Office-date of 10 February, 2003, a copy of which is filed with the petition filed on 9 February, 2004, itemizing the filing of 21 pages of specification, four (4) pages of claims, and four (4) sheets of drawings as well as the preliminary amendment. A review of the Official file reveals that no specification or drawings filed on 10 February, 2003, are located therein. Petitioners argue that the filing of the application papers evidences an intent to file an application under 37 CFR 1.53(b) rather than 1.53(d).

While petitioners' postcard does show that the application papers itemized thereon were filed in the USPTO on 10 February, 2003, such evidence, even if present in the file, would not support petitioners contention that an application under 37 CFR 1.53(b) was requested. MPEP 201.06(d) states, in pertinent part, that any new specification filed with the CPA request will be treated as a substitute specification in accordance with 37 CFR 1.125. The MPEP does not state that the filing of a copy of the specification with a CPA request serves as evidence that the

Office should treat the papers as an application under 37 CFR 1.53(b) rather than 37 CFR 1.53(d).

Rather, the MPEP unequivocally states that if the papers are in any way designated as a CPA, they will be treated as such, despite other instructions to the contrary.

Petitioner states that "[t]he full record makes it abundantly clear that Applicant intended to pursue Apparatus claims 1-8 and 17-30 as set out in the Preliminary Amendment of [Exhibit] B in a Divisional application, and that applicant intended to pursue the Method claims 10-18, which had been indicated to be allowable but for the Section 112 rejections, and claim 20 in the parent Application 09/622,398 as indicated in the Response to Office Action of [Exhibit] E."

Petitioners argument is unpersuasive, however, because the record reveals that a CPA request was filed on 10 February, 2003. As such, the Office is required to treat the CPA request as such. The record, therefore, evidences an intent to file a CPA in the present application. A CPA was intended, and a CPA was obtained.

Petitioners next argue that "general policies set out in the MPEP cannot override specific instructions given by Applicant in the Preliminary Amendment of [Exhibit] B and the response to Office Action of [Exhibit] E."

This argument also lacks merit. While the MPEP does not have the force of law or regulations as prescribed in Title 37 of the Code of Federal Regulations, the MPEP does serve as a reference work on the practices and procedures relative to the prosecution of patent applications before the U.S. Patent and Trademark Office. That is, petitioners, or petitioners representatives, knew or should have known the Office's procedure for processing papers marked as requests for a CPA. The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[1] That is, waiver of the rules is not warranted when a party makes an avoidable mistake in filing papers.[2] While the

---

[1] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[2] See Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight

MPEP does not have the force or rules, petitioners nevertheless, have not presented any compelling reasons why the Office should deviate from its stated practice in this particular case.

Furthermore, assuming the USPTO were to accept the argument advanced above, the papers filed by applicant, considered in view of the file, do **not** clearly indicate the intent to file an application under 37 CFR 1.53(b) rather than under 37 CFR 1.53(d). At best, the conflicting instructions of the preliminary amendment, a copy of which is not located in the official file for this application, and the CPA present conflicting instructions. Furthermore, the preliminary amendment simply requests a "continuing application". Since a CPA is a subclass of continuing application, treatment of the preliminary amendment and application papers as a CPA, particularly in view of the fact that nowhere in the papers allegedly or actually filed on 10 February, 2003, is it specified that a continuation under 37 CFR 1.53(b) is requested, is not inconsistent with the words contained on the papers themselves. Rather, in view of the filing of the CPA request on 10 February, 2003, the Office properly treated the CPA as such.

As petitioners correctly points out, applicants' CPA request was incorrectly entered in the file as an RCE. This error occurred because the date the instant application under 35 U.S.C. 371 was filed was after 29 May, 2000, and CPA practice does not apply to applications filed after 29 May, 2000. The § 371 filing date was apparently erroneously construed as the filing date of the application. However, this mistake was subsequently rectified. CPA practice does apply to this application because the filing date of the application is the date the PCT application was filed, which is prior to 29 May, 2000. As such, the petitions attorney did not "revise" PTO records, but simply noted that the record, as previously stated, contained an error. Neither the petitions attorney nor the examiner have the authority to treat a CPA as an RCE when a CPA was properly filed.

---

that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183); Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail"), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.1996); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule); In re Chicago Historical Antique Automobile Museum, Inc., 197 USPQ 289 (Comm'r Pats. 1978) (since Certificate of Mailing procedure under 37 CFR 1.8 was available to petitioner, lateness due to mail delay not deemed to be extraordinary situation).

In summary, petitioners have not presented convincing evidence that the CPA filed on 10 February, 2003, should not have been treated as such.

Nevertheless, MPEP 201.06(d) states, in pertinent part:

> In the event that a substitute specification or preliminary amendment containing new matter was filed with a request for a CPA, applicant may file a petition under 37 CFR 1.182 requesting that the substitute specification or preliminary amendment be removed from the CPA application file, and be accorded the status as a separate application by being placed in a new file wrapper and assigned a new application number, with the new application being accorded a filing date as of the date the request for a CPA and substitute specification/preliminary amendment were filed. Of course, a request for a CPA is not improper simply because the request is accompanied by a substitute specification or preliminary amendment containing new matter. Thus, an applicant will not be entitled to a refund of the filing fee paid in a proper CPA as a result of the granting of a petition under 37 CFR 1.182 requesting that the substitute specification or preliminary amendment be removed from the CPA application file.

As such, in accordance with applicants' stated desire that the papers filed on 10 February, 2003, be treated as a division of the prior-filed application, the CPA request and preliminary amendment filed on 10 February, 2003, and the copy of the application papers supplied on petition on 9 February, 2004, have been removed from the file of Application No. 09/622,498 and have been assigned Application No. 10/470,607. All future correspondences regarding this continuing application should be directed to that application number.

In accordance with the MPEP, as stated above, applicants must pay the statutory basic filing fee and any other filing fees due in the divisional application.

As a petition under 37 CFR 1.182 is required, a petition fee of $130.00 is due and will be charged to counsel's deposit account, No. 13-0235 as authorized in the preliminary amendment filed on 10 February, 2003.

Application No. 09/622,498 is being forwarded to Files Repository.

Application No. 10/470,607 is being forwarded to the Office of Initial Patent Examination for further processing as a continuation application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of 10 February, 2003, using the preliminary amendment supplied with the CPA request and the application papers filed with the prior petition.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

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
DIW 04-04

Paper No. 3

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

COPY MAILED

MAY 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Boyle et al. :
Application No. 10/470,610 : DECISION GRANTING PETITION
Filed: 25 August, 1999 :
Attorney Docket No. 0275Y-222/CPB :

This is a decision on the petition filed on 9 March, 2004, which is treated as a petition under 37 CFR 1.10(e)[1], requesting that the above-identified application be accorded a filing date of 25 August, 1999.

The petition is **granted**.

Petitioners allege that the application was deposited in "Express Mail" service with the U.S. Postal Service on 25 August, 1999.

---

[1] 37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

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

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in 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 Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

In support, petitioners provided a copy of the Express Mail label, receipt No. EJ179205641US, showing a Date-in of 25 August, 1999. The same Express Mail receipt number was referred to on the itemized Utility Patent Application Transmittal sheet submitted with the present petition. Additionally, the USPTO's USPS Express Mail Information Database shows that the above-identified Express Mail Number was accepted by the USPS on 25 August, 1999. Petitioners have provided a copy of, *inter alia*, 21 pages of specification (including one (1) page of abstract), and four (4) sheets of drawings.

Petitioners have also provided a copy of a postcard receipt, identifying the application by attorney docket number, first named inventor's last name, and invention title, itemizing the above-identified items, and bearing an "Office-date" stamp of 25 August, 1999.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label.[2] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on 25 August, 1999.

The application will be processed and examined with a filing date of 25 August, 1999, using the copies of the application papers supplied with the present petition.

The application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of 25 August, 1999, using the application papers supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at 703 308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] MPEP 513.

The above-identified application became unintentionally abandoned after July 22, 2003, which was the date that a response to the April 22, 2003 Office Action was originally due. The Notice of Abandonment has not yet been received by the Assignee, although Applicants' undersigned attorney spoke with Examiner Shanon A. Foley, Group Art Unit 1648, in a telephone conversation last week initiated by the Examiner.

It is hereby requested that this application be revived because the entire delay in filing the response to the April 22, 2003 Office Action until the filing of this Petition was unintentional.

As indicated above, a response to the April 22, 2003 Office Action in the form of an Continuation Application Under 37 CFR § 1.53(b) is being submitted concurrently herewith and is attached as Exhibit 1. Also attached as Exhibits 2-8 are requests for seven divisional applications based upon the instant parent. These seven divisional filings follow from the restriction requirement set forth in the July 5, 2001 Office Action.

The fee for filing a Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. §1.137(b) is $665.00 for a small entity. Small entity status was previously established in this application and is still applicable. The Patent and Trademark Office is hereby authorized to charge Deposit Account No. 05-1135 for the requisite large entity fee of $665.00. The Patent and Trademark Office is further authorized hereby to charge Deposit Account No. 05-1135 for any other fees required in connection with this Petition, the attached Amendment, or to credit any overpayment thereto.

A duplicate copy of this Petition but without attached Exhibits 1-8 is also submitted herewith.

Favorable action on this Petition is earnestly solicited.

Respectfully submitted,

Ronald C. Fedus
Registration No. 32,567
Attorney for Applicants

ENZO THERAPEUTICS, INC.
c/o Enzo Biochem, Inc.
527 Madison Avenue (9th Fl.)
New York, NY 10022-4304
Telephone: (212) 583-0100
Fax: (212) 583-0150

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

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK, NY 10022

COPY MAILED

MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of
Ilan et al.
Application No. 10/470,611
Filed: December 8, 2003
Attorney Docket No. Enz-59(C)

Decision on Petition and
Notice of Omitted Item

This is a decision on the petition filed , to accord the above-identified application a filing date of December 8, 2003.

The petition is granted to the extent indicated below.

On December 8, 2003, the application was deposited.

On September 23, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings.

In response, petitioner alleges requests transfer of drawings from a parent application and to maintain a filing date of December 8, 2003.

A review of the record indicates a Notice of Omitted Items should have been mailed rather than a Notice of Incomplete Application. Specifically, the Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113.

The Notice mailed September 23, 2004, is hereby vacated.

Since petitioner might not have filed a petition if a Notice of Omitted Items was mailed, the Office has not charged the $400 petition fee to petitioner's deposit account.

As a result of the above decision, the present application has been accorded a filing date of December 8, 2003. However, the drawings described in the specification appear to have been omitted.

Petitioner has three options:

(1) Should petitioner contend that the figure was, in fact, physically deposited in the Patent and Trademark Office (Office) on December 8, 2003, with the other papers, a petition and the $400.00 petition fee (which will be refunded if it is determined that the figure was, in fact, received by the Office) with evidence of such deposit must be filed within **TWO MONTHS** of the date of this notice.

(2) Should applicant desire to supply the drawings and accept the date the figure is filed in the Office as the filing date, the figure, a petition under 37 CFR 1.182 requesting that the filing date be corrected to correspond to the date the figure is filed in the Office and the $400.00 petition fee must be filed within **TWO MONTHS** of the date of this notice.

(3) Take no action under either (1) or (2) above and accept the filing date for the application without drawings. Should option (3) be chosen, petitioner is advised to file a preliminary amendment with the Office prior to the first Office action canceling all references in the specification to the missing drawings. In the alternative, petitioner may seek to add some or all of the figures by amendment. If an amendment is filed adding the missing figures, the amendment will be considered by the examiner for entry of new matter not described in the application as filed.

Any response under options (1) or (2) should be directed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

At this time, the drawings filed with the petition will not be entered as part of the original application.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 8, 2003, using the application papers filed on December 8, 2003.

Telephone inquiries 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

SEP 21 2004

In re Application of	:	
Jiten Chatterji et al.	:	
Serial Number: 10/470,612	:	PETITION UNDER
Filed: May 05,2004	:	M.P.E.P.708.02 IV
For: METHODS AND COMPOSITIONS FOR CEMENTING SUBTERRANEAN ZONES	:	

This is in response to the petition filed May 5, 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

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

Roland W. Norris
Pauley Petersen Kinne & Erickson
2800 West Higgins Road
Suite 365
Hoffman Estates, IL 60195

COPY MAILED

MAY 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Frieder et al. :
Application No. 10/470,613 :
Filed: August 1, 2003 :
For: Hardware Assisted Pruned Inverted :
Index Component :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10(e), requesting that a utility application entitled "Hardware Assisted Pruned Inverted Index Component" be assigned an application number and accorded a filing date of August 1, 2003.

Petitioner alleges that the application was deposited in Express Mail service with the United States Postal Service (USPS) on August 1, 2003. In support of the allegation, petitioner provided a copy of the Express Mail label, receipt No. EV316930656US, showing a date-in of August 1, 2003. The same Express Mail receipt number was indicated on the copy of the original application papers submitted with the present petition.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label. See MPEP 513. This is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on August 1, 2003.

Accordingly, the petition is **granted**.

This application file will be forwarded to the Office of Initial Patent Examination for processing as a new utility application, No. 10/470,613, with the filing date of August 1, 2003.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

THOMAS J. PERKOWSKI, ESQ., P.C.
SOUNDVIEW PLAZA
1266 EAST MAIN STREET
STAMFORD CT 06902

COPY MAILED
MAY 27 2004
OFFICE OF PETITIONS

In re Application of
David M. Wilz, Sr. et al.
Application No. 10/114,422
Filed: April 1, 2002
Attorney Docket No. 108-027USANGO

ON PETITION

In re Application of
David M. Wilz, Sr. et al.
Application No. 10/470,616
Filed: December 8, 2003
Attorney Docket No. 108-027USANGO

This is a decision on the petition, filed March 19, 2004, in application no. 10/114,422 to "accord official filing receipt and serial number to new patent application", which is being treated as a petition under 37 CFR 1.182.

On December 8, 2003, papers were filed in applicationno. 10/144,422, which purported to be a Continuation Application under 37 CFR 1.53(b). The transmittal letter was labeled "Application Serial No. 10/114,422" and identified the application as a continuation of application 10/114,422, filed April 1, 2002. The transmittal letter was accompanied by, *inter alia*, a copy of the oath or declaration from the prior application, a preliminary amendment, specification, claims, and drawings.

Proof of filing the continuation application is supported by a date-stamped postcard receipt. The postcard receipt received back by the petitioner, while date-stamped by the USPTO, did not bear a new application serial number.

A review of USPTO records revealed that the application papers filed December 8, 2003 had not been processed as a continuation application but instead were made a part of the instant application, in part because the papers identified the filing as one in application no. 10/114,422. The papers making up the continuation application should

have left blank the application no. In view of the above, application no. 10/470,616 has been created from the complete December 8, 2003 filing, which includes the transmittal letter, a copy of the oath or declaration from the prior application, preliminary amendment, specification, claims, and drawings.

The petition therefore is **GRANTED** and petitioner's deposit account no. 16-1340 has been charged in the amount of $130.00 for the petition.

Continuation application 10/470,616 will be forwarded to the Office of Initial Patent Examination for examination in due course as an application under 37 CFR 1.53(b) and for the issuance of a filing receipt.

The instant application will be forwarded to the Publishing Division to be published into a Patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

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

~~In re Application of~~
~~Frame et al.~~
~~Application No. 10/244,992~~
~~Filed: September 17, 2002~~
~~Attorney Docket No. COMP:0081–1/VAN~~
~~P99-2917~~
~~For: COMPUTER SYSTEM AND~~
~~CHASSIS~~

COPY MAILED

AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of
Frame et al.
Application No. 10/470,617
Filed: December 2, 2003
For: COMPUTER SYSTEM AND
CHASSIS

: DECISION GRANTING PETITION
: AND
: ASSIGNMENT OF APPLICATION
: NUMBER

This is a decision on the paper filed by facsimile on June 25, 2004, which is being treated as a petition requesting that the continuation application be accorded a filing date of December 2, 2003, with the copy of the specification as part of the original disclosure. Application No. 10/244,992 was forwarded to the undersigned to resolve the issue of the filing date of the continuation application of application No. 10/244,992.

A review of application No. 10/244,992 reveals that the following papers were submitted on December 2, 2003: (1) a transmittal letter that included a request for a continuing application under 37 CFR 1.53(b) and an authorization to charge the filing fee to a deposit account; (2) a copy of the declaration under 37 CFR 1.63 of the prior application No. 10/244,992; (3) power of attorney by assignee with a copy of the assignment of the prior application No. 10/244,992; (4) ten sheets of drawings; (5) a paper labeled "Preliminary Amendment" which includes a section labeled "Amendments to the Specification" and a section labeled "Amendments to the Claims"; and (6) an information disclosure statement (IDS).

The transmittal letter filed on December 2, 2003, indicates that an application under 37 CFR 1.53(b) was being filed. The application papers were **not** in any way designated as a continued

prosecution application(CPA) filing under 37 CFR 1.53(d) and they were **not** designated as a Request for Continued Examination (RCE) filing under 37 CFR 1.114. The Office, however, mistakenly processed the application as an RCE under 37 CFR 1.114. Since the application was processed as an RCE, the prosecution of the prior application No. 10/244,992 was reopened. Thereafter, the declaration under 37 CFR 1.131 filed on April 7, 2004 was entered into the file of the prior application No. 10/244,992 and an Office action in response to the RCE was mailed in the prior application No. 10/244,992 on April 15, 2004. On May 6, 2004, a Notice of Allowance and Fee(s) Due and a Notice of Allowability that included an initialed copy of the information disclosure statement form were mailed in the prior application No. 10/244,992.

Since the transmittal letter clearly indicated that the application was being filed under 37 CFR 1.53(b), the application papers filed December 2, 2003, must be processed as an application under 37 CFR 1.53(b). Accordingly, the application papers filed on December 2, 2003 (including the transmittal letter, declaration under 37 CFR 1.63, power of attorney, ten sheets of drawings, and the paper labeled as "Preliminary Amendment", and the information disclosure statement), have been removed from the prior application No. 10/244,992 and have been assigned a new application number, application No. **10/470,617**. All further communications concerning the continuation application filed on December 2, 2003, should be directed to that application number.

The Office action mailed on April 15, 2004 and the Notice of Allowance and Fee(s) Due and the Notice of Allowability mailed on May 6, 2004, were sent in error and are hereby **vacated**. The Office action and notices will be retained in the prior application No. 10/244,992, but, they are of no effect because they were sent in error.

A review of the application papers filed December 2, 2003, also revealed that a specification appeared to have been omitted from the application papers. Accordingly, on June 25, 2004, applicants submitted by facsimile a paper that includes a copy of applicants' stamped postcard receipt acknowledging receipt in the Office on December 2, 2003, of "Parent Application; Parent Drawings; Request for Filing Continuation Application Under 37 CFR Section 1.53(b); Preliminary Amendment; Parent POA; Parent Assignment and Notice of Recordation of Assignment; Parent Declaration; IDS; PTO-1449" and a copy of the specification. As noted above, the paper submitted by facsimile on June 25, 2004, is being treated as a petition requesting that the continuation application be accorded a filing date of December 2, 2003, with the copy of the specification as part of the original disclosure.

Since no item corresponding to "Parent Application" is among the papers that are present in the application file, the postcard receipt is convincing that a specification (i.e., a copy of the specification from the parent application) was filed on December 2, 2003. Applicants, however, are strongly cautioned that when submitting a self-addressed stamped postcard each separate component should be specifically and properly itemized on the postcard and include the number of pages being submitted, e.g., the number of pages of specification (including written description,

claims and abstract), number of sheets of drawings, and number of pages of oath/declaration. If even one page of an item listed on a postcard is received and the number of pages is not specified on the postcard receipt, the postcard receipt will not serve as *prima facie* evidence of receipt of all of the pages of that item. See MPEP § 503.

The petition is **granted**. No petition fee is required.

After mailing of this Notice, the Office records will be corrected to show that the filing fees ($770.00 basic filing fee, $54.00 for 3 claims in excess of 20) paid on December 2, 2003, were paid in the continuation application No. 10/470,617, not in the prior application No. 10/244,992.

Application No. 10/244,992 is being returned to the Technology Center Art Unit 2835 for further processing.

The continuation application No. 10/470,617 is being forwarded to Initial Patent Examination Division for further processing as a continuation application under 37 CFR 1.53(b) with a filing date of **December 2, 2003**, using the application papers filed on that date and the copy of the specification supplied on June 25, 2004.

Telephone inquiries specific to this matter should be directed to the undersigned at (703)306-5586.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

Michael G. Fletcher
Fletcher, Yoder & Van Someren
P.O. Box 692289
Houston TX 77269-2289

COPY MAILED

JUL 22 2004

OFFICE OF PETITIONS

In re Application of
Gurtej S. Sandu
Application No. 09/754,440
Filed: January 4, 2001
Attorney Docket No. MICS:0013-2/FLE
93-0471.02

DECISION ON PETITION

In re Application of
Gurtej S. Sandu
Application No. 10/470,618
Filed: January 2, 2003
Attorney Docket No. MICS:0013-2

This is a decision on petition under 37 CFR 1.181, filed March 26, 2003, to withdraw the holding of abandonment.

This is also a decision on the petition under 37 CFR 1.53(e) filed March 26, 2003, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR 1.53(d) be treated as an application under 37 CFR 1.53(b) and be accorded a filing date of January 2, 2003.

On July 8, 2002, a nonfinal Office action was mailed, which set a three (3) month shortened statutory period for reply. In response, on January 2, 2003, petitioner deposited a request for a CPA under 37 CFR 1.53(d) based on prior application No. 09/754,440 and paid a $750.00 filing fee, a $1,062.00 fee for claims in excess of twenty, and a $504.00 fee for independent

claims in excess of three. Additionally, petitioner authorized the Commissioner to credit overpayments or charge any fees required under 37 CFR 1.16, 1.17, and 1.18 to petitioner's Deposit Account. The Office notes that petitioner was required to obtain a three (3) month extension of time for the reply to be considered timely filed. Unfortunately, the Office did not previously charge petitioner's Deposit Account for the necessary extension of time fee to reply. Accordingly, the Office will charge Deposit Account No. 13-3092 in the amount of $930.00 for an extension for response within the third month.

The Office notes that at the time the CPA was filed CPA practice no longer applied to applications, other than design applications, if the prior application was filed on or after May 29, 2000. Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.[1]

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR 1.114.

On February 25, 2003, the Office mailed a Notice of Improper Request for Continued Examination (RCE) and a Notice of Abandonment. The Notice of Improper RCE indicated that the RCE was improper because continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. The Notice further indicated that a RCE filing must be accompanied by a submission. Accordingly, the application became abandoned on January 9, 2003, for failure to properly reply to the nonfinal Office action.

On March 26, 2003, petitioner filed the present petition under 37 CFR 1.181 to withdraw the holding of abandonment, as well as a petition under 37 CFR 1.53(e).

---

[1] Effective July 14, 2003, the Office eliminated CPA practice as to utility and plant applications. *See Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications, 68 FR 32376 (May 30, 2003), 1271 Off. Gaz. Pat. Office 143 (June 24, 2003) (final rule).*

Consideration of the petition under 37 CFR 1.181:

Petitioner contends that the application is not in fact abandoned. Petitioner states that in response to the nonfinal Office action of July 8, 2002, petitioner filed a CPA. Petitioner states that where an application would otherwise become abandoned, an improperly filed CPA should be converted to a continuation application under 37 CFR 1.53(b) rather than an RCE because the mere filing of the request for CPA with the filing fees indicates petitioner's desire for the continued prosecution of the application. Finally, petitioner asserts that the request for a CPA, although improper, was a sufficient reply to the nonfinal Office action, and therefore, the Notice of Abandonment was issued in error.

As previously stated, in the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR 1.114. The Office will not automatically convert an improper CPA to a continuation application under 37 CFR 1.53(b). Additionally, petitioner did not submit a proper response such as an amendment in response to the nonfinal Office action to avoid abandonment. Accordingly, the Notice of Abandonment was properly mailed.

The petition under 37 CFR 1.181 is **dismissed**.

Consideration of the petition under 37 CFR 1.53(e):

Petitioner requests that the improper CPA be converted to an application under 37 CFR 1.53(b). With the present petition, petitioner submitted a copy of the specification as originally filed and a preliminary amendment. The Office has made photocopies of the drawings and declaration of the prior application as originally filed to expedite the processing of the application and prevent further delay.

The petition under 37 CFR 1.53(e) is **granted**.

The application under 37 CFR 1.53(b) filed on January 2, 2003, has been assigned application No. 10/470,618. The CPA request, the present petition, the copy of the specification as originally filed and the preliminary amendment have been removed from the

file of application No. 09/754,440 and have been placed in application No. 10/470,618. A copy of the CPA request and the present petition have been retained in application No. 09/754,440 to complete the record therein. All further correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 10/470,618, not application No. 09/754,440.

The Office finance records will be corrected to show that the $130.00 petition paid on March 26, 2003, the $750.00 filing fee, the $1,062.00 fee for claims in excess of twenty, and the $504.00 fee for independent claims in excess of three paid on January 2, 2003, were paid in application No. 10/470,618, not in application No. 09/754,440.

Applicant must promptly file an amendment to the specification in application No. 10/470,618 to indicate that this application is a continuation of prior application No. 09/754,440 in order to properly claim the benefit of application No. 09/754,440. See 37 CFR 1.78 and 121 and MPEP 201.11.

Application No. 09/754,440 will be forwarded to Files Repository.

Application No. 10/470,618 will be forwarded to the Office of Initial Patent Examination for further processing as a continuation application of prior application No. 09/754,440, filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of January 2, 2003, using the copy of the original application papers submitted on March 26, 2003, and the copy of the drawings and declaration prepared by the USPTO.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 07-04

Paper No. 3

ROLAND W. NORRIS
PAULY PETERSEN KINNE & ERICKSON
2800 WEST HIGGINS ROAD; SUITE 365
HOFFMAN ESTATES IL 60195

COPY MAILED
JUL 2 8 2004
OFFICE OF PETITIONS

In re Application of	:	
Frieder et al.	:	
Application No. 10/470,619	:	DECISION GRANTING PETITION
Filed: 1 August, 2003	:	
Attorney Docket No. IIT-191	:	

This is a decision on the petition under 37 CFR 1.10(e)[1] filed on 10 February, 2004, requesting that the above-identified nonprovisional application be accorded a filing date of 1 August, 2003.

---

[1] 37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

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

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in 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 Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Petitioners allege that the application was deposited in "Express Mail" service with the U.S. Postal Service on 1 August, 2003. In support, petitioner provided a copy of the Express Mail Customer Label No. EV316930656US, showing a Date-in of "8-1-03". The same Express Mail receipt number was referred to on the itemized Provisional Application Transmittal sheet submitted with the present petition. Petitioners have provided a copy of 14 pages of specification (description), five (5) pages containing Claims 1-20, one (1) page of abstract, and eight (8) drawing sheets.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label.[2] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on 1 August, 2003.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application will be processed with a filing date of 1 August, 2003, using the copies of the application papers supplied with the present petition.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 1 August, 2003, using the application papers supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] MPEP 513.

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.

Motorola Energy Systems Group
Intellectual Property Department
1700 Belle Meade Court
Lawrenceville, GA 30043

COPY MAILED

AUG 1 9 2004

OFFICE OF PETITIONS

In re Application of
Hassenzahl et al.
Application No. 09/761,345
Filed: January 17, 2001
Attorney Docket No. EN11218

DECISION ON PETITION

In re Application of
Hassenzahl et al.
Application No. 10/470,620
Filed: February 11, 2003
Title: LABEL WITH ADHESIVE ON TWO SIDES

This is in response to the petition filed June 19, 2003 and the petition filed January 9, 2004, which are treated as a petition under 37 CFR 1.53(e) requesting that the improper CPA be converted to an application under 37 CFR 1.53(b).

On November 21, 2002, a non-final Office action was mailed in application No. 09/761,345, which set a three (3) month shortened statutory period for reply. In response, a request for a CPA under 37 CFR § 1.53(d) based on prior application No. 09/761,345 was filed on February 11, 2003. However, CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May 29, 2000. Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114.

On May 8, 2003, a Notice of Improper Request for Continued Examination (RCE) was mailed, stating that continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. The Notice further indicated that if the RCE was <u>not</u> accompanied by a reply, the

time period set forth in the last Office action continued to run from the mail date of that action. A Notice of Abandonment was mailed on June 30, 2003.

A petition under 37 CFR 1.53(e) to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must include:

(A) the $130.00 petition fee;
(B) a true copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR 1.53(d);
(C) any amendments entered in the prior nonprovisional application;
(D) any amendments submitted but not entered in the prior nonprovisional application and directed to be entered in the application papers filed under 37 CFR 1.53(d); and
(E) an executed oath or declaration under 37 CFR 1.63, if one has not already been submitted with the application papers filed under 37 CFR 1.53(d).

Petitioners' request to treat the improper CPA as a continuing application under § 1.53(b) is **GRANTED**

The application under 37 CFR 1.53(b) filed on February 11, 2003, using the application papers submitted on June 19, 2003 has been assigned application No. 10/470,620. The CPA request and papers filed therewith, the present petition, the copy of the application as originally filed, and the preliminary amendment have been removed from the file of application No. 09/761,345 and have been placed in application No. 10/470,620. A copy of the CPA request and the present petition will be retained in application No. 09/761,345.

All future correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 10/470,620, <u>not application No. 09/761,345.</u>

Applicants filed the continuing application in response to the non-final Office action mailed November 21, 2002. Application No. 09/761,345 is abandoned for failure to reply to the non-final Office action mailed November 21, 2002.

The petition fee has been charged to Deposit Account No. 50-2117, as authorized.

The Office finance records will be corrected to show that the $750.00 filing fee paid on February 11, 2003, was paid in application No. 10/470,620, <u>not in application No. 09/761,345</u>.

Petitioners also request that the application under § 1.53(b) include a priority claim to the prior application. However, petitioners have not, as required by 37 CFR § 1.78(a)(2)(i), amended the application 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. In order to claim the benefit of prior application No. 09/761,345, applicants must submit the reference required by 37 CFR 1.78(a)(2). The required reference must be included in an

application data sheet or the specification must be amended to contain such reference in the first sentence following the title. If such an amendment or application data sheet is filed within **TWO MONTHS** of the mail date of this decision, a petition under 37 CFR 1.78 to accept an unintentionally delayed claim for priority will not be required. This two-month period is not extendable. See 37 CFR § 1.181(f).

Application No. 09/761,345 will be forwarded to Files Repository for storage as an abandoned file.

Application No. 10/470,620 will be forwarded to the Office of Initial Patent Examination for further processing as a divisional application filed under 37 CFR 1.53(b) of prior application No. 09/761,345, not under 37 CFR 1.53(d), with a filing date of February 11, 2003, using the copy of the of the original application papers submitted on June 19, 2003.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Nancy Johnson (703)305-0309.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

NJ

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

OFFICE OF THE ASSOC. GEN. COUNSEL (IP & T)
9800 SAVAGE ROAD
SUITE 6542
FORT MEADE, MD 20755-6542

COPY MAILED

AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Ammlung, et al.	:	DECISION GRANTING
Application No. 10/470,621	:	PETITION
Filed: January 8, 2004	:	
Attorney Docket No. Ammlung 1-5	:	

This is a decision on the petition styled, "DUPLICATE FILE TO AND PETITION TO PRESERVE FILING DATE FOR CORRESPONDENCE NEVER RECEIVED UNDER 37 CFR 1.10," which has been treated as a petition under 37 CFR 1.10(e), filed July 8, 2004.

Please note, the papers submitted July 8, 2004, have been assigned application number 10/470,621. Please direct all future correspondence to this application number.

Petitioners allege that the application was deposited in Express Mail service on January 8, 2004. In support, the petition is accompanied by a copy of Express Mail Receipt No. EK962168204US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of January 8, 2004. Petitioner requests that the application be accorded a filing date of January 8, 2004.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 515. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on January 8, 2004.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of January 8, 2004.

Since the instant petition has been granted, no petition fee is required.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of January 8, 2004 and issuance of a filing receipt.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

GRAY, CARY, WARE & FREIDENRICH LLP
1221 SOUTH MOPAC EXPRESSWAY
SUITE 400
AUSTIN TX 78746-6875

COPY MAILED
AUG 0 6 2004
OFFICE OF PETITIONS

In re Application of	:
Roger L. Bottomfield	:DECISION GRANTING PETITION
Application No. 10/470,622	:
Filed: October 9, 2002	:
Title: Non-Invasive System and	:
Method for Diagnosing Potential	:
Malfunctions of Semiconductor	:
Equipment Components	:

This is a decision on the petition under 37 CFR 1.183, filed on June 24, 2004, which is being treated a petition under 37 CFR 1.182, requesting that a nonprovisional application entitled "Non-Invasive System and Method for Diagnosing Potential Malfunctions of Semiconductor Equipment Components" be assigned an application number and accorded a filing date of October 9, 2002.

The petition identifies the application filed on October 9, 2002, as a continuation of prior application No. 09/795,239. The original application papers filed on October 9, 2002, have been located in the file of prior application No. 09/795,239, and have now been assigned application No. 10/470,622. All future correspondence concerning the present application should be directed to that application number.

The original papers filed on October 9, 2002, will be used for examination purposes.

Accordingly, the petition is granted.

No petition fee is necessary. Therefore, the Office is returning petitioner's check, No. 561539, in the amount of $130.00.

The Office finance records will be corrected to indicate that the basic filing fee was paid in application No. 10/470,622, and not in application No. 09/795,239

Application No. 09/795,239 is being returned to Files Repository.

Application No. 10/470,622 is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 9, 2002, using the application papers submitted on filing, and for the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC11
AUG 0 3 2004
PATENT & TRADEMARK OFFICE

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

Paper No. 11

William Holst
7704 West Oraibi Drive
Glendale AZ 85308

COPY MAILED
JUN 2 8 2004
OFFICE OF PETITIONS

In re Application of
William Holst et al.
Application No. 10/042,374
Patent No. 6,671,589
Filed: January 4, 2002
Issue Date: December 30, 2003
Title: METHOD AND APPARATUS TO SUPPORT REMOTE AND AUTOMATICALLY INITIATED DATA LOADING AND DATA ACQUISITION OF AIRBORNE COMPUTERS USING A WIRELESS SPREAD SPECTRUM AIRCRAFT DATA SERVICES LINK

DECISION ON PETITION

This is a decision on the petition filed March 2, 2004 under 37 C.F.R. §1.181, which is properly treated as a petition under 37 C.F.R. §1.183 for the waiver of 35 U.S.C. §120 be waived so as to allow a continuation application to be granted an earlier filing date subsequent to the issuance of the parent application.

The above-identified application was filed on January 4, 2002. On April 18, 2003 a Notice of Allowability and Issue Fee Due (notice) was mailed. On July 14, 2003, the issue fee was received, along with a change of address and a specification. On December 30, 2003, the application issued as patent number 6,671,589.

With the instant petition, Petitioner has noted that the specification which was submitted along with the issue fee states that it is a continuation of the present application.

MPEP 201.06 sets forth:

A new application containing a copy of an oath or declaration under 37 CFR §1.63 referring to an attached specification is indistinguishable from a continuation or divisional application containing a copy of an oath or declaration from a prior application submitted pursuant to 37 CFR §1.63(d). Unless an application is submitted with a statement that the application is a continuation or divisional application, see 37 CFR §1.78(a)(2), the Office will process the application as a new non-continuing application. Applicants are advised to clearly designate any

continuation, divisional, or continuation-in-part application as such to avoid the issuance of a filing receipt that does not indicate that the application is a continuation, divisional, or continuation-in-part.

It appears that the sentence, in the absence of an accompanying Utility Application Transmittal Sheet, was insufficient to apprise the Office of Petitioner's intention.

Petitioner has set forth that "the content of the submittal should have been evaluated according to the conversation with the examiner on our intention to file a continuation to 10/042374 (petition, page 1)." Petitioner is reminded that 37 C.F.R. §1.2 sets forth:

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

As such, Petitioner cannot rely on any oral conversation which he might have had with the Examiner.

Petitioner requests that 35 U.S.C. §120 be waived. Unfortunately, the request to waive or suspend the requirements of a statute pursuant to 37 CFR §1.183 is beyond the discretion or the authority of the Office[1].

As such, the petition under 37 C.F.R. §1.183 must be **DISMISSED**.

Petitioner may wish to consider filing a renewed petition under 37 C.F.R. §1.182 requesting that the specification submitted along with the issue fee be removed from the file, placed in a new file, and accorded both a serial number and a filing date of January 4, 2002 as a continuation of the instant application. The fee associated with the filing of a petition under 37 C.F.R. §1.182 is $130.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.182." This is not a final agency action within the meaning of 5 U.S.C 704.

Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

---

1 See A. F. Stoddard & Co. v. Dann, 184 U.S. App. D.C. 71, 564 F.2d 556, 1977 U.S. App. LEXIS 11815, 195 U.S.P.Q. (BNA) 97 (1977) ("Executive Branch agencies, such as the PTO, having the obligation to carry out their duties under their authorizing statutes, and if they would avoid an exercise of the powers of another Branch, must in almost every case, follow the strict provisions of the applicable statute.").

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

4 (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.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

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

Encl. Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004)

cc: William Holst
6782 West Skylark Drive
Glendale, AZ 85308

Request for Alert Concerning Submitted Petitions

Background

On July 1, 2003, the Office instituted the Image File Wrapper (IFW) system to automate the prosecution of patent applications. All patent application documents that are part of the official record, including petitions, are converted to electronic form and stored in the electronic IFW.

When the IFW system was first implemented the system would only send a processing message to one organization within the USPTO even where a submission included matters treated by different areas of the Office. For example, if a submission included both an amendment and a petition of the type handled by the Office of Petitions (see MPEP 1002.02(b)), the IFW system would send a processing message to the Technology Center but not to the Office of Petitions. Improved software and internal procedures will soon create messages to alert both the Office of Petitions and the other organization handling the other documents, so the full submission will be correctly processed. However, there are a number of petitions of the type handled by the Office of Petitions for which the IFW system has not sent a processing message to the Office of Petitions.

To help assure prompt and proper service to the public, the Office is requesting applicants to assist the Office to process petitions by sending an e-mail alert to the office, in accordance with the following temporary procedures.

Petitions Types Affected:

Petitions that are decided by the Office of the Deputy Commissioner for Patent Examination Policy (listed in MPEP Sec. 1002.02(b)), including the Office of Patent Legal Administration (OPLA) and the Office of Petitions.

Examples of the most common petitions of these types are petitions to revive applications that are abandoned due to failure to respond to an Office action, petitions to withdraw an application from issue, petitions for patent term adjustments. Consult MPEP Sec. 1002.02(b) for the full list of affected petitions.

Petitions Types Not Affected:

Petitions for other offices within the USPTO, for example those decided by the Technology Centers (listed in MPEP Sec. 1002.02(c)) or the Office of Publications (listed in MPEP Sec. 1002.02(r)), are not part of this program, and applicants should not send an e-mail alert to the Office pursuant to this notice.

Temporary Procedures for an alert concerning submitted petitions:

1. Confirm that a submitted petition filed after June 30, 2003 has not been answered, either by checking your records or checking the postings on the Office's Patent Application Information Retrieval (PAIR) system. Applicants unfamiliar with the PAIR system may access information about it on the Office's web site: www.uspto.gov/ebc.

2. If a petition is filed, or has been filed after June 30, 2003, of the types listed in MPEP Sec. 1002.02(b), and applicant has not received a response to the petition or seen a response posted on the PAIR system, applicant is invited to send an e-mail alert to petitions@uspto.gov indicating the following information:

> application number of the application in which the petition(s) was filed
> date of petition(s)
> regulation under which petition(s) was filed, if known: (e.g. 37 CFR1.137(b), 37 CFR1.183, etc.)

3. Only the information described in paragraph 2 should be provided in the e-mail. Other information will not be considered. No attachments may be added to the e-mail. The e-mail will not be acknowledged or answered.

4. This e-mail alert will NOT be considered a communication in the file under 37 CFR 1.4(a)(2) and will not be entered into the file contents. The alert is NOT considered a status inquiry.

5. A single e-mail alert may include information on more than one unanswered petition. However, do not send in more than one alert per unanswered petition.

Example [e-mail addressed to petitions@uspto.gov]

The following petitions have not been answered to date:

Application No.	Petition Filed:	Reg:
10/111111	October 3, 2003	37 CFR 1.137(b)
10/222222	December 5, 2003	37 CFR 1.183

For Further Information Contact:

Questions or status inquiries concerning specific petitions should be directed to Office of Petitions Help Desk or by checking the status of the application on the Private PAIR system (see www.uspto.gov/ebc). Questions on the form of the e-mail should be directed to the EFS Help Desk, at (703) 305-3028.

STEPHEN G. KUNIN
Deputy Commissioner for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

William Holst
7704 West Oraibi Drive
Glendale AZ 85308

COPY MAILED

DEC 1 3 2004

OFFICE OF PETITIONS

~~In re Application of~~
~~William Holst et al.~~
~~Application No. 10/042,374~~
~~Patent No. 6,671,589~~
~~Filed: January 4, 2002~~
~~Issue Date: December 30, 2003~~
~~Title: METHOD AND APPARATUS TO SUPPORT REMOTE AND AUTOMATICALLY INITIATED DATA LOADING AND DATA ACQUISITION OF AIRBORNE COMPUTERS USING A WIRELESS SPREAD SPECTRUM AIRCRAFT DATA SERVICES LINK~~

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

In re Application of
William Holst et al.
Application No. 10/470,624
Filed: July 14, 2003
Title: Vehicle Data Services

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

This is a decision on the renewed petition filed August 3, 2004 under 37 C.F.R. §1.182 requesting that the specification submitted along with the issue fee be removed from the file, placed in a new file, and accorded both a serial number and a filing date of January 4, 2002 as a continuation of the instant application.

On March 2, 2004, petitioner filed the original petition under 37 C.F.R. §1.181, which was properly treated as a petition under 37 C.F.R. §1.183 for the waiver of 35 U.S.C. §120 be waived

so as to allow a continuation application to be granted an earlier filing date subsequent to the issuance of the parent application.

The above-identified application was filed on January 4, 2002. On April 18, 2003 a Notice of Allowability and Issue Fee Due (notice) was mailed. On July 14, 2003, the issue fee was received, along with a change of address and a specification. On December 30, 2003, the application issued as patent number 6,671,589.

The original petition was dismissed via the mailing of a decision on June 28, 2004, since the single sentence Petitioner placed in his specification, in the absence of an accompanying Utility Application Transmittal Sheet, was insufficient to apprise the Office of Petitioner's intention to file a continuation application.

A review of application no. 10/042,374 reveals that the following papers were submitted on July 14, 2003:

- A specification which contains the text "Cross Reference to related applications. This application is a continuation of 10/042,374, filed Jan. 4, 2002 entitled "method and apparatus to support remote and automatically initiated data loading and data acquisition of airborne computers using a wireless spread spectrum aircraft data services link."
- 26 claims
- an abstract
- Figures 1-5
- declaration
- a transmittal letter which itemizes "Continuation of Application 10/042,374 (37 pages)"
- certificate of mailing
- Information Disclosure Statement

The transmittal letter did not clearly indicate that the application was being filed under 37 C.F.R. §1.53(b), but the transmittal letter did state that a continuation application was included in the packet, and the first page of the specification did state that the application is a continuation of 10/042,374. Accordingly, the application papers filed on July 14, 2003 will be processed as an application under 37 C.F.R.§1.53(b). Accordingly, the application papers filed on July 14, 2003 (including the specification, the 26 claims, the abstract, Figures 1-5, and the declaration) have been removed from prior application no. 10/042,374 and have been assigned a new application number, **application no. 10/470,624**. All further communications concerning the continuation application filed on July 14, 2003 should be directed to that application number.

After the mailing of this decision, the Office records will be corrected to show that the filing fee of $375 paid on July 14, 2003 was paid in the continuation application no. 10/470,624, **not** in the prior application no. 10/042,374.

Application 10/042,374 is being forwarded to Files Repository.

The continuation application no. 10/470,624 is being forwarded to the Initial Patent Examination Division for further processing as a continuation application under 37 C.F.R. §1.53(b), with a filing date of July 14, 2003, using the application papers filed on that date.

It is noted that the address listed on the petition differs from the address of record. Petitioner has filed a change of correspondence address, however the request has not been signed by both inventors[1]. If petitioner desires to receive future correspondence regarding this application, a properly executed change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified application, and this form is executed by each of the joint inventors. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

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

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

cc: William Holst
6782 West Skylark Drive
Glendale, AZ 85308

1 See 37 C.F.R. §1.33.

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.

KENNETH P. GEORGE
AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVE
NEW YORK, NY 10016

COPY MAILED

SEP 07 2004

OFFICE OF PETITIONS

~~In re Application of~~
~~Hamzeh Karami, et al.~~
~~Application No. 09/844,726~~
~~Filed: April 27, 2001~~
~~Attorney Docket No. 34294/20~~

ON PETITION

In re Application of :
Hamzeh Karami, et al. :
Application No. 10/470,625 :
Filed: February 27, 2004 :
Attorney Docket No. 34294/46 :

This is a decision on the petition under 37 CFR 1.137(b) filed June 7, 2004, to revive Application No. 09/844,726. This petition is also being treated under 37 CFR 1.182 as a request to treat the application papers filed February 27, 2004 as an continuation application under 37 CFR 1.53(b) of prior application No. 09/844,726. The $130.00 petition fee is being charged to counsel's deposit account as authorized.

A review of the record of Application No. 09/844,726 reveals that the application became abandoned on November 27, 2003 for a failure to reply in a timely manner to the final Office action mailed August 26, 2003. A Notice of Abandonment was not mailed in the application. It is noted that on February 27, 2004, applicant submitted a preliminary amendment, a copy of a published application, an unexecuted declaration and fees totaling $2,120. For some unknown reason, the papers filed February 27, 2004 were treated as a timely response to the August 26, 2003 final Office action. On March 12, 2004, an Advisory Action was mailed stating that the proposed amendments would not be entered since they present additional claims without canceling a corresponding number of finally rejected claims.

In response, on June 7, 2004, the present petition was filed wherein petitioner explains that the papers filed February 27, 2004, were intended as a new continuation application of the above-identified application. Petitioner requests that the application papers be treated as a continuation application under 37 CFR 1.53(b) and accorded a filing date of February 27, 2004. Further, petitioner submits a Notice of Appeal as a proposed reply to the final Office action and requests that instant application also be revived for the purpose of continuity with the continuing application filed February 27, 2004.

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

The 2-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

The petition under 37 CFR 1.182 is **GRANTED.**

The continuation application under 37 CFR 1.53(b) has been assigned application No. 10/470,625. All further correspondence concerning the continuation application filed on February 27, 2004, should be directed to application No. 10/470,625.

In view of this decision, the papers filed February 27, 2004, have been removed from the file of application No. 09/844,726 and placed in the file of application No. 10/470,625. Since the petition filed June 7, 2004 in Application No. 09/844,726 is also being treated as a petition under 37 CFR 1.182 in Application No. 10/470,625, a copy of the petition (without exhibits) is being made of record in Application No. 10/470,625.

The $2,120 fees paid on February 27, 2004 in Application No. 09/844,726 will be reapplied to the filing fees of Application No. 10/470,625.

Application No. 10/470,625 will then be forwarded to Initial Patent Examination Division for processing as a continuation application under 37 CFR 1.53(b), with a filing date of February 27, 2004.

Application No. 09/844,726 will be returned to Technology Center AU 3761.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

CORPORATE PATENT COUNSEL
U.S. PHILLIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

COPY MAILED

SEP 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Andreas Hauer	:	DECISION DISMISSING
Application No. 10/470,626	:	PETITION
Received: June 22, 2004	:	
Attorney Docket No. AT 010063	:	

This is a decision on the "PETITION TO INVOKE THE SUPERVISORY AUTHORITY OF THE COMMISSIONER IN MATTERS NOT OTHERWISE PROVIDED FOR," filed June 22, 2004. This petition is properly treated pursuant to 37 CFR 1.10(e).

Petitioners allege that the original application papers for the above-identified application were deposited in Express Mail service on October 16, 2002, in accordance with the procedures set forth in 37 CFR 1.10 and thus, are entitled to the date of deposit in Express Mail service as their filing date. In support thereof, petitioners have supplied a copy of the nonprovisional application as originally filed, including the itemized application transmittal sheet showing the "Express Mail" mailing label No. EV031698732US thereon; applicants' itemized return postcard date-stamped October 16, 2002; and the affidavit of Barbara Kinney, attesting to the papers being submitted being true and correct copies of the return postcard and the application as deposited under Express Mail mailing label No. EV031698732US. Further, the petition which is signed by registered patent attorney Frank Keegan, states that the nonprovisional application papers filed on petition are true and correct copies of the papers originally filed October 16, 2002.

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 is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the

correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in 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.

The Office has no evidence of receipt of the papers as petitioner maintains they were originally filed on October 16, 2002. The evidence supports a conclusion that the number of the "Express Mail" mailing label was placed on the application transmittal, which specifically itemizes the application papers being filed therewith. The petition includes statements pursuant to § 1.10(e)(4).

However, the petition does not include a copy of the "Express Mail" mailing label. Thus, it does not include a copy of the "Express Mail" mailing label showing a date-in of October 16, 2002. Nor does it include 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.

Moreover, the petition was not filed until June 22, 2004, regarding papers petitioner maintains were filed almost 2 years prior on October 16, 2002. Petitioner states that "after diligent efforts petitioner has been unable to obtain any information from the United States Patent and Trademark Office on the status or location of the application." However, petitioner does not detail these efforts such that it can be concluded that petitioner acted promptly within the meaning of § 1.10(e)(1).

In view thereof, the petition under § 1.10(e) is **DISMISSED**.

No petition fee is required for consideration under § 1.10(e).

The application papers received on petition on June 22, 2004, have been assigned application No. 10/470,626. All further correspondence concerning this application should be directed to application No. 10/470,626.

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

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

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Effective June 5, 2004, patent correspondence delivered by hand or delivery services, **other than the USPS**, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309 (or effective September 28, 2004 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

Robert N. O'Brien
2614 Queenswood Dr.
Victoria, B.C. V8N 1X5

COPY MAILED

OCT 29 2004

OFFICE OF PETITIONS

In re Application of :
Robert N O'Brien :
Application No. 10/470,627 : ON PETITION
Deposited: July 2, 2002 :
Title of Invention: PROCESS FOR :
MAKING A LARVICIDAL EVAPORATION :
SUPPRESSANT POWDER :

This is a decision on the Petition Filed June 10, 2004, requesting that a nonprovisional application entitled "Process for Making a Larvicidal Evaporation Suppressant Powder" be assigned an application number and accorded a filing date of July 2, 2002.

In the present petition, applicant contends that the above identified application was deposited on July 2, 2002 and was accorded a filing date of July 2, 2002 and an application number of 10/188,410. Applicant contends when he contacted the Office to inquire into the status of the application he was informed a different application was being processed with the application number 10/188,410.

In support of applicant's assertion, applicant submitted a copy of a post card receipt with a date stamp of July 2, 2002, 11 pages of specification, 2 pages of claims, and an abstract.

Upon review of the evidence and the circumstances of this case, the petition is granted. The application papers have been assigned application No. 10/470,627. No petition fee is required.

Since the original application papers(specification, claims and abstract) cannot be located in the USPTO, the duplicate papers supplied on June 10, 2004 will be used for processing and examination purposes.

Petitioner has provided a copy of a check to establish the filing fee was previously submitted. However, a review of the check and Office finance records shows the copy of the check provided was

applied to an application no. 09/985,206 (filing date 11/2/2001) for which applicant is listed as the sole inventor. Accordingly petitioner must submit evidence of previous submission of the filing fee for the present application. If petitioner is unable to provide evidence that the filing fee was submitted, applicant is required to submit the current filing fee of $395.00.

It is noted that petitioner has made reference to a Petition to Make Special. A review of the application file shows such a petition is not present. If it is petitioner's intent to make the application Special, petitioner may wish to submit a new petition.

All further correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 10/470,627, not application 10/188,410.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of July 2, 2002**, using the copy of the original application papers submitted on July 10, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 23 2005

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

Robert N. O'Brien
2614 Queenswood Drive
Victoria BC V8N 1X5 CA CANADA

In re Application of	:
Robert N. O'Brien	:
Serial No.: 10/470,627	: PETITION TO MAKE SPECIAL
Filed: July 7, 2002	:
Attorney Docket No.:	:

This is in response to applicant's petition filed, November 22, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. No fee is required for this petition. The delay in acting upon this petition is regretted.

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

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT N. O'BRIEN
2614 QUEENSWOOD DRIVE
VICTORIA BC V8N 1X5 CA CANADA

COPY MAILED

NOV 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert N. O'Brien	:	
Application No. 10/470,627	:	ON PETITION
Filed: July 2, 2002	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item 1. Petitioner has failed to submit an appropriate response to the restriction requirement mailed May 24, 2005.

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] 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.

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

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

Any questions concerning this decision may be directed to the undersigned at (571) 272-3204. However, inquiries regarding a proposed response to a communication from examiner should be directed to Examiner Neil Levy at (571) 272-0619.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 2

NATIONAL IP RIGHTS CENTER, LLC
550 TOWNSHIP LINE ROAD, SUITE 400
BLUE BELL, PA 19422

COPY MAILED

OCT 22 2004

OFFICE OF PETITIONS

In re Application of
Alejandro Chouza
Application No. 10/470,628
Filed: January 21, 2004
Attorney Docket No. 10602

: DECISION GRANTING PETITION

This is a decision on the petition filed October 14, 2004 regarding a lost application which is treated under 37 CFR 1.10(e)[1] .

The petition under 37 CFR 1.10 is GRANTED.

Petitioner asserts that the above-identified application was filed January 20, 2004 by Express Mail. Petitioner claims that no filing receipt or application serial number has been received on the papers filed January 20, 2004.

In support of the averments made, petitioner presents a copy of the Express Mail label, receipt No. EV399468537US, showing a Date-in of, January 21, 2004. The same Express Mail receipt number was referred to on the itemized Utility Patent Application Transmittal sheet submitted with the present petition. The application transmittal sheet itemizes the filing of the application with a specification, drawings and an Application Data Sheet. The petition is also accompanied by a copy of the transmittal letter and

---

[1]37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

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

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in 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 Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

application including the specification, drawings and Application Data Sheet asserted to have been filed January 20, 2004. Petitioner requests that the application be accorded a filing date of January 20, 2004, the date that the application including the specification, drawings and Application Data Sheet were filed in the USPTO.

Based on the evidence present in the file, it is concluded that the present application was filed in the USPTO but was subsequently misplaced in the Office. However, pursuant to 37 CFR 1.10, the Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label.[2] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on January 21, 2004.

Accordingly, the petition to accord application a filing date is GRANTED.

In accepting this petition, the Office is construing the remarks made by counsel as a declaration that the application papers submitted with the present petition are true copies of the documents that were originally mailed, and that the documents were originally deposited on the date indicated on the Express Mail mailing label. Petitioners must notify the Office if this is an incorrect interpretation.

Please note the application number assigned to this application and refer to this number when corresponding with the USPTO regarding this application. Applicant should also notify this office if the original papers are subsequently discovered in the PTO so that the present duplicate file can be merged with the original papers and any duplicate filing fee refunded.

The file shows though that the application was filed January 21, 2004 without the basic filing fee or an executed oath/declaration. Accordingly, the filing fee, an oath/declaration in compliance with 37 CFR 1.63 and the $130.00 surcharge set forth in 37 CFR 1.16(e) are required.

Applicant is given TWO MONTHS from the mailing date of this decision to file a signed oath/declaration in compliance with 37 CFR 1.63 and to pay the $790.00 filing fee and the $130.00 surcharge as a large entity, or $395.00 filing fee and the $65.00 surcharge as a small entity, in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The newly executed oath or declaration should identify the specification to which it is directed by reference to the above-identified application number and filing date. The response should be directed to the attention of the Office of Initial Patent Examination.

The application is being forwarded to the Office of Initial Patent Examination to await the oath or declaration and fees and for further processing with a filing date of January 21, 2004, using the copy of the application papers supplied on October 14, 2004.

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

---

[2]MPEP 513.

02 DEC 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

Dara L. Dinner
GLAXOSMITHKLINE
Corporate Intellectual Property
P.O. Box 1539
King Of Prussia, PA 19406-0939

In re Application of:	:	
ADAMS, et al.	:	
U.S. Application No.: 10/470,629	:	DECISION ON PETITION
U.S. Filing Date: 19 August 2003	:	
Attorney's Docket No.: P51178D1	:	
For: NOVEL COMPOUNDS	:	

This decision is issued in response to applicants' petition under 37 CFR 1.181, filed 08 April 2004, and the status inquiry filed 07 October 2004. The petition requests that the materials filed by applicants on 19 August 2003, which were placed in application file 10/399,614, be removed from such application file and treated as a separate divisional application. No petition fee is required.

BACKGROUND

Application U.S. 10/399,614 is a national stage of international application PCT/US01/50493. Application file 10/399,614 contains documents and fees filed by applicants on 19 August 2003. These materials include the following: (1) Utility Patent Application Transmittal Letter; (2) Preliminary Amendment; (3) Declaration; (4) IDS, with copies of references; (5) abstract; (6) $2,574 in fees; and (7) copy of published PCT Application PCT/US01/50493 (201 pages, plus one page of drawings).

On 08 April 2004, applicants filed the petition considered herein. The petition seeks to have the materials filed 19 August 2003 treated as a separate divisional application of application file 10/399,614.

DISCUSSION

The Utility Patent Application Transmittal Letter included by applicants with the 19 August 2003 submission expressly indicates that the accompanying materials represent a "Divisional of prior application No.: 10/399,614 filed 4/18/03." The transmittal letter expressly references a 201 page specification with one additional page of drawings, such description corresponding to the copy of published international application PCT/US01/50493 included with the submission. The included fees were specifically identified as the basic filing fee and related claims fees. Based on the instructions in the filed Utility Patent Application Transmittal Letter, the materials filed on 19 August 2003 are properly treated as a separate divisional application, as requested in the present petition.

It is noted that the Preliminary Amendment included with the 19 August 2003 submission is directed to the present divisional application, and not to national stage application 10/399,614. Accordingly, such amendment should not be entered in national stage application 10/399,614. As requested by applicant, the national stage application will be processed as if the preliminary amendment filed 19 August 2003 had never been entered therein.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The materials (including fees) filed on 19 August 2003 and mistakenly placed in parent application file 10/399,614 have been removed from such application and will be treated as a divisional application, application number 10/470,629, with a filing date of 19 August 2003.

A copy of the petition and this decision will be placed in application 10/399,614 and further processing of such national stage application will proceed under the premise that the materials filed 19 August 2003 (and specifically the Preliminary Amendment filed on that date) were never filed in such application.

The present application file, 10/470,629, will be forwarded to the Office Of Initial Patent Examination for further processing.

Richard Cole
PCT Legal Examiner
PCT Legal Office

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

RMR/RC:rmr

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

DEC 0 1 2004

OFFICE OF PETITIONS

Donald R. Boys
Central Coast Patent Agency, Inc.
P.O. Box 187
Aromas, CA 95004

In re Application of :
Franke et al :
Application No. 10/470,630 :
Filed: August 5, 2004 :
Attorney Docket No. 7101.00US :
Title: Monitoring System for Land-Based Navigational and Landing Systems :

ON PETITION

This is a decision on the "Petition To Accept Application and Accord Filing Date under 37 CFR §1.10(e)" received on October 25, 2004, requesting that the above-identified application be accorded a filing date of August 5, 2004.

The petition is **Granted**.

Petitioners allege that the original application papers were deposited in Express Mail service on August 5, 2004, in accordance with the procedures set forth in 37 CFR 1.10 and that the application is entitled to the date of deposit in Express Mail service as the filing date. In support thereof, petitioners have supplied a copy of the original application papers(8 pages of specification, abstract and 1 sheet of drawings),Information Disclosure Statement, Declaration and Power of Attorney, Utility Transmittal sheet showing the "Express Mail" mailing label No.EV426114173US thereon, a copy of "Express Mail" mailing label No. EV426114173US with a U.S.P.S. date stamp of August 5, 2004. Further, the petition which is signed by registered practitioner Donald R. Boys includes a statement verifying the copy of the original application papers as a true copy of the original correspondence. Petitioners have also included a copy of Express Mail certification from Mr. Boys attesting to the deposit of the papers in Express Mail on August 5, 2004.

§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 Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was

placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in 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 Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The Office considers the date the paper or fee is shown to have been deposited as the "Express Mail" to be the "Date In" on the Express Mail label. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on August 5, 2004.

In accepting this petition, the Office is construing the "Express Mail Certification" signed by Donald R. Boys as a declaration that the application papers submitted with the present petition are true copies of the documents that were originally mailed, and that the documents were originally deposited on the date indicated on the Express Mail mailing label. Petitioners **must** notify the Office if this is an incorrect interpretation.

The application will be processed and examined using the application papers supplied on October 25, 2004.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

Pursuant to petitioner's request deposit account 50-0534 will be charged the $770.00 filing fee.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **August 5, 2004**, using the application papers supplied on October 25, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

COPY MAILED

NOV 2 3 2004

OFFICE OF PETITIONS

In re Application of
Li
Application No. 10/470,631
Filed: October 20, 2003
Attorney Docket No. BSC-189C1

DECISION GRANTING
PETITION

This is a decision on the correspondence entitled, "STATUS REQUEST," filed October 15, 2004, requesting that the application papers for "EXPANDABLE SURGICAL IMPLANTS AND METHODS OF USING THEM" that were deposited on October 20, 2003 be assigned an application serial number and a filing date of October 20, 2003.

Petitioner requests an October 20, 2003 filing date on the basis that the application was deposited in Express Mail service on October 20, 2003, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied a complete copy of petitioner's application, including a patent application transmittal form, a fee transmittal form, 22 pages of specification, 8 sheets of drawings, 3 pages of declaration, a preliminary amendment, an application data sheet, an itemized post card receipt, and a check for $770.00. In addition, petitioner submitted a copy of Express Mail label EV289510949US showing a date-in of October 20, 2003. The same Express Mail label number is found on the original application papers. The petition, signed by Agnes S. Lee, registration number 46,862, states that the original application was filed as Express Mail with the USPS on October 20, 2003. Ms. Lee states that the papers submitted with the instant petition are copies of the original application papers.

Paragraph (e) of 37 CFR 1.10 states 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 Commissioner to consider such correspondence as filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the

paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in 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 Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on October 20, 2003. While the Express Mail package was addressed incorrectly (Mail Stop 313(c)), it should have been delivered to the USPTO and routed to the appropriate location.

Accordingly, the petition is granted. **The application papers filed on October 20, 2003 have been assigned application no. 10/470,631.**

No petition fee has been or will be filed in connection with this petition. However, since the application was misplaced, the $770.00 filing fee check was not negotiated. Therefore, deposit account no. 18-1945 will be charged the $770.00 filing fee.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **October 20, 2003** and the mailing of a filing receipt.

Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10012-2200

COPY MAILED

NOV 23 2004

OFFICE OF PETITIONS

In re Application of	:	
Nanjo, et al.	:	DECISION GRANTING
Application No. 10/470,632	:	PETITION
Filed: November 24, 2003	:	
Attorney Docket No. 01272.020647	:	
For: LIQUID STORAGE CONTAINER		

This is a decision on the petition filed November 1, 2004, requesting that an application of Tatsuo Nanjo and Hajime Yamamoto entitled "LIQUID STORAGE CONTAINER" (attorney docket No. 01272.020647) be accorded a filing date of November 24, 2003.

The papers submitted on November 1, 2004, include a petition under 37 CFR 1.181 to assign filing date and serial number for an application presumed to be lost and a copy of a postcard receipt bearing docket No. 01272.020647. An Office generated barcode that identifies that application by serial number 10/718,606 is affixed to the postcard. The postcard acknowledges a transmittal letter, 30 page of specification, 2 sheets of ADS, an executed oath or declaration and power of attorney, 9 sheets of formal drawings, a check for $770 in filing fees, an assignment, a PTO-1595, and check for $40.00 were filed in the Office on November 24, 2003. The petition was accompanied by, *inter alia*, a copy of the original application as shown by counsel's files.

It is clear from a review of application no. 10/718,606 that the present application papers are not part of application no. 10/718,606. The original papers identified on the postcard receipt cannot be located in the Office. However, in view of the evidence presented, it is concluded that the application was filed in the Office on November 24, 2003, and later misplaced.

The petition to accord the application a filing date of November 24, 2003, is granted. No petition fee is required and none has been charged.

Since the original application papers cannot be located in the Office, the duplicate papers received on November 1, 2004, will be used for examination purposes. The application has been assigned application No. 10/470,632.

Applicant should notify this office if the original papers are subsequently discovered in the Office so that the present duplicate file can be merged with the original papers and any duplicate filing fee refunded.

The $770.00 and $40.00 checks submitted on November 24, 2003 have been located in the financial records of other non-related applications. These fees will be transferred to application no. 10/470,632.

Unfortunately, the priority documents submitted on February 12, 2004 cannot be located in the Office. Petitioners are requested to submit another certified copy of the Japanese foreign application.

Regarding the assignment that was recorded for incorrect application no. 10/718,606, petitioners are informed that the Office does not expunge assignment records. Petitioner should file another copy of the assignment with a PTO-1595 that lists the proper application number, 10/470,632.

After the mailing of this decision, the application will be forwarded to Initial Patent Examination Division for further processing with a filing date of **November 24, 2003**, using the copy of the application papers supplied on November 1, 2004.

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

E. Shirene Willis

E. Shirene Willis
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
DIW 11-04

Paper No. 3

FAIER & FAIER P.C.
566 W. ADAMS ST. #600
CHICAGO IL 60661

COPY MAILED

NOV 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Solomon et al.	:	
Application No. 10/470,633	:	DECISION GRANTING PETITION
Filed: 3 December, 2003	:	
Attorney Docket No. 6969-A	:	

This is a decision on the petition filed on 9 August, 2004, which is treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of 3 December, 2003.

The petition is granted.

Petitioners assert that the above-identified application was filed on 3 December, 2003, but was subsequently lost in the U.S. Patent and Trademark Office. In support, petitioners present a return postcard bearing a USPTO "Office-date" stamp dated 1 December, 2003. The postcard itemizes the filing of a continuation-in-part application of Application No. 09/868,882, and identifies the application by first named inventor's name and invention title. The petition was also accompanied by 19 pages of specification, including 17 claims, and one (1) sheet of drawings. Petitioners request that the application be accorded a filing date of 3 December, 2003: the date that the specification, claims, and drawings were filed in the USPTO.

A review of the official file for Application No. 09/868,882, reveals that an application transmittal letter, 19 pages of specification and claims, and one (1) sheet of drawings filed on 3 December, 2003, are located therein. As such, it is obvious that the original application papers filed on 3 December, 2003, were misfiled with the parent application rather than being assigned a new application number. As the transmittal letter filed with the application papers received on 3 December, 2003, indicates that the application papers are a request for a continuing or divisional application, it appears that the

application papers were not processed as a new application due to Office error. Therefore the petition fee of $130.00 will be credited to counsel's deposit account, No. 06-0040.

The application papers filed on 3 December, 2003, have been assigned Application No. 10/470,633. All future correspondence regarding this application should reference this number.

The application will be processed and examined using the application papers filed on 3 December, 2003. The copy of the application papers filed with the petition on 9 August, 2004, will not be used for processing or examination, but will be retained in the application file.

The application file is being forwarded to Office of Initial Patent Examination for further processing with a filing date of 3 December, 2003, using the specification, claims, and drawing filed on that date.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 24

DARYL W SCHNURR
18 WEBER STREET WEST
P O BOX 2607
KITCHENER
N2H6N-2
CANADA

COPY MAILED

AUG 0 3 2004

OFFICE OF PETITIONS

In re Application of Elson Fernandes Application No. 09/210,833 Filed: December 15, 1998 Attorney Docket No. 39217	: : : : : :	DECISION ON PETITION

This is a decision on the petition styled "PETITION UNDER 37 CFR 1.17(h)," filed October 2, 2002. This petition is properly treated as a petition under 37 CFR § 1.53(e), requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of February 28, 2002. This petition was recently forwarded to the deciding Official.

On December 4, 2001, a Notice of Allowance and Fee(s) Due and a Notice of Allowability were mailed in application No. 09/210,833. In response, on March 1, 2002, applicant timely submitted payment of the issue fee. However, on February 28, 2002, applicant submitted a request for a CPA under 37 CFR § 1.53(d) based on prior application No. 09/210,833. CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May 29, 2000.[1] Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114.

---

[1] An earlier CPA was filed in application No. 09/210,833 on September 29, 2000. Thus, 37 CFR § 1.53(d)(1)(I) does not permit the filing of a further CPA.

In this instance, the CPA was not made of record and a Notice of Improper Request For Continued Examination (RCE) was never mailed. Rather, on April 16, 2002, the application containing apparatus claims 1 to 10 issued as U.S. Patent No. 6,371,323.

On October 2, 2002, petitioner filed the present petition under 37 CFR § 1.53(e). Petitioner requests that the CPA Divisional Application be treated as a Divisional Application to have Claims 11 to 16 examined or, alternatively, applicant be given additional time to file a Divisional Application with respect to said claims.

The relief available to applicant is that the improper CPA be converted to an application under 37 CFR § 1.53(b)[2].

The Office notes:

> A petition under 37 CFR 1.53(e) to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must include:
>
> (A) the $130.00 petition fee;
> (B) a true copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR 1.53(d);
> (C) any amendments entered in the prior nonprovisional application;
> (D) any amendments submitted but not entered in the prior nonprovisional application and directed to be entered in the application papers filed under 37 CFR 1.53(d); and
> (E) an executed oath or declaration under 37 CFR 1.63, if one has not already been submitted with the application papers filed under 37 CFR 1.53(d).

MPEP 706.07(h).

At the present time, the petition must be <u>dismissed</u>.

This decision is made without prejudice to reconsideration upon the filing of a request therefor accompanied by a copy of the prior

---

[2] However, <u>see</u> *Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications; Final Rule*, 68 Fed. Reg. 32376 (May 30, 2003), effective July 14, 2003. (*The Office will convert an improper CPA into an application under § 1.53(b) only if the applicant shows that there are extenuating circumstances that warrant the burdensome process of converting a CPA into an application under § 1.53(b)*)

application papers as originally filed (including the executed oath or declaration) and any amendments submitted but not entered in the prior nonprovisional application and directed to be entered in the application papers filed under 37 CFR 1.53(d). Any request for reconsideration should be filed within **TWO (2) MONTHS** of the date of this decision to be considered timely. See 37 CFR 1.181(f).

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

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

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

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Effective June 5, 2004, patent correspondence delivered by hand or delivery services, **other than the USPS**, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to Senior Petitions Attorney Nancy Johnson at (703) 305-0309 (or effective September 28, 2004 at (571) 272-3282).

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

NJ

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 26

DARYL W SCHNURR
18 WEBER STREET WEST
P O BOX 2607
KITCHENER
N2H6N-2
CANADA

COPY MAILED

DEC 21 2004

OFFICE OF PETITIONS

In re Application of
Elson Fernandes
Application No. 09/210,833
Filed: December 15, 1998
Attorney Docket No. 39217

In re Application of
Elson Fernandes
Application No. 10/470,634
Filed: February 28, 2002
For: POLY-STEEL DOUBLE WALL TANK

DECISION GRANTING PETITION

This is a decision on the request for reconsideration, filed September 30, 2004, again requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of February 28, 2002.

On December 4, 2001, a Notice of Allowance and Fee(s) Due and a Notice of Allowability were mailed in application No. 09/210,833. In response, on March 1, 2002, applicant timely submitted payment of the issue fee. However, on February 28, 2002, applicant submitted a request for a CPA under 37 CFR § 1.53(d) based on prior application No. 09/210,833. CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May 29, 2000.[1] Accordingly, the

[1] An earlier CPA was filed in application No. 09/210,833 on September 29, 2000. Thus, 37 CFR § 1.53(d)(1)(I) does not permit the filing of a further CPA.

CPA request was improper because the prior application was filed on or after May 29, 2000.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114.

In this instance, the CPA was not made of record and a Notice of Improper Request For Continued Examination (RCE) was never mailed. Rather, on April 16, 2002, the application containing apparatus claims 1 to 10 issued as U.S. Patent No. 6,371,323.

On October 2, 2002, petitioner filed a petition under 37 CFR § 1.53(e). Petitioner requested that the CPA Divisional Application be treated as a Divisional Application to have Claims 11 to 16 examined or, alternatively, applicant be given additional time to file a Divisional Application with respect to said claims.

The petition was dismissed by the decision of August 3, 2004. The decision informed applicant that the relief available was for the improper CPA to be converted to an application under 37 CFR § 1.53(b). The decision informed applicant that they must submit a copy of the prior application papers as originally filed and any amendments with a request for reconsideration within two (2) months of the mail date of the decision.

On September 30, 2004, applicant filed a request for reconsideration; a copy of the prior application papers; copies of amendments filed March 30, 2000, September 5, 2000, March 22, 2001, and September 6, 2001 in the prior application; and a copy of an executed declaration.

The request for reconsideration is <u>GRANTED</u>.

The application under 37 CFR 1.53(b) has been assigned application No. 10/470,634 with a filing date of February 28, 2002. The CPA request, the present request for reconsideration, a copy of the petition under 37 1.53(e) filed October 2, 2002, a copy of the decision dismissing the petition, the copy of the prior application, the declaration, and the amendments have been removed from the file of application No. 09/210,833 and have been placed in application No. 10/470,634. A copy of the CPA request, a copy of the present request for reconsideration, the petition under 37 CFR 1.53(e) filed October 2, 2002, and the decision dismissing the petition will be retained in application No. 09/210,833 to complete the record therein.

All further correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 10/470,634, not application No. 09/210,833.

The Office finance records will be corrected to show that the $370.00 filing fee paid on May 3, 2004, and the $130.00 petition fee paid on October 2, 2002, were paid in application No. 10/470,634, not in application No. 09/210,833.

Petitioner is advised that 37 CFR 1.78 requires that any nonprovisional application claiming benefit of one or more prior-filed copending nonprovisional applications contain, or be amended to contain, a reference to each such prior-filed application, identifying it by application number and indicating the relationship of the application (i.e., continuation, divisional, or continuation-in-part). This reference must be included in an application data sheet (37 CFR 1.76) or the specification must contain, or be amended to contain, such reference in the first sentence following the title. See 37 CFR 1.78(a)(2). In order to properly claim the benefit of application No. 09/210,833, petitioner must promptly file in application No. 10/470,634 either an amendment to the specification (in compliance with 1.121) or an application data sheet to add the reference.

Application No. 09/210,833 will be forwarded to Files Repository.

Application No. 10/470,634 will be forwarded to the Office of Initial Patent Examination for processing as a divisional application of prior application No. 09/210,833, filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d). Additionally, the Office of Initial Patent Examination is directed to accord Application No. 10/470,634 a filing date of February 28, 2002, using the copy of the original application papers submitted on September 30, 2004.

Telephone inquiries related to this decision may be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

NJ

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

COPY MAILED

NOV 23 2004

OFFICE OF PETITIONS

In re Application of
Takashimizu et al.
Patent No. 6,185,228
Issue Date: February 6, 2001
Application No. 08/986,074
Filed: December 5, 1997
Attorney Docket No. 500.35873CX1

In re Application of
Takashimizu et al.
Application No. 10/470,635
Filed: January 23, 2001
For: Receiving Apparatus for Digital Broadcasting Signal and Receiving/Recording/Reproducing Apparatus Thereof

DECISION GRANTING PETITION

This is a decision on petition filed July 21, 2003, requesting that the Continued Prosecution Application (CPA) filed on January 23, 2001, and based on prior application No. 08/986,074 (issued as U.S. Patent No. 6,185,228 on February 6, 2001) be treated as an application under 37 CFR 1.53(b), rather than 37 CFR 1.53(d), and be accorded a filing date of January 23, 2001. The Office apologizes for the delay in responding to the present petition.[1]

On July 21, 2000, the Office mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability in Application No. 08/986,074, requiring payment of the issue fee. On October 23, 2000, petitioners timely submitted the issue fee payment.

---

[1]While the petition identified application No. 09/851,196 in the identifying information, the petition has been treated in application No. 08/986,074 because the CPA was filed in application No. 08/986,074.

On January 23, 2001, petitioners filed a petition to withdraw from issue pursuant to 37 CFR 1.313(c), a CPA request, the CPA filing fee, proposed drawing corrections and a preliminary amendment.

On February 6, 2001, application No. 08/986,074 issued as U.S. Patent No. 6,185,228. The petition to withdraw from issue was not acted upon. Thereafter, Technology Center 2600 processed the application and prosecution continued. On February 27, 2001, the Office mailed a second Notice of Allowance and Issue Fee Due and a Notice of Allowability. On May 3, 2001, petitioners submitted an IDS. On May 4, 2001, and again on May 9, 2001, petitioners submitted formal drawings. On May 29, 2001, petitioners timely paid the issue fee. On June 18, 2001, the Office mailed a Supplemental Notice of Allowability. On June 25, 2001, petitioners submitted drawings.

On May 27, 2003, the Office mailed a "Notice Vacating Notice of Allowance and the Entry of the Continued Prosecution Application (CPA)." The Notice dismissed the petition to withdraw from issue, filed on January 23, 2001, because the petition was not acted upon before Patent No. 6,185,228 issued. The Notice explained that it was improper for the Office to process the CPA request because the petition to withdraw from issue was not acted upon before the patent issued. Therefore, the Office vacated the entry of the CPA and the Notice of Allowance and Notice of Allowability. The Notice advised petitioners to consider filing a petition under 37 CFR 1.182 to convert the CPA request to an application under 37 CFR 1.53(b).

On July 21, 2003, petitioners filed the present petition styled "Petition under 37 CFR 1.182 to convert a CPA to an application under 37 CFR 1.53(b) and under 37 CFR 1.183 to wave (sic) the timing requirement of a claim of priority under 37 CFR 1.78(a)." As to the petition under 37 CFR 1.182, it is noted that the CPA request was filed on January 23, 2001, while the prior application was still pending. Petitioners request that the CPA request be treated as an application under 37 CFR 1.53(b) and be accorded a filing date of January 23, 2001.

The petition under 37 CFR 1.182 is <u>granted</u>.

The continuation application under 37 CFR 1.53(b) filed on January 23, 2001, has been assigned application No. 10/470,635. The CPA request and the present petition have been removed from the file of application No. 08/986,074 and have been placed in application No. 10/470,635. A copy of the CPA request and present petition will remain in application No. 08/986,074 to complete the record. All further correspondence concerning the continuation application under 37 CFR 1.53(b) should be directed to application No. 10/470,635, <u>not application No. 08/986,074</u>.

As to the petition under 37 CFR 1.183, it is not necessary for petitioners to file a petition under 37 CFR 1.183 to waive the timing requirements of 37 CFR 1.78(a) to add a benefit claim in Application No. 10/470,635. However, <u>petitioners are advised to file a petition under 37 CFR 1.183 and a request for a Certificate of Correction in Application No. 09/851,196 to add the benefit claim to Application No. 10/470,635</u>.

The petition under 37 CFR 1.183 is dismissed as moot.

The Office finance records will be corrected to show that the $710.00 filing fee and the $234.00 claims in excess of twenty fee paid on January 23, 2001, were paid in application No. 10/470,635, not in application No. 08/986,074. The Office finance records will also be corrected to show that the $130.00 petition fee paid on July 21, 2003, was paid in application No. 10/470,635, not in application No. 09/851,196.

Petitioners are advised that 37 CFR 1.78 requires that any nonprovisional application claiming benefit of one or more prior-filed copending nonprovisional applications contain, or be amended to contain, a reference to each such prior-filed application, identifying it by application number and indicating the relationship of the applications (i.e., continuation, divisional, or continuation-in-part). This reference must be included in an application data sheet (37 CFR 1.76) or the specification must contain, or be amended to contain, such reference in the first sentence following the title. See 37 CFR 1.78(a)(2). Petitioners must promptly file an amendment to the specification in application No. 10/470,635 to indicate that this application is a continuation of prior application No. 08/986,074 in order to properly claim the benefit of application No. 08/986,074. See 37 CFR 1.78 and 121 and MPEP 201.11.

Application No. 08/986,074 will be forwarded to Files Repository.

Application No. 10/470,635 will be forwarded to the Office of Initial Patent Examination for further processing as a continuation application of prior application No. 08/986,074, filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with the filing date of January 23, 2001, using the copy of the **specification, drawings, and substitute specification submitted on September 13, 2004, and the declaration submitted on July 21, 2003.**

Telephone inquiries concerning this matter may be directed to Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

NIXON & VANDERHYE P.C./G.E.
1100 N. GLEBE RD.
SUITE 800
ARLINGTON VA 22201

COPY MAILED
NOV 05 2004
OFFICE OF PETITIONS

In re Application of
Yuzef Gokhfeld
Application No. 10/470,636
Filed: January 6, 2004
Attorney Docket No. 839-1507

: DECISION GRANTING PETITION

This is a decision on the petition filed September 27, 2004, to accord a lost application a serial number and filing date of January 6, 2004, which is treated under 37 CFR 1.53.

The petition is **GRANTED**.

Petitioner asserts that an application was filed January 6, 2004, and that the application is a continuation-in-part of 10/442,070, filed May 21, 2003. Petitioner claims that no filing receipt or application serial number has been received on the papers filed January 6, 2004.

In support of the averments made, petitioner presents a return postcard bearing a USPTO "Office-date" stamp dated January 6, 2004 and an application information sheet filed with the application. The postcard and application information sheet, *inter alia*, itemizes the filing of the application including a specification, claims, abstract, 6 sheets of drawings, Declaration, recordation of assignment form and NASA declaration. The petition is also accompanied by a copy of the transmittal letter and application including the specification, claims, abstract, 6 sheets of drawings, Declaration, recordation of assignment form and NASA declaration, asserted to have been filed January 6, 2004. Petitioner requests that the application be accorded a filing date of January 6, 2004, the date that the application including the specification, claims, abstract, 6 sheets of drawings, Declaration, recordation of assignment form and NASA declaration were filed in the USPTO.

Based on the evidence present in the file, it is concluded that the present application was filed on January 6, 2004 but was subsequently misplaced in the Office.

Accordingly, since the petition is granted, the petition fee paid will be credited to deposit account no. 14-1140.

Applicant should notify this office if the original papers are subsequently discovered in the PTO so that the present duplicate file can be merged with the original papers and any duplicate filing fee refunded.

Per the authorization in the application information sheet, the filing fee in the amount of $770.00 and the assignment recordation fee will be charged to deposit account no. 14-1140.

The application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing with a filing date of January 6, 2004 using the copy of the application papers supplied with the petition on September 27, 2004.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 06-05

Paper No: __

NIXON & VANDERHYE P.C.
901 NORTH GLEBE ROAD/11TH FLOOR
ARLINGTON VA 22203

COPY MAILED

JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Gokhfeld	:	
Application No. 10/470,636	:	ON PETITION
Filed/Deposited: 6 January, 2004	:	
Attorney Docket No. 839-1507	:	

This is a decision on the petition filed on 9 March, 2005, considered under 37 C.F.R. §1.53, to obtain a filing date of 6 January, 20043, for Fig. 3 as described in the specification.

For the reasons set forth below, the petition is **GRANTED**.

BACKGROUND

After this application was deposited on 6 January, 2004:

- Petitioner apparently received no reply from the Office in the form of a date-stamped receipt card, filing receipt, or other acknowledgment of filing, and, on 27 September, 2004, Petitioner sought via petition a statement of a filing date, to wit: 6 January, 2004, which petition the Office granted in a decision mailed on 5 November, 2004–notably, however, Petitioner failed to submit a copy of the application (description, abstract, claims and drawings) as filed with the 27 September, 2004, petition;

- on 16 February, 2005, the Office mailed a Notice of Omitted Items on 8 April, 2004, the Office mailed a Notice of Incomplete Nonprovisional Application, and indicated that Petitioner's alternatives were to: (a) file a petition if Petitioner contended that the items deemed omitted had been deposited with the application, (b) supply the omitted item and accept as the filing date that of the new deposit, or (c) file no response and accept the application as deemed by the Office to have been filed;

- Petitioner filed the instant petition (with fee) on 9 March, 2005, with, *inter alia*, a copy of the date-stamped ("JAN 6 2004") receipt card (see: MPEP §503[1]), a copy of the drawing sheet averred to be Fig. 3 submitted with the original 6 January, 2004, deposit, and a request for refund of the petition fee.

Analysis

A search of the official file reveals that:

- on 6 January, 2004, Petitioner deposited the instant application;

- the date-stamped receipt card evidences the following, in pertinent part:

* * *

24 Pages of Specification
12 Claims
6 Sheets of Drawings

* * *

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

Moreover, it is noted that each of the 6 sheets of drawing in question is numbered sequentially 1/6, 2/6, and so on through 6/6.

Because Petitioner's receipt card adequately itemized the contents of the application on the receipt card, it is concluded that the application, including Fig. 3, were deposited with the Office on 6 January, 2004, and Fig. 3 subsequently was misplaced in the Office.

Accordingly, Fig. 3 is entitled to a filing date with the application as filed.

The Notice of Omitted Items mailed on 16 February, 2005, was sent in error and is hereby vacated to the extent that it stated that the application was incomplete.

CONCLUSION

The petition is **granted** and the petition fee waived and refunded via Treasury check.

This application is released to OIPE for further processing with a filing date of 6 January, 2004, for the entire application and in particular for the specification (24 pages, including 3 pages of 12 claims), and 6 sheets of drawings, including Fig. 3, using:

- **24 pages of specification (including claims), 1 page abstract, and the 5 sheets of drawings (Figs. 1 - 2 and 4 -n 6) deposited on 6 January, 2004; and**
- **the 1 sheet of drawings (Fig. 3) deposited on 9 March, 2005; and further**

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 6 January, 2004, and reflecting therein that 25 pages of specification (description, claims and abstract) and 6 sheets of drawings were present on filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 12-04

Paper No. 3

NIXON & VANDERHYE P.C.
1100 NORTH GLEBE ROAD, 8TH FLOOR
ARLINGTON VA 22201-4714

COPY MAILED

DEC 23 2004

OFFICE OF PETITIONS

In re Application of	:	
Dausacker et al.	:	
Application No. 10/470,637	:	DECISION GRANTING PETITION
Filed: 6 January, 2004	:	
Attorney Docket No. 839-1501	:	

This is a decision on the petition styled as a petition requesting a serial number and filing date for an application, filed on 7 December, 2004, which is treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of 6 January, 2004.

The petition is granted.

Petitioner asserts that the above-identified application was filed on 6 January, 2004, but was subsequently lost in the U.S. Patent and Trademark Office. In support, petitioner presents a return postcard bearing a USPTO "Office-date" stamp dated 6 January, 2004. The postcard itemizes the filing of, *inter alia*, 12 pages of specification, 18 claims, two (2) sheets of drawings, and one (1) page of declaration, and identifies the application by first named inventor's name, attorney docket number, and the invention title. The petition was also accompanied by, *inter alia*, a copy of 12 pages of written description, including 18 claims, one (2) sheets of drawings. Petitioners requests that the application be accorded a filing date of 6 January, 2004, the date that the specification, claims, and drawings were filed in the USPTO.

In view of petitioners' postcard receipt, the evidence is convincing that the application papers deposited on 6 January, 2004, included, *inter alia*, 12 pages of written description, 18 claims, and two (2) sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application was complete on filing and entitled to a filing date of 6 January, 2004.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application has been assigned Application No. 10/470,637. All future correspondence regarding this application should reference this number.

The application file is being forwarded to Office of Initial Patent Examination for further processing with a filing date of 6 January, 2004, using the copy of the specification, claims, and drawings supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

Pillsbury Winthrop LLP
2475 Hanover Street
Palo Alto CA 94304-1114

COPY MAILED

JAN 24 2005

OFFICE OF PETITIONS

In re Application of
Graves et al.
Application No. 60/600,433
Filed: August 9, 2004
Attorney Docket No. 093010-0310842

DECISION GRANTING PETITION

In re Application of
Graves et al.
Application No. 10/470,638
Filed: August 9, 2004
For: Media Keying for Updateable Content Distribution

This is a decision on the petition under 37 CFR 1.182 filed November 23, 2004, to convert the above-identified provisional application to a nonprovisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b)(1).

On August 9, 2004, petitioner filed the above-identified application. The USPTO processed the papers as a provisional application and assigned the application, No. 60/600,433.

On September 23, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Provisional Application, requiring the payment of the statutory basic filing fee and a surcharge for the late payment.

On November 23, 2004, petitioner filed the present petition. Petitioner asserts that he mailed a nonprovisional patent application by Express Mail to the USPTO on August 9, 2004. Petitioner states that the USPTO incorrectly entered the application as a provisional application. Petitioner argues that the application papers filed on August 9, 2004, are complete for filing date purposes under 35 U.S.C. 111(a) and 37 CFR 1.53(b)(1). Specifically, petitioner argues that pursuant to 37 CFR 1.53(c)(1), a provisional patent application "must also

include the cover sheet required by § 1.51(c)(1). . . or a cover letter identifying the application as a provisional application. Otherwise, the application will be treated as an application filed under paragraph (b) of this section."

The Office finds petitioner's argument persuasive. A review of the application papers filed on August 9, 2004, confirms that petitioner did not submit a provisional cover sheet or a cover letter identifying the application as a provisional application. Moreover, the papers are complete for filing date purposes under 35 U.S.C. 111(a) and 37 CFR 1.53(b)(1).

Accordingly, it appears that the USPTO erred in processing the application as a provisional application instead of a nonprovisional application. Thus, the petition is granted. No petition fee is necessary.

The nonprovisional application under 37 CFR 1.53(b) filed on August 9, 2004, has been assigned application No. 10/470,638. The application papers from application No. 60/600,433 will be "closed" in that application and will be scanned into application No. 10/470,638. A copy of the present petition will be retained in application No. 60/600,433 to complete the record therein. All further correspondence concerning the nonprovisional application should be directed to application No. 10/470,638, not application No. 60/600,433.

The $400.00 petition fee charged in Application No. 60/600,433 will be refunded to Deposit Account No. 50-2213. Additionally, the $770.00 statutory basic filing fee for Application No. 10/470,638 will be charged to Deposit Account No. 50-2213, as authorized in the petition.

Petitioner has not submitted an executed oath or declaration with the present petition. Petitioner must submit an executed oath or declaration and the $130.00 surcharge for the late filing of the statutory filing fee and the oath or declaration within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136 are available.

Application No. 10/470,638 will be forwarded to the Office of Initial Patent Examination for reprocessing as a **NONPROVISIONAL** application under 35 U.S.C. 111(a) and 37 CFR 1.53(b)(1), with a filing date of August 9, 2004.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

OIPE JC182
MAR 2 8 2005
PATENT & TRADEMARK OFFICE

Paper No. 3

Pillsbury Winthrop LLP
2475 Hanover Street
Palo Alto CA 94304-1114

COPY MAILED

JAN 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Graves et al. :
Application No. 60/600,433 : DECISION GRANTING PETITION
Filed: August 9, 2004 :
Attorney Docket No. 093010-0310842 :

In re Application of :
Graves et al. :
Application No. 10/470,638 :
Filed: August 9, 2004 :
For: Media Keying for Updateable :
Content Distribution :

This is a decision on the petition under 37 CFR 1.182 filed November 23, 2004, to convert the above-identified provisional application to a nonprovisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b)(1).

On August 9, 2004, petitioner filed the above-identified application. The USPTO processed the papers as a provisional application and assigned the application, No. 60/600,433.

On September 23, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Provisional Application, requiring the payment of the statutory basic filing fee and a surcharge for the late payment.

On November 23, 2004, petitioner filed the present petition. Petitioner asserts that he mailed a nonprovisional patent application by Express Mail to the USPTO on August 9, 2004. Petitioner states that the USPTO incorrectly entered the application as a provisional application. Petitioner argues that the application papers filed on August 9, 2004, are complete for filing date purposes under 35 U.S.C. 111(a) and 37 CFR 1.53(b)(1). Specifically, petitioner argues that pursuant to 37 CFR 1.53(c)(1), a provisional patent application "must also

include the cover sheet required by § 1.51(c)(1). . . or a cover letter identifying the application as a provisional application. Otherwise, the application will be treated as an application filed under paragraph (b) of this section."

The Office finds petitioner's argument persuasive. A review of the application papers filed on August 9, 2004, confirms that petitioner did not submit a provisional cover sheet or a cover letter identifying the application as a provisional application. Moreover, the papers are complete for filing date purposes under 35 U.S.C. 111(a) and 37 CFR 1.53(b)(1).

Accordingly, it appears that the USPTO erred in processing the application as a provisional application instead of a nonprovisional application. Thus, the petition is granted. No petition fee is necessary.

The nonprovisional application under 37 CFR 1.53(b) filed on August 9, 2004, has been assigned application No [redacted] The application papers from application No. 60/600,433 will be "closed" in that application and will be scanned into application No. 10/470,638. A copy of the present petition will be retained in application No. 60/600,433 to complete the record therein. All further correspondence concerning the nonprovisional application should be directed to application No. 10/470,638, not application No. 60/600,433.

The $400.00 petition fee charged in Application No. 60/600,433 will be refunded to Deposit Account No. 50-2213. Additionally, the $770.00 statutory basic filing fee for Application No. 10/470,638 will be charged to Deposit Account No. 50-2213, as authorized in the petition.

Oath + Dec 3/24/05

Petitioner has not submitted an executed oath or declaration with the present petition. Petitioner must submit an executed oath or declaration and the $130.00 surcharge for the late filing of the statutory filing fee and the oath or declaration within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136 are available.

Application No. 10/470,638 will be forwarded to the Office of Initial Patent Examination for reprocessing as a **NONPROVISIONAL** application under 35 U.S.C. 111(a) and 37 CFR 1.53(b)(1), with a filing date of August 9, 2004.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

COPY MAILED
CANCELLED
JAN 26 2005
CANCELLED
OFFICE OF PETITIONS

In re Application of
Tony Vallejos
Application No. 10/094,578
Filed: March 6, 2002
Attorney Docket No. VA13-010

DECISION GRANTING PETITION

COPY MAILED
JAN 27 2005
OFFICE OF PETITIONS

In re Application of
Tony Vallejos
Application No. 10/470,639
Filed: December 5, 2003
Attorney Docket No. VA13-012

This is a decision on the petition under 37 CFR 1.182, filed on January 11, 2005, requesting that a nonprovisional application entitled "Reciprocating and Rotary Internal Combustion Engine, Compressor and Pump" be assigned an application number and accorded a filing date of December 5, 2003.

The petition identifies the application filed on December 5, 2003, as a continuation of prior application No. 10/094,578, filed March 6, 2002. The original application papers filed on December 5, 2003, have been located in the file of prior application No. 10/094,578, and have been assigned application No. 10/470,639.

The application papers from application No. 10/094,578 will be "closed" in that application and will be scanned into application No. 10/470,639. A copy of the present petition will be retained in application No. 10/094,578 to complete the record therein. All further correspondence concerning the application should be directed to application No. 10/470,639, <u>not application No. 10/094,578</u>.

The original papers filed on December 5, 2003, will be used for examination purposes.

Accordingly, the petition is granted.

No petition fee is necessary. Therefore, the Office will refund the $400.00 petition fee paid in application No. 10/094,578 to Deposit Account No. 23-0925.

The Office of Initial Patent Examination is directed to accord application No. 10/470,639 a filing date of December 5, 2003, using the application papers submitted on December 5, 2003, and to mail a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

Michael Striker
103 East Neck Road
Huntington, NY 11743

COPY MAILED

FEB 04 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Crepaz
Application No. 10/470,640
Filed: September 17, 2004
Attorney Docket No. 3108

This is a decision on the petition filed October 28, 2004, to accord the above-identified application a filing date of September 17, 2004.

The petition is **granted**.

Petitioner mailed the application by Express Mail on September 17, 2004. The envelope was properly addressed. Office records fail to indicate the application was ever received, possibly because the Post Office may have incorrectly sent the application to Alexandria, Egypt.

Petitioner has met all the requirements of 37 CFR 1.10(e). Therefore, the application has been assigned application no. 10/470,640 and a filing date of September 17, 2004.

The papers filed on September 17, 2004, include:

(1) a 4 page transmittal form,
(2) 6 pages of specification not including claims,
(3) 2 pages of claims,
(4) a 3 page declaration,
(5) 4 pages of drawings,
(6) a certified copy of a German application, and
(7) an assignment recordation sheet and assignment.

As to (7), the pages will be forwarded to Assignment Branch. The remaining papers have been placed in the file.

The Application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of September 17, 2004, using the application papers filed on September 17, 2004.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 04-05

Paper No. 3

WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210

COPY MAILED

APR 07 2005

OFFICE OF PETITIONS

In re Application of	:
Kae-Por Chang	:
Application No. 10/470,641	: DECISION GRANTING PETITION
Filed: 29 July, 2003	:
Attorney Docket No. I00287.70006US	:

This is a decision on the petition filed on 21 March, 2005, which is treated as a petition under 37 CFR 1.10(e),[1] requesting that the above-identified application be accorded a filing date of 29 July, 2003.

---

[1] 37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

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

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in 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 Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Petitioner alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service on 29 July, 2003. In support, petitioner provided a copy of the Express Mail Customer Label No. EV292542385US, showing a "date-in" of "7-29-03". The same Express Mail receipt number was referred to on the first page of the specification submitted with the present petition. Petitioners have provided a copy of the application (including 25 pages of specification, including the abstract), and 21 sheets of drawings.

Petitioner states that on 11 August, 2003, a return receipt postcard was received for the application indicating that Application No. 10/629,533 had been assigned to the application, but that a review of the PAIR database revealed that the title, attorney docket number, and first named inventor linked to Application No. 10/629,533 did not correspond to the present application.

A review of Office files reveals that no application papers for the present application have been received in the USPTO.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label or any other official notation by the USPS.[2] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on 29 July, 2003.

It is noted that the Utility Patent Application Transmittal sheet filed with the original application papers incorrectly lists the Express Mail number as EV282542385US. However, since the correct Express Mail number was found on the first page of the specification as filed, there is sufficient evidence to link the Express Mail number on petitioner's Express Mail label to the application papers deposited on 29 July, 2003. Petitioner is cautioned to ensure that the correct Express Mail number appears on all papers as filed.

In view of the above, the petition is <u>granted</u>. No petition fee is due and none has been charged.

---

[2] MPEP 513.

The application will be processed and examined with a filing date of 29 July, 2003, using the copies of the application papers supplied with the present petition.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 29 July, 2003, using the application papers supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROWNING BUSHMAN, P.C.
5718 WESTHEIMER
SUITE 1800
HOUSTON, TX 77057-5771

~~In re Application of
Ricardo J. Guerra
Application No. 10/095,787
Filed: March 12, 2002
Attorney Docket No. R. Guerra 1~~

COPY MAILED

FEB 24 2005

OFFICE OF PETITIONS

In re Application of
Ricardo J. Guerra
Application No. 10/470,642
Filed: November 8, 2004
Attorney Docket No. R. Guerra 1-1

This is a decision on the Petition Under Rule 37 CFR 1.53 Assigning New Application and Filing Date, filed January 7, 2005 (Certificate of Mailing dated January 5, 2005), requesting that a nonprovisional application entitled "Collapsable Headgear" be assigned an application number and accorded a filing date of October 15, 2004.

The petition identifies the application, putativly filed on October 15, 2004, as a continuation of prior application No. 10/095,787, filed March 12, 2002. The original application papers, putativly filed on October 15, 2004, have been located in the file of prior application No. 10/095,787, and have been assigned application No. 10/470,642.

A review of the application papers reveal that the filing date accorded the application papers in the prior application is the date the application papers were received in this Office, November 8, 2004. It is noted that the application papers contain a certificate of express mailing dated October 15, 2004; however, the certificate of express mailing is the only evidence of express mailing that has been located among the application papers. Absent more, i.e. an Express Mail Mailing Label, the date of receipt of the application papers is the filing date

that will be accorded the application. See, 37 CFR §§ 1.6 and 1.10.

The application papers will be placed into application No. 10/470,642 and accorded a filing date of November 8, 2004. A copy of the present petition will be retained in application No. 10/095,787 to complete the record therein. All further correspondence concerning the application should be directed to application No. 10/470,642, not application No. 10/095,787.

The original papers filed on November 8, 2004, will be used for examination purposes.

Accordingly, the petition is granted.

No petition fee has been charged, and none is due.

It is also noted that the continuing application, serial no. 10/470,642, claims priority to the prior application 10/095,787. However, prior application 10/095,787 issued as a patent on October 19, 2004, as such, there is no copendency between application 10/470,642 and 10/095,787. A decision on the priority claim will be held in abeyance until such time as applicant files his petition under 37 CFR 1.10 to change the filing date of application serial number 10/470,642.

The Office of Initial Patent Examination is directed to accord application No. Application No. 10/470,642 a filing date of November 8, 2004, using the application papers submitted on November 8, 2004, and to mail a filing receipt.

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

Derek L. Woods
Attorney/Advisor
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

BROWNING BUSHMAN, P.C.
5718 WESTHEIMER
SUITE 1800
HOUSTON, TX 77057-5771

COPY MAILED

AUG 25 2005

OFFICE OF PETITIONS

In re Application of :
Ricardo J. Guerra :
Application No. 10/470,642 : ON PETITION
Filed: October 15, 2004 :
For: COLLAPSIBLE HEADGEAR :

This is a decision on the Petition Under Rule 1.10(2)(c)(3) Assigning New Filing Date Based on Express Mail Receipt, filed April 28, 2005, requesting the application be accorded a filing date of October 15, 2004, instead of the presently accorded filing date of November 8, 2004.

Petitioner alleges that the application was deposited in Express Mail service on October 15, 2004. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV317506369US. Although the "Date In" indicated on the Express Mail label appears to be October 14, 2004, the Express Mail Label contains a United States Postal Service (USPS) stamp of October 15, 2004. Applicant has also filed a copy of a USPS receipt indicating that postage for Express Mail label No. EV317506369US was paid for on October 15, 2004. 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**.

This application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to October 15, 2004.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

COPY MAILED

MAR 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Fuller et al.	:	DECISION GRANTING
Application No. 10/470,643	:	PETITION
Filed: November 7, 2003	:	
Attorney Docket No. TE2-0122	:	

This is a decision on the petition filed November 16, 2004, requesting that an application under 37 CFR 1.53(b) based on prior application No. 09/872,484, and entitled "DSX Jack Removal System" be assigned an application number and accorded a filing date of November 7, 2003.

Applicant alleges that the original request for a continuation application under 37 CFR 1.53(b) was filed in the United States Patent and Trademark Office (USPTO) on November 7, 2003. In support of the allegation, the petition is accompanied by a copy of the request for a continuation application and a copy of a postcard receipt with a date-stamp of November 7, 2003. The postcard acknowledged the USPTO's receipt of the following: "1. Return Receipt Postcard, 2. Transmittal Letter, 3. Copy of application including 35 pages of Title Page, Specification, Claims and Abstract; Drawings and 4. Preliminary Amendment." Additionally, applicant submitted a copy of the application papers purportedly filed on November 7, 2003, with the present petition.

The Transmittal Letter and "Preliminary Amendment to Continuation Application" were located in prior application No. 09/872,484 with a date-stamp of November 7, 2003. Unfortunately, a copy of original application papers submitted on November 7, 2003, cannot be located.

In view of the official record and the evidence presented, the petition to accord the application under 37 CFR 1.53(b) a filing date of November 7, 2003, is <u>granted</u>. No petition fee is required and none has been charged.

Because the original application papers (specification, claims and drawings) cannot be located in the USPTO, the duplicate papers supplied on November 16, 2004, will be used for examination purposes. The application under 37 CFR 1.53(b) has been assigned application No. 10/470,643.

Applicant should notify this Office if the original application papers are subsequently discovered in the USPTO so that the present file can be merged with the original papers and any duplicate fees refunded.

The Transmittal Letter and "Preliminary Amendment to Continuation Application" have been removed from the file of the prior application and have been placed in application No. 10/470,643. All correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 10/470,643.

The $130.00 petition fee paid on November 16, 2004, in application No. 09/872,484 is not necessary and, as such, is refundable. Applicant may request a refund of the $130.00 petition fee by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany applicant's request.

Application No. 10/470,643 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR 1.53(b) with a filing date of November 7, 2003, using the copy of the original application papers submitted with the present petition. **Additionally, the Office of Initial Patent Examination is directed to mail a Notice to File Missing Parts of Nonprovisional Application because applicant did not submit an oath or declaration or pay the statutory basic filing fee upon filing the above-identified application.**

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
www.uspto.gov

GARVEY SMITH NEHRBASS & DOODY, LLC
THREE LAKEWAY CENTER
3838 NORTH CAUSEWAY BLVD., SUITE 3290
METAIRIE LA 70002

COPY MAILED

MAY 23 2005

OFFICE OF PETITIONS

In re Application of
Schlumbrecht
Application No. 10/390,931
Filed: March 19, 2003
For: River Card Poker

In re Application of
Schlumbrecht
Application No. 10/470,644
Filed: November 2, 2004
Attorney Docket No. A05324US
(98797.2)

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on February 23, 2005, to revive the above-identified application. This is also in response to the supplemental petition filed on May 17, 2005, which is being treated as a petition under 37 CFR 1.181, requesting that the Office consider the reply to the nonfinal Office Action in the form of a continuation-in-part application as timely filed.

This application became abandoned on April 30, 2004, for failure to submit a timely reply to the nonfinal Office action mailed on January 29, 2004, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 9, 2004.

In the present petition, applicant asserts in February of 2004, he filed a request for a continuation-in-part application (CIP application) of prior application No. 10/390,931 in response to the nonfinal Office action. Applicant explains that the Office incorrectly classified the CIP as "NPL Documents" in the prior

application with the wrong "Mail Room Date" of March 19, 2003. Applicant explains that he does not have a certificate of mailing, postcard receipt or a USPTO date stamp to support the allegation that he filed the CIP application in February of 2004. Applicant further states that on November 2, 2004, he resubmitted the CIP application with the original petition. The Office treated the petition filed on November 2, 2004, as a petition under 37 CFR 1.137(a) and a petition to withdraw the holding of abandonment, which were both dismissed by the decisions of February 4, 2005, and February 10, 2005, respectively. Applicant is reminded that the burden is on applicant to establish to the satisfaction of the Commissioner the date the CIP application was filed with the USPTO.

Upon further review, although applicant did not submit an "Application Transmittal," it appears that applicant intended to file a CIP application of prior application, No. 10/390,931. Specifically, on November 2, 2004, applicant filed a specification, claims, abstract, and drawings. The specification states: "This is a continuation-in-part of co-pending U.S. Patent Application Serial No. 10/390,931, filed March 19, 2003, which is incorporated herein by reference."

Unfortunately, applicant did not submit sufficient evidence that he filed a timely response in the form of a CIP application in February of 2004. Therefore, the petition under 37 CFR 1.181 is dismissed. The application papers will be treated as a CIP application under 37 CFR 1.53(b) and accorded a filing date of November 2, 2004.

The CIP application under 37 CFR 1.53(b) filed on November 2, 2004, has been assigned application No. 10/470,644. The CIP application papers as filed on November 2, 2004, and the Power of Attorney and Correspondence Indication Form for the CIP application have been "closed" in the Image File Wrapper for application No. 10/390,931 and have been placed in application No. 10/470,644. A copy of the supplemental petition submitted on May 17, 2005, will be placed in application No. 10/470,644.

All future correspondence regarding the CIP application, filed November 2, 2004, should be directed to application No. 10/470,644, not application No. 10/390,931.

Applicant has met the requirements of 37 CFR 1.137(b). Accordingly, the renewed petition under 37 CFR 1.137(b) is granted to the extent indicated above.

Application No. 10/390,931 is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the CIP application, No. 10/470,644, filed on November 2, 2004.

Application No. 10/470,644 will be forwarded to the Office of Initial Patent Examination to process the application as a continuation-in-part application filed under 37 CFR 1.53(b) with a filing date of November 2, 2004, using the application papers submitted on that date, and to mail a corrected filing receipt. Additionally, the Office is directed to mail a Notice to File Missing Parts of Nonprovisional Application to applicant in Application No. 10/470,644, requiring the submission of an oath/declaration, the filing fees, and a surcharge for their late filing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

COPY MAILED

JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Becks, et al. :
Application No. 10/470,645 :
Filed: July 18, 2003 :
Attorney Docket No. CM2575C :

ON PETITION

This is a decision on the "Petition to Accord Original Filing Date Under 37 CFR 1.10(e), filed February 18, 2005.

Please note, the papers submitted February 18, 2005, have been assigned application number 10/470,645. Please direct all future correspondence to this application number.

Petitioners allege that the application was deposited in Express Mail service on July 18, 2003. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV322814901US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of July 18, 2004. Petitioner requests that the application be accorded a filing date of July 18, 2003.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 515. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on July 18, 2003.

The petition is GRANTED.

Accordingly, the application is entitled to a filing date of July 18, 2003.

Since the instant petition has been granted, no petition fee is required.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of July 18, 2003 and issuance of a filing receipt.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

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

17 JUN 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

Eric B. Meyertons
Meyertons, Hood, Kivlin, Kowert &
Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

In re Application of	:	DECISION ON
McDevitt et al	:	
Application No.: 10/470,646:		PETITION
Filing Date: January 24, 2005	:	
Attorney's Docket No.: 5936-11110	:	UNDER 37 CFR 1.182
For: CAPTURE AND DETECTION OF MICROBES	:	
BY MEMBRANE METHODS	:	

This is in response to applicants' submission, "PETITION TO CONVERT A NATIONAL APPLICATION FILED UNDER 37 USC 371 TO AN APPLICATION FILED UNDER 35 U.S.C. 111(a)," filed 04 March 2005, which is being treated as a petition under 37 CFR 1.182. The petition requests the above referenced application be converted from a national stage application filed under 35 U.S.C. 371 to a national application filed under U.S.C. 111(a). The $400.00 petition fee will be charged to Deposit Account No. 50-1505.

BACKGROUND

On 24 July 2003, applicants filed international application PCT/US03/23131, which claimed priority of earlier applications filed on 24 July 2002. The international application as filed contained a total of 73 claims. Claim 73 was cancelled during international preliminary examination. in response to the written opinion, applicants offered an amendment which added claims 74-80. However, applicant did not offer replacement sheets in compliance with PCT Rule 66.8. Accordingly the amendments were not considered when the international preliminary examination report was established. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 January 2005.

On 24 January 2005, applicants filed a transmittal letter (Form PTO-1390) for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee and a copy of the international publication. The papers were accompanied by a preliminary amendment that stated "Claims 50-54, 69, and 81-94 are currently pending. Claims 81-93 are new. Claims 1-49, 55-68 and 70-80 have been cancelled without prejudice." These papers were identified with attorney docket number 5936-11111. These papers were assigned an application number of 10/522,499.

Also on 24 January 2005, applicants filed a second set of papers which was accompanied by, inter alia, a transmittal letter (Form PTO-1390) for entry into the national stage in the United States which was accompanied by, the basic national fee and a copy of the international publication. The papers were accompanied by a preliminary amendment that stated "Claims 31-39,41-49, 79, and 80 are currently pending. Claims 1-13, 15-30, 40, 50-71 and 74-78 have been cancelled without prejudice." These papers were identified with attorney docket number 5936-11112. These papers were assigned an application number of 10/522,926.

Additinally on 24 January 2005, applicants filed a third set of papers which was accompanied by, inter alia, a transmittal letter (Form PTO-1390) for entry into the national stage in the United States, the basic national fee and a copy of the international publication. The papers were accompanied by a preliminary amendment that stated "Claims 1,2, 5, 8-13, 15-17, 22, 24, 28, 30, and 81-83 are currently pending. Claims 81-83 are new. Claims 3, 4, 6, 7, 18-21, 23, 25-27, 29, 31-71, and 74-80 have been cancelled without prejudice."These papers were identified with attorney docket number 5936-11110. These papers were assigned an application number of 10/470,646.

On 04 March 2004, applicants filed a petition to convert the above national stage application filed under 37 USC 371 to an application filed under 35 USC 111(a).

DISCUSSION

As is evident from the above recited facts, three sets of papers to enter the national stage were submitted for international application number PCT/US03/23131. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of three sets of national stage papers to enter the United States was improper. The USPTO has treated application number 10/522,296 as the national stage of international application PCT/US03/23131.

Applicants have submitted papers that, inter alia, request the above-captioned application (Docket No. 5936-11110) be processed as a continuation of the U.S. National Phase application based on PCT/US03/23131. This request is being treated as a petition under 37 CFR 1.182.

A review of the papers filed 24 January 2005 reveals that a copy of the international application and a preliminary amendment were submitted. This is sufficient to meet the requirements of a filing under 35 U.S.C. 111(a).

The $400.00 petition fee will be charged from Deposit Account No. 50-1505 as authorized.

Applicants are entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application

(U.S. Serial No. 10/470,646) and the international application (PCT/US03/23131) designating the United States were copending on 24 January 2005.

Applicants are entitled to claim benefit under 35 U.S.C. 119(e) of the filing date of the provisional applications for the common subject matter, since the international application (PCT/US03/23131) claimed benefit to these applications. In order to obtain benefit of the earlier international application, applicants must make reference to the previous application and state the relationship. The required reference may either be in an application data sheet, or the specification must contain or be amended to contain such reference in the first sentence. An appropriate passage would be, "International application PCT/US03/23131 claims the benefit of U.S. Provisional Application No. 60/---,--- filed ------ -- -- and U.S. Provisional Application No. 60/---,--- filed ---- -- ---, etc." Applicants must provide this reference within four (4) months from the filing date of this application. See 37 CFR 1.78(a)(5)(ii). If the reference to the prior application is supplied later than 4 months from the filing date, the reference must be accompanied by a petition fee and petition to accept an unintentionally delayed claim under 37 U.S.C. 119(e). See 37 CFR 1.78(a)(6).

CONCLUSION

Applicants' petition under 37 CFR 1.182 is hereby GRANTED.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for treatment as a filing under 35 U.S.C. 111(a) with a filing date of 24 January 2005, which is a continuation of international application PCT/US03/23131 filed 24 July 2003.

Leonard Smith

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

LES:ls

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

27 JUL 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John Lanza
Lahive & Cockfield, LLP
28 State Street
Boston, MA 02109

In re Application of BALOGH	:	
U.S. Application No.: 10/470,648	:	
PCT Application No.: PCT/US03/16892	:	
Int. Filing Date: 30 May 2003	:	DECISION
Priority Date Claimed: 31 May 2002	:	
Attorney Docket No.: WCZ-029DV2	:	
For: A HIGH SPEED COMBINATION MULTI-MODE IONIZATION SOURCE FOR MASS SPECTROMETERS	:	

This is in response to the "Petition to Treat Application as Filed Under 35 U.S.C. § 111(a) Pursuant to 37 C.F.R. § 1.182" filed 07 February 2005.

BACKGROUND

On 30 May 2003, applicant filed international application PCT/US03/16892, which claimed priority of an earlier United States application filed 31 May 2002. The thirty-month period for paying the basic national fee in the United States expired on 30 November 2004.

On 10 November 2004, 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 was assigned U.S. Application Number 10/514,098.

On 11 November 2004, applicant filed two additional sets of purported national stage papers (attorney docket numbers WCZ-029DV and WCZ-029DV2) based on international application number PCT/US03/16892.

On 28 January 2005, this Office mailed a communication which advised applicant that the submission of three sets of U.S. national stage papers for a single international application was improper.

On 07 February 2005, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The papers associated with attorney docket number WCZ-029DV2 have been located but do not bear a USPTO date stamp.

37 CFR 1.10(a) states:

> (1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.
>
> (2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

In the present case, the copy of the Express Mail mailing label shows a "date in" of 11 November 2004. Furthermore, the Express Mail mailing label number appears on the "Certificate of Express Mailing Under 37 CFR 1.10". Thus, it has been sufficiently established that the papers associated with attorney docket number WCZ-029DV2 were filed on 11 November 2004.

Pursuant to 35 U.S.C. 111(a)(4), the filing date of an application shall be the date on which the specification and any required drawing are received in the USPTO. In the present case, the papers submitted on 11 November 2004 contained a specification and drawings.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

This application is being forwarded to the Office of Initial Patent Examination for processing as a continuation application under 35 U.S.C. 111(a) with a filing date of 11 November 2004.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 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

GENENCOR INTERNATIONAL, INC.
ATTENTION: LEGAL DEPARTMENT
925 PAGE MILL ROAD
PALO ALTO CA 94304

COPY MAILED

MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of Boston et al Application No. 09/470,168 Filed: December 12, 1999 Attorney Docket No. GC538-2	DECISION GRANTING PETITION
In re Application of Boston et al Application No. 10/470,649 Filed: November 20, 2003 Attorney Docket No. GC538-2-C1	

This is a decision on the petition under 37 CFR 1.182, filed on December 20, 2004, requesting that a nonprovisional application entitled "METHOD FOR PRODUCING ASCORBIC ACID INTERMEDIATES" be assigned an application number and accorded a filing date of November 20, 2003.

The petition identifies the application filed on November 20, 2003, as a continuation of prior application No. 09/470,168 filed December 22, 1999. The original application papers filed on November 20, 2003, have been located in the file of prior application No. 09/470,168 and have been assigned application No. 10/470,649.

The application papers will be placed into application No. 10/470,649. A copy of the present petition will be retained in application No. 10/470,168 to complete the record therein. All further correspondence concerning the application should be directed to application No. **10/470,649**.

The original papers filed on November 20, 2003, will be used for examination purposes.

Accordingly, the petition is granted.

No petition fee is necessary.

The Office of Initial Patent Examination is directed to accord application No. 10/470,649 a filing date of **November 20, 2003**, using the application papers submitted on November 20, 2003, and to mail a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CIBA VISION CORPORATION
PATENT DEPARTMENT
11460 JOHNS CREEK PARKWAY
DULUTH GA 30097-1556

COPY MAILED

APR 2 6 2005

OFFICE OF PETITIONS

In re Application
Rosenzweig et al.
Application No. 09/731,331
Filed: December 6, 2000
Atty Docket No. WES-101.1 (6711/81178)

In re Application of
Rosenzweig et al.
Application No. 10/470,651
Filed: July 9, 2003
Atty Docket No. CL/V-31791/WEJ1587

DECISION ON PETITION

This is a decision on petition filed August 23, 2004, requesting that the Continued Prosecution Application (CPA) filed on July 9, 2003, and based on prior application No. 09/731,331 (issued as U.S. Patent No. 6,649,722 on November 18, 2003) be treated as an application under 37 CFR 1.53(b), rather than 37 CFR 1.53(d), and be accorded a filing date of July 9, 2003. The Office apologizes for the delay in responding to the present petition.

On April 11, 2003, the Office mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability in application No. 09/731,331. On July 9, 2003, applicants submitted a request for a CPA under 37 CFR 1.53(d) based on prior application No. 09/731,331. However, the CPA request was not processed. On July 15, 2003, applicants paid the issue fee in response to the Notice of Allowance and Issue Fee Due. On November 18, 2003, prior application No. 09/731,331 issued as U.S. Patent No. 6,649,722.

The Office has not acknowledged the request to expressly abandoned the prior application because the CPA request was not entered into the prior application. Accordingly, the petition is proper and timely filed. It is noted that applicants filed the CPA request on July 9, 2003, while the prior application was

still pending. With the CPA request, applicants submitted a preliminary amendment and the copies of the specification, claims, abstract, drawings, IDS with references, and the declaration submitted on July 9, 2003.

Applicants request that the application under 37 CFR 1.53(b) be accorded the filing date of July 9, 2003. Upon review, it appears that the Office received the CPA request on July 9, 2003. Therefore, the application under 1.53(b) will be accorded the filing date of July 9, 2003.

Accordingly, the petition is granted.

The Office has assigned the continuation application under 37 CFR 1.53(b), filed on July 9, 2003, application No. 10/470,651. The Office "closed" the preliminary amendment and copies of the specification, claims, abstract, drawings, IDS with references, and the declaration submitted on July 9, 2003, in application No. 09/731,331 and placed those papers in application No. 10/470,651. A copy of the CPA request and the present petition will be retained in application No. 09/731,331 to complete the record therein. All further correspondence concerning the continuation application under 37 CFR 1.53(b) should be directed to application No. 10/470,651, not application No. 09/731,331.

The Office finance records will be corrected to show applicants paid the $750.00 filing fee on July 9, 2003, and the $130.00 petition fee on August 23, 2004, in application No. 10/470,651, not application No. 09/731,331.

Application No. 10/470,651 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with the filing date of July 9, 2003, using the copies of the specification, claims, drawings and declaration filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[redacted] [redacted] from 09/788,019

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. 32

George Sharpton
P.O.Box 161576
2274 Amor Court
Atlanta GA 30321-0009

COPY MAILED

AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of George Sharpton Application No. 09/788,019 Filed: February 20, 2001 Title: HAND TRUCK / FORKLIFT APPARATUS	DECISION ON PETITION

This is in response to the communications filed October 8 and October 14, 2004, by *pro se* applicant George Sharpton, requesting reconsideration of the decision of September 20, 2004. The decision held that petition had not shown that the papers filed on January 26, 2003 should be treated as a continuation-in-part application.

The petition is **DISMISSED**.

Applicant has submitted additional information to support a conclusion that a complete application under 37 CFR 1.53(b) was filed on January 26, 2003, not just a request for continued examination (RCE). Applicant submits the papers that he maintains were filed on January 26, 2003, by deposited in Express Mail on October 8, 2004. Those papers include a complete copy of a nonprovisional application (Specification, claims and drawings). Applicant's arguments and evidence have been considered, but not found persuasive to overcome the decision of September 20, 2004.

Pursuant to 35 U.S.C. 111(a)(4)

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

37 CFR 1.10(e) applies only in those situations in which the correspondence at issue was lost in toto (i.e., the entire correspondence was not delivered to the Office). Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application), an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. Rather,

where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

As stated in MPEP 503

> If a receipt for any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. To ensure the receipt of return receipt postcards, users must either: (A) purchase already stamped postcards from the United States Postal Service (USPS) or affix postage stamps to their postcards; or (B) if a postage meter is used, ensure that the meter postmark does not show the date. Any return receipt postcard containing a dated meter postmark may not be delivered by the USPS to the address provided on the postcard. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail.
>
> A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this instance, papers including a request for continued examination (RCE), an information disclosure statement (IDS) and an extension of time were received on January 26, 2003. Thus, 37 CFR 1.10(e) is inapplicable. Moreover, petitioner has not provided a return postcard receipt or other persuasive evidence of the filing of the papers he maintains were filed on January 26, 2003. The application file is the Official record of the papers received in the Office. The papers petitioner maintains were filed are not present in the application file.

Accordingly, the application papers are entitled only to a date of receipt of a specification, claims and drawings. These required items were first received in the Office on October 8, 2004. This is the first date that the papers can be treated as a an application under 1.53(b) entitled to a filing date. The application under 37 CFR 1.53(b) filed on October 8, 2004, using the application papers submitted on that date, has been assigned application No. 10//470,653. All future correspondence concerning the application under 37 CFR 1.53(b) filed on October 8, 2004 should be directed to application No. 10/470,653, not application No. 09/788,019.

Application No. 09/788,019 will again be forwarded to Technology Center AU 3652 for consideration by the examiner of the response to the non-final Office action filed July 21-22, 2003[1] (Paper Nos. 27 and 28).

---

[1] This response was made timely by an accompanying petition and fee for a one-month extension of time.

Application No. 10/470,653 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR 1.53(b), with a date of receipt of October 8, 2004, using the application papers received on that date.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

COPY MAILED

AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of
Holloway et al.
Application No. 09/698,537
Filed: October 26, 2000
Attorney Docket No. 3739/1J288-US1

In re Application of
Holloway et al.
Application No. 10/470,655
Filed: February 14, 2003
Attorney Docket No. PA01
(108542-0004)

DECISION ON PETITION

This is a decision on the petition filed on November 22, 2004, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR 1.53(d) be treated as an application under 37 CFR 1.53(b) and be accorded a filing date of February 14, 2003.

On September 27, 2002, a Notice of Allowance and Fee(s) Due and a Notice of Allowability were mailed in application No. 09/698,537, which set a three (3) month statutory period for reply. In response, on December 13, 2002, applicants paid the issue fee. Thereafter, on February 14, 2003, applicants submitted a request for a CPA under 37 CFR 1.53(d) based on prior application No. 09/698,537 and a preliminary amendment.

On February 18, 2003, application No. 09/698,537 issued as U.S. Patent No. 6,521,248. On August 16, 2004, the Office mailed an Office communication, which acknowledged receipt of the request for a CPA and the preliminary amendment filed on February 14, 2003, and stated that these papers would be placed in the file but would not be considered because the application issued as a patent.

The Office notes that at the time the CPA was filed CPA practice no longer applied to applications, other than design applications, if the prior application was filed on or after May 29, 2000. Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.[1]

On November 22, 2004, applicants filed the present petition, a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address, a Statement under 37 CFR 3.73(b), and a copy of the original application papers. Applicants request the conversion of the improperly filed CPA to a continuation application under 37 CFR 1.53(b) due to extenuating circumstances. Specifically, applicants state "… that conversion of the improper CPA to an RCE, requiring restoring the application to pending status is impossible because the application has issued." *Petition dated 11/18/04, pp. 1-2.*

In the event that an applicant files a request for a CPA that does not meet the requirements of 37 CFR 1.53(d) because the application is not a design application, and the application was filed on or after June 8, 1995, the request for a CPA will be treated as an RCE under 37 CFR 1.114.

The Office will no longer convert an improper CPA to an application under 37 CFR 1.53(b) simply because an applicant requests it. The Office will convert an improper CPA to an application under 37 CFR 1.53(b) only if applicant demonstrates that "there are extenuating circumstances that warrant the burdensome process of converting a CPA into an application under Sec. 1.53(b) (e.g., restoring the application to pending status and correcting the improper RCE is not possible because the application has issued as a patent)." *Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications, 68 FR 32376 (May 30, 2003), 1271 Off. Gaz. Pat. Office 143 (June 24, 2003) (final rule).*

---

[1] Effective July 14, 2003, the Office eliminated CPA practice as to utility and plant applications. *See Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications, 68 FR 32376 (May 30, 2003), 1271 Off. Gaz. Pat. Office 143 (June 24, 2003) (final rule).*

In the present petition, applicants have shown that extenuating circumstances warrant the process of converting the CPA to an application under 37 CFR 1.53(b). Accordingly, the petition is granted.

The continuation application under 37 CFR 1.53(b) filed on February 14, 2003, has been assigned application No. 10/470,655. The CPA request, the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address, the Statement under 37 CFR 3.73(b), and the application papers have been removed from the file of application No. 09/698,537 and have been placed in application No. 10/470,655. Copies of the CPA request and the present petition will be retained in application No. 09/698,537 to complete the record therein. All further correspondence concerning the continuation application under 37 CFR 1.53(b) should be directed to application No. 10/470,655, not application No. 09/698,537.

Applicants are advised that 37 CFR 1.78 requires that any nonprovisional application claiming benefit of one or more prior-filed copending nonprovisional applications contain, or be amended to contain, a reference to each such prior-filed application, identifying it by application number and indicating the relationship of the applications (i.e., continuation, divisional, or continuation-in-part). This reference must be included in an application data sheet (37 CFR 1.76) or the specification must contain, or be amended to contain, such reference in the first sentence following the title. See 37 CFR 1.78(a)(2). Applicants must promptly file an amendment to the specification in application No. 10/470,655 to indicate that this application is a continuation of prior application No. 09/698,537 in order to properly claim the benefit of application No. 09/698,537. See 37 CFR 1.78 and 1.121 and MPEP 201.11.

The Office finance records will be corrected to show that the $375.00 filing fee was paid in application No. 10/470,655 on February 14, 2003. Additionally, the $400.00 petition fee will be charged in application No. 10/470,655 to Deposit Account No. 50-2075.

Application No. 10/470,655 will be forwarded to the Office of Initial Patent Examination for further processing as a continuation application of prior filed application No. 09/698,537, **with a filing date of February 14, 2003**, using the application papers filed on November 22, 2004.

Application No. 09/698,537 will be forwarded to Files Repository.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Melvin A. Hunn
Hill & Hunn, LLP
Suite 1440
201 Main Street
Fort Worth, TX 76102-3105

COPY MAILED

DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of
David L. McKay, Sr.
Application No. 09/732,193
Filed: December 7, 2000
Attorney Docket No. 0594MH-40108

In re Application of
David L. McKay, Sr.
Application No. 10/470,656
Filed: December 7, 2000
Attorney Docket No. 0594MH-40108

DECISION ON PETITION

This is in response to the communication entitled "Response to Office Action Dated 8 September 2004," submitted in Application No. 09/732,194, on November 12, 2004, which is being treated as a petition under 37 CFR 1.181, to correct the files in the above-identified applications.

Petitioner explains that the USPTO erroneously mailed petitioner an Office action dated September 8, 2004, identifying an incorrect application number, 09/732,193. Petitioner states that all the information indicated in the Office action is correct with exception to the application number, 09/732,193, which should read as application number, 09/732,194. Additionally, petitioner explains that the Office action listed the claims as 1-10; however, there is only one claim pending in Application No. 09/732,194. Lastly, petitioner avers that the filing receipt lists the incorrect application number, 09/732,193, instead of application number, 09/732,194, for the subject invention, "METHOD AND APPARATUS FOR UTILIZING SELECTIVE SIGNAL POLARIZATION AND INTERFERENCE CANCELLATION FOR WIRELESS COMMUNICATION."

A review of the record indicates that Application No. 09/732,193 for the invention entitled "MULTIBIT SPREAD SPECTRUM SIGNALING" incorrectly contained the bibliographic information for Application No. 09/732,194, entitled "METHOD AND APPARATUS FOR UTILIZING SELECTIVE SIGNAL POLARIZATION AND INTERFERENCE CANCELLATION FOR WIRELESS COMMUNICATION." The bibliographic information listed Melvin A. Hunn as the

attorney of record. Therefore, the USPTO mistakenly mailed the Office action of September 8, 2004, in Application No. 09/732,193 to Mr. Hunn, rather than to Philips Intellectual Property & Standards.

Additionally, the record indicates Application No. 09/732,194 contained both the specification for the invention entitled "METHOD AND APPARATUS FOR UTILIZING SELECTIVE SIGNAL POLARIZATION AND INTERFERENCE CANCELLATION FOR WIRELESS COMMUNICATION" and the specification entitled "MULTIBIT SPREAD SPECTRUM SIGNALING." Nevertheless, only the specification entitled "MULTIBIT SPREAD SPECTRUM SIGNALING" was examined in application No. 09/732,194. Thereafter, the examiner mailed a nonfinal Office action in application No. 09/732,194, to the correct applicant, Philips Intellectual Property & Standards, albeit using a different application number than that listed on Philips' postcard receipt (09/732,193).

In an effort to correct the files, the Office has removed the application papers and correspondence pertaining to the invention entitled "METHOD AND APPARATUS FOR UTILIZING SELECTIVE SIGNAL POLARIZATION AND INTERFERENCE CANCELLATION FOR WIRELESS COMMUNICATION" from Application No. 09/732,194 and transferred them to Application No. 10/470,656. The application papers will be reprocessed and will retain the filing date of December 27, 2000. **All further correspondence regarding the invention entitled "METHOD AND APPARATUS FOR UTILIZING SELECTIVE SIGNAL POLARIZATION AND INTERFERENCE CANCELLATION FOR WIRELESS COMMUNICATION" should be directed to application No. 10/470,656, not application No. 09/732,194.** Accordingly, the petition is **granted**.

The Office finance records will indicate that the $355.00 filing fee, the $65.00 surcharge, and the $40.00 assignment fee were paid in Application No. 10/470,656, instead of Application No. 09/732,193. Application No. 09/732,193 is no longer an active application file.

Additionally, the Assignment records indicate that applicant recorded an assignment to CI Wireless Inc. on April 11, 2001, in Application No. 09/732,193. The Office advises applicant to submit another assignment to CI Wireless Inc., identifying the correct application number, 10/470,656. Applicant will be able to retain the original date and no additional fee will be charged due to USPTO error. The assignment must be faxed to the attention of Joyce Johnson at (703) 308-7124.

Application No. 10/470,656 will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 7, 2000, using the application papers submitted on that date.

Any inquiries regarding this decision may be directed to the undersigned at (571) 272-3211 or Mark O. Polutta at (571) 272-7709.

Christina Tartera Donnell

Christina Tartera Donnell,
Senior Petitions Attorney
Office of Petitions

12 AUG 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

Hunton & Williams
1900 K. Street, N.W., Suite 1200
Washington, DC 20006-1109

In re Application of	:	DECISION ON
HESSEL et al	:	
Application No.: 10/470,658	:	PETITION
Filing Date: March 28, 2005	:	
Attorney's Docket No.: 59866.000004	:	UNDER 37 CFR 1.182
For: A METHOD FOR DETECTING, SCREENING,	:	
AND/OR MONITORING A CANCER IN	:	
AN INDIVIDUAL	:	

This is in response to the petition under 37 CFR 1.182, filed July 28, 2005, requesting removal of the preliminary amendment from national stage application 10/529,479 and be accorded the status as a separate application by being placed in a new file wrapper and assigned a new application number, with the new application being accorded a filing date of March 28, 2005 in a application filed under 35 U.S.C. 111(a). The petition is GRANTED.

BACKGROUND

On September 26, 2003, applicant filed international application PCT/DK2003/000634, which claimed priority of an earlier Danish application filed September 26, 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on April 8, 2004. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on March 28, 2005 (March 26, 2005 was a Saturday).

On March 28, 2005, 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 copy of the international application; an application data sheet; and a preliminary amendment. An oath or declaration as required by 35 U.S.C. 371(c)(4) and the surcharge for filing the oath or declaration later than 30 months from the priority date as required by 37 CFR 1.492(e) was not filed. These papers were assigned application number 10/529,479.

On July 28, 2005, applicant filed the present petition requesting removal of the preliminary amendment from the national stage and the establishment of a patent application filed under 35 U.S.C. 111(a) with a filing date of March 28, 2005. The petition was accompanied by a copy of the international application, a copy of the preliminary amendment

filed March 28, 2005, an authorization to charge the $400 petition fee, and the filing fee to applicant's attorney's deposit account, and a second preliminary amendment.

DISCUSSION

Applicants assert that the filing of the preliminary amendment on March 28, 2005 could raise the issue of new matter. Applicant has filed, as part of the initial 371 filing, a preliminary amendment which contains new matter. Therefore, he is seeking that the amendment to the international application be granted a filing date of March 28, 2005. Applicant has requested removal of the preliminary amendment from the national stage file, creation of a new file wrapper, and according the new application a filing date under 35 U.S.C. 111(a) as of the date of receipt of the preliminary amendment. Applicant has stated that if the petition is not granted, the filing date of the additional subject matter will be lost. Such a situation is analogous to the filing of a similar amendment or substitute specification in a request for a CPA which is discussed in MPEP 201.06(d) which states, in part:

> In the event that a substitute specification or preliminary amendment containing new matter was filed with a request for a CPA, applicant may file a petition under 37 CFR 1.182 requesting that the substitute specification or preliminary amendment be removed from the CPA application file, and be accorded the status as a separate application by being placed in a new file wrapper and assigned a new application number, with the new application being accorded a filing date as of the date the request for a CPA and substitute specification/preliminary amendment were filed. Of course, a request for a CPA is not improper simply because the request is accompanied by a substitute specification or preliminary amendment containing new matter. Thus, an applicant will not be entitled to a refund of the filing fee paid in a proper CPA as a result of the granting of a petition under 37 CFR 1.182 requesting that the substitute specification or preliminary amendment be removed from the CPA application file.

Applicant has complied with the above noted requirements. Furthermore, it is noted that on March 28, 2005 applicant filed a copy of the international application accompanied by the preliminary amendment. Thus applicant had everything necessary to accord a filing date, as of that date. Accordingly, the petition requesting that the preliminary amendment be removed from the national stage application file, and be accorded the status as a separate application by being placed in a new file wrapper and assigned a new application number, with the new application being accorded a filing date as of the date the preliminary amendment was filed is granted.

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant <u>must</u> submit a certified copy of the priority document. The certified copy of priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

DECISION

The petition under 37 CFR 1.182 requesting that the preliminary amendment be removed from the national stage application file, and be accorded the status as a separate application by being placed in a new file wrapper and assigned a new application number, with the new application being accorded a filing date as of the date the preliminary amendment was filed is GRANTED.

This application (10/470,658) will be processed as an application under 35 U.S.C. 111(a) and application 10/529,479 will continue to be processed as an application under 35 U.S.C. 371.

The $400.00 petition fee will be charged to counsel's Deposit Accoun No. 50-0206.

A copy of the petition and this decision will be placed in both application files.

This application (10/470,658) will be forward to the Office of Initial Patenting Examination for appropriate processing. Application 10/529,479 will be returned National Stage Processing Division of the International Division for appropriate processing.

Any period of adjustment to the term of a patent under 35 U.S.C. 154(b)(May 29, 2000) in either application No. 10/470,658 or application No.10/529,479 may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111 and ending on the mailing date of this decision. See 37 CFR 1.704(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.

Leonard Smith

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

LES:ls

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

24 OCT 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas M. Galgano
Galgano & Burke
300 Rabro Drive - Suite 13
Hauppauge, NY 11788

In re Application of
OBERHOFER et al.
U.S. App. No. 10/470,659
PCT No.: PCT/DE00/02786
Int. Filing Date: 17 August 2000
Priority Date: 20 August 1999
Attorney Docket No.: 460-25
For: CLOSURE FOR THE CHARGING HOLE OF A LIQUID CONTAINER

DECISION ON PETITION
UNDER 37 CFR 1.182

This decision is in response to applicants' "Petition to Accord Application with Serial Number and Filing Date and to Order Examination of Application" filed 14 March 2005 and "Petition under 37 CFR 1.181" filed 08 August 2005. Applicants are requesting to reconstruct the application and accord a filing date of 19 April 2001 to the above-identified national stage application. The following petition will be treated under 37 CFR 1.182 for the reasons explained below. The $400 petition fee under 37 CFR 1.17 will be charged to Deposit Account no. 07-0130.

BACKGROUND

On 17 August 2000, applicants filed international application PCT/DE00/02786 which claimed a priority date of 20 August 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 January 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 20 months from the priority date, 20 April 2001.

On 19 April 2001, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a copy of the international application for PCT/DE98/03179; and a preliminary amendment; and an executed declaration. These papers were placed in application no. 09/341,327 since the Transmittal Letter indicated the PCT number as PCT/DE98/03179.

On 14 March 2004, applicants filed "Petition to Accord Application with Serial Number and Filing Date and to Order Examination of Application" which included an itemized stamped postcard of all documents filed on 19 April 2001. These papers were also placed in application no. 09/341,327.

On 08 August 2005, applicants filed "Petition under 37 CFR 1.181" forwarding copies of papers filed on 19 April 2001. These papers consisted of: a copy of a Transmittal Letter to the United States Designated Office concerning a filing under 35 U.S.C. 371; a copy of the Customer Receipt of the "Express Mail" mailing label #EL658961935US; Declaration (of inventors); a copy of a check in the amount of $630; and a postcard receipt dated 19 April 2001. The submission was assigned application no. 10/529,013.

DISCUSSION

Applicants request that the above-identified U.S. National Stage application which was filed on April 19, 2001 be accorded a serial number and filing date. Applicants' transmittal letter filed on 19 April 2001 indicated an incorrect international application number, filing date, and priority date. Accordingly, the present petition has been treated as a petition under 37 CFR 1.182 to correct the application number identified on applicants' 19 April 2001 submission to the proper application number, that is, PCT/DE00/02786.

A review of the application no. 09/341,327 reveals that the Transmittal Letter to the United States Designated Office concerning a filing under 35 U.S.C. 371; small entity declaration; preliminary amendment; a copy of the international application for PCT/DE98/03179; an international search report for PCT/DE00/02786; and various German priority documents are located in application no. 09/341,327. Therefore, applicants' request that the copy of Transmittal Letter to the United States Designated Office concerning a filing under 35 U.S.C. 371; small entity declaration; preliminary amendment; a copy of the international application for PCT/DE98/03179; an international search report for PCT/DE00/02786; and various German priority documents filed with the petition be used to reconstruct the application is dismissed as moot, since the papers listed above were located in the application file no. 09/341,327. These papers have been removed from application no. 09/341,327 and placed in application no. 10/470,459. Accordingly, it is appropriate to accord the application a receipt date of **19 April 2001**.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

Applicants' petition under 37 CFR 1.181 requesting that the application papers filed on 08 August 2005 be accorded a filing date of 19 April 2001 is **DISMISSED** as moot.

Applicants should use application number **10/470,659** in all future communications with the Patent and Trademark Office in regards to the U.S. national stage of

international application PCT/DE00/02786.

This application is being returned to the United States/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (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

CHARLES F. MERONI, JR.
MERONI & MERONI, P.C.
P.O. BOX 309
BARRINGTON, IL 60011

COPY MAILED

MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Beiermann & Beiermann	:	DECISION DISMISSING
Application No. 10/470,662	:	PETITION
Filed: November 23, 2004	:	
Attorney Docket No. 04271	:	

This is a decision on the petition under 37 CFR 1.10(e), filed March 19, 2005, requesting that an application of Bradley S. Beiermann and Dianne M. Beiermann entitled "Gear Shifter Pen Assembly"(attorney docket No. 04271) be accorded a filing date of November 23, 2004.

Petitioners request a November 23, 2004 filing date on the basis that the application was deposited in Express Mail service on November 23, 2004, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied a complete copy of petitioner's' application as shown by counsel's files, including a transmittal letter, 38 pages of specification and abstract, 14 sheets of drawings, a signed declaration and power of attorney, a small entity statement, and IDS, a copy of an itemized postcard receipt for a new patent application submission, and a copy of check number 7154 made out to the Commissioner for Patents for $544.00.

In addition, petitioners submitted a copy of Express Mail label EV085614687US showing a date-in of "11 23 04." The same Express Mail label number is found on the original application papers. The petition, signed by Charles F. Meroni, Jr. , the attorney of record, states that the original application was filed as Express Mail with the USPS on November 23, 2004. Attorney Meroni states that the papers submitted with the instant petition are copies of the original application papers.

The addressee field on the Express Mail label is filled in as:

Commissioner of Patents
P.O. Box 1451
Alexandria, VA 22313-1451

Paragraph (e) of 37 CFR 1.10 states 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 Commissioner to consider such correspondence as filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in 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 Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Petitioners did not comply with Rule 10(e), because petitioners addressed the Express Mail correspondence to an address not recognized by the USPTO. There is no P.O. Box 1451. The correspondence was not addressed as set out in 37 CFR 1.1(a). Thus, petitioners can not rely on the provisions of Rule 10(e).

In addition, Rule 10(e) is applicable to only situations in which the correspondence at issue was list *in toto* (i.e., the entire correspondence was not delivered to the Office). MPEP 513. Petitioners have provided a printout from the USPS showing that Express Mail item number EV085614687US was delivered on November 24, 2004 and signed for by a D. Barfield. D. Barfield works in the Trademark portion of the USPTO. Therefore, even if petitioners had complied with Rule 10(e), Rule 10(e) would not apply to petitioners' case because Express Mail item number EV085614687US was admittedly received by D. Barfield. The contents of the package bearing Express Mail item number EV085614687US is not verifiable.

In order to obtain a filing date of November 23, 2004 for the above-identified application, petitioners must submit a date-stamped itemized postcard receipt. An itemized date-stamped postcard receipt constitutes *prima facie* evidence that the items listed on the postcard were received in the USPTO on the date stamped thereon. MPEP 503.

March 19, 2005 is the earliest date that the application called "Gear Shifter Pen Assembly" was verifiably present in the USPTO. The application papers received on March 19, 2005 have been assigned application No. 10/470,662.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of **March 19, 2005** and the mailing of a filing receipt. OIPE will address financial issues, such as filing fee computations.

Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARLES F. MERONI, JR.
MERONI & MERONI, P.C.
P.O. BOX 309
BARRINGTON, IL 60011

COPY MAILED

AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Beiermann & Beiermann	:	DECISION GRANTING
Application No. 10/470,662	:	PETITION
Filed: March 19, 2005	:	
Attorney Docket No. 04271	:	

This is a decision on the petition, filed June 15, 2005, requesting reconsideration of a May 4, 2005 dismissal of a request that the above-identified application be accorded a filing date of November 23, 2004.

Petitioners reiterate their request for a November 23, 2004 filing date for the above-identified application on the basis that the application was deposited in Express Mail service on November 23, 2004, pursuant to the requirements of 37 CFR 1.10 and signed for by a USPTO employee on November 24, 2004.

Petitioners have submitted a copy of Express Mail label EV085614687US showing a date-in of "11 23 04." The same Express Mail label number is found on the original application papers. While petitioners addressed correspondence to an address other than the one used for new patent applications, petitioners did utilize an address used for trademark correspondence at the time. The undersigned apologizes for not taking into consideration the November 2004 address for trademark mail when rendering the prior decision.

No trace of the original November 23, 2004 filing can be found in the Office, but a package bearing Express Mail item number EV085614687US was received and signed for by Ms. Barfield, a PTO employee. While the contents of the package has not been shown with documentary evidence, petitioners have provided a copy of the prior filed application papers. Given the fact that the entire package went missing, it is impossible for petitioners to provide a date stamped postcard receipt.

The Office, taking equity into consideration and relying on practitioner's duty of candor, favorably reconsiders the previous decision on petition and assigns a filing date of November 23, 2004 for the above-identified application. The petition is **GRANTED**. No petition fee has been or will be charged in connection with this matter.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of **November 23, 2004** and the mailing of a corrected filing receipt.

Thereafter, the application will be forwarded to Technology Center G.A.U. 3682 for examination in due course.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Ronald C. Fedus, Esq.
Enzo Therapeutics, Inc.
c/o Enzo Biochem, Inc.
527 Madison Avenue (9th Floor)
New York NY 10022-4304

COPY MAILED

FEB 25 2005

OFFICE OF PETITIONS

In re Application of
Yaron Ilan et al.
Application No. 10/470,664
Date of Deposit: December 8, 2003
Attorney Docket No. Enz-59(D6)
Title: NOVEL THERAPEUTIC PROCESSES FOR ENHANCING IMMUNIZED STATES OF VACCINATED SUBJECTS

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

This is a decision on the petition under 37 C.F.R. §1.182, filed November 18, 2004, requesting that the above-identified application be accorded a filing date of December 8, 2003, with Figures 1-7 as part of the original disclosure of the application.

It is noted that Petitioner has placed the wrong title in the "title" field of his petition.

The application was deposited on December 8, 2003. However, on September 23, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application – Filing Date Not Granted" (notice) stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the depositing of drawings.

With the instant petition, Petitioner has included Figures 1-7.

Petitioner has stated that the notice set forth that the application was received without an executed oath or declaration. Petitioner is mistaken. The notice did not indicate that this item was missing, and it is noted that the electronic record contains an executed copy of the declaration from the parent application.

Petitioner has not alleged that the drawings were included on filing. Instead, he contends that they were constructively included, through incorporation 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 does not appear that an Application Data

Sheet was included on filing[1]. The Utility Patent Application Transmittal sheet indicates that the instant application is a Divisional of application 09/561,596. However, the Utility Patent Application Transmittal sheet **does not** indicate that the entire disclosure of the parent application is incorporated by reference. It is further noted that the first sentence of the specification fails to mention any continuity data.

Since Petitioner has failed to incorporate the entire disclosure of the patent application, he cannot rely upon an incorporation by reference of the parent application when the drawings of the child application have been inadvertently omitted.

For this reasons, the petition under 37 CFR §182 is **DISMISSED**.

The application will not receive a filing date. Figures 1-7 submitted with the instant petition will not be entered.

The Application is being returned to the Office of Initial Patent Examination for further processing, using only the application papers filed on that date. Since the application will not receive a filing date, OIPE will not mail a filing receipt.

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

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

1 MPEP 201.11(III)(D) requires the reference required by 37 CFR 1.78(a)(2) or (a)(5) must be included in an ADS or the specification must contain or be amended to contain such reference in the first sentence following the title. It appears that in the instant application, the benefit claim appears only in the application transmittal letter.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Ronald C. Fedus, Esq.
Enzo Therapeutics, Inc.
c/o Enzo Biochem, Inc.
527 Madison Avenue (9th Floor)
New York NY 10022-4304

COPY MAILED

AUG 0 5 2005

OFFICE OF PETITIONS

In re Application of
Yaron Ilan et al.
Application No. 10/470,664
Filed: December 8, 2003
Attorney Docket No. Enz-59(D6)
Title: NOVEL THERAPEUTIC PROCESSES FOR ENHANCING IMMUNIZED STATES OF VACCINATED SUBJECTS

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

This is a decision on the renewed petition under 37 C.F.R. §1.182, filed July 27, 2005, requesting that the above-identified application be accorded a filing date of December 8, 2003, with Figures 1-7 as part of the original disclosure of the application.

The application was deposited on December 8, 2003. However, on September 23, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application – Filing Date Not Granted" (notice) stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the depositing of drawings.

The original petition, filed on November 18, 2004, was accompanied by Figures 1-7. This petition was dismissed via the mailing of a decision on February 25, 2005.

With this renewed petition, Petitioner has set forth that drawings are not required for this application.

MPEP 608.02 states, in part:

An OIPE formality examiner should not treat an application without drawings as incomplete if drawings are not required. A drawing is not required for a filing date under 35 U.S.C. 111 and 113 if the application contains:

(A) at least one process claim including the term "process" or "method" in its introductory phrase;
(B) at least one composition claim including the term composition," "compound," "mixture" or "pharmaceutical" in its introductory phrase;
(C) at least one claim directed to a coated article or product or to an article or product made from a particular material or composition (i.e., an article of known and conventional character (e.g., a table), coated with or made of a particular composition (e.g., a specified polymer such as polyvinyl-chloride));
(D) at least one claim directed to a laminated article or product (i.e., a laminated article of known and conventional character (e.g., a table)); or
(E) at least one claim directed to an article, apparatus, or system where the sole distinguishing feature is the presence of a particular material (e.g., a hydraulic system using a particular hydraulic fluid, or a conventional packaged suture using a particular material).

For a more complete explanation about when a drawing is required, see MPEP 601.01(f). For applications submitted without all of the drawings described in the specification, see MPEP § 601.01(g). If an examiner determines that a filing date should not have been granted in an application because it does not contain drawings, the matter should be brought to the attention of the supervisory patent examiner (SPE) for review. If the SPE decides that drawings are required to understand the subject matter of the invention, the SPE should return the application to OIPE with a typed, signed, and dated memorandum requesting cancellation of the filing date and identifying the subject matter required to be illustrated.

Pursuant to this section of the MPEP, it has been PTO practice to treat an application that contains at least one compound, composition, or method claim as an application for which a drawing is not necessary for an understanding of the invention under the first sentence of 35 U.S.C. §113. A review of the record reveals that the claims contain process claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as originally filed, is entitled to a filing date of December 8, 2003.

Petitioner has also alleged that the formal drawings, submitted with the original petition, should be entered, without the submission of a newly executed oath or declaration. Petitioner bases this allegation on his assertion that the application incorporates by reference application number 09/561,596.

The previous decision set forth, in part:

Petitioner has not alleged that the drawings were included on filing. Instead, he contends that they were constructively included, through incorporation 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 does not appear that an Application Data Sheet was included on filing (MPEP 201.11(III)(D) requires the reference required by 37 CFR 1.78(a)(2) or (a)(5) must be included in an ADS or the specification must contain or be amended to contain such reference in the first sentence following the title. It appears that in the instant application, the benefit claim appears only in the application transmittal letter). The Utility Patent Application Transmittal sheet indicates that the instant application is

a Divisional of application 09/561,596. However, the Utility Patent Application Transmittal sheet **does not** indicate that the entire disclosure of the parent application is incorporated by reference. It is further noted that the first sentence of the specification fails to mention any continuity data.

It is noted that with this renewed petition, Petitioner has failed to address this portion of the decision. As set forth in the previous decision: the entire disclosure of the parent application **was not** incorporated by reference.

Accordingly, the petition is **GRANTED-IN-PART**.

The Notice, mailed on September 23, 2004, was sent in error, and is hereby **VACATED**.

The Office of Initial Patent Examination (OIPE) will be notified that the application should be processed with a filing date of December 8, 2003, using the application papers filed on that date. OIPE will then mail a corrected filing receipt.

The drawings however, will not be entered, since the entire disclosure of the parent application was not incorporated by reference. If Petitioner desires for the Examiner to consider the missing pages which were not submitted as part of the original disclosure, then Petitioner may submit those pages as an amendment. Any such amendment will, of course, be reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

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

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

1 See MPEP 608.02(h) and 608.04.

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.

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

COPY MAILED
NOV 19 2008

In re Application of Yaron Ilan et al. Application No. 10/470,664 Filed: December 8, 2008 Attorney Docket No.: Enz-59(D6) Title: NOVEL THERAPEUTIC PROCESSES FOR ENHANCING IMMUNIZED STATES OF VACCINATED SUBJECTS	DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on August 18, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed December 12, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on March 13, 2008. A notice of abandonment was mailed on July 18, 2008.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. § 1.8(b) sets forth, *in toto*:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice,

the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

With this petition, Petitioner has asserted that a response was timely submitted via facsimile transmission on April 11, 2008 in the form of an after-final amendment and a request for a one-month extension of time so as to make timely this response. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of facsimile transmission dated April 11, 2008. Petitioner has further provided a statement from the individual who executed this certificate of facsimile transmission.

Certificate of facsimile transmission practice provides a mechanism by which applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous facsimile transmission, provided an additional copy of the previously submitted correspondence, and has included a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely transmission.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. 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 submission was timely submitted. **However, the submission has been reviewed by the Examiner and it has not been deemed to place this application in condition for allowance.** A copy of the advisory action has been included with this decision.

It is clear from rules 37 C.F.R. §§ 1.116 and 1.135 that abandonment of an application is risked when the applicant proffers an amendment after the mailing of a final Office action. The rule clearly indicates that the mere filing of an amendment does not relieve applicant of the duty to take appropriate action to save the application from abandonment.

If steps are not taken after final to maintain pendency prior to the expiration of the maximum extendable period for reply, the application will go abandoned. Put another way, the submission of an after final amendment which fails to place the application in condition for allowance will result in the abandonment of the application, unless one of the following four items is filed prior to the maximum extendable period for reply:

- a subsequent amendment which places the application in condition for allowance;
- a Notice of Appeal;
- a Request for a Continuation Application pursuant to 37 C.F.R. § 1.53(b), if applicable;
- a Request for Continued Examination pursuant to 37 C.F.R. § 1.114, or;
- a Terminal Disclaimer, if applicable.

None of these items was submitted prior to the expiration of the maximum extendable period for reply to the final Office action.

As such, this petition must be **DISMISSED**.

The time period for filing a renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted**. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Petitioner may file a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b).

Any future submission concerning this matter should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[5] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Advisory Action

---

2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

COPY MAILED

JUN 01 2009

OFFICE OF PETITIONS

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

In re Application of
Yaron Ilan et al.
Application No. 10/470,664
Filed: December 8, 2008
Attorney Docket No.: Enz-59(D6)
Title: NOVEL THERAPEUTIC PROCESSES FOR ENHANCING IMMUNIZED STATES OF VACCINATED SUBJECTS

DECISION ON PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed November 24, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed December 12, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on March 13, 2008. A notice of abandonment was mailed on July 18, 2008.

A petition pursuant to 37 C.F.R. § 1.181 was filed on August 18, 2008, and was dismissed via the mailing of a decision on November 19, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R.

§ 1.17(m);

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

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has also included a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, including a request for consideration of an amendment submitted on August 18, 2008 (originally received in the Office on April 11, 2008), and payment of the RCE fee. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1).

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

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 submission under 37 C.F.R. § 1.114 - the amendment received on August 18, 2008 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

---

1 See Rule 1.137(d).

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

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

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Hunton & Williams
200 Park Avenue
New York, NY 10166

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

KED & ASSOCIATES, LLP
P.O. BOX 221200
CHANTILY, VA 20153-1200

COPY MAILED

SEP 1 4 2009

OFFICE OF PETITIONS

In re Patent No. 7,282,715	:	
Issue Date: October 16, 2007	:	
Application No. 10/470,702	:	NOTICE
Filed: February 27, 2004	:	
Attorney Docket No. KC-0097	:	

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

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

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

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

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

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

DAC IFW

JUN-08-2009 MON 12:03 PM FAX NO. P. 01

RECEIVED
CENTRAL FAX CENTER
JUN 08 2009

USPTO
RECEIPTS ACCOUNTING

Docket No.: KC-0097

PATENT

2009 JUN 11 PM 4:07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Donald Robert BARRON

Serial No.: **10/470,702**
Patent No.: **7,282,715**

Filed: **February 27, 2004**
Issue Date: **October 16, 2007**

For: THERMAL IMAGING CAMERAS

Confirmation No.: **2621**

Group Art Unit: **2884**

Examiner: **Taningco, Marcus H.**

Customer No.: **34610**

RECEIVED
JUN 17 2009
OFFICE OF PETITIONS

PETITION TO ACCEPT NOTIFICATION OF LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS UNDER 37 C.F.R. §1.28(c)

06/15/2009 DALLEN 00000021 160607 10470702
Sale Ref: 00000032 DAN: 160607 10470702
01 FC:1461 1200.00 DA

Adjustment date: 09/14/2009 CKHLOK
05/10/2006 WASFAW1 00000104 10470702
01 FC:2253 -510.00 OP
09/14/2009 CKHLOK 00000012 160607 10470702
01 FC:1253 90.00 DA 1020.00 OP
02 FC:1999 1110.00 DA

~~06/15/2009 DALLEN 00000020 100100 5956799~~
~~Sale Ref: 00000031 DAN: 100100 5956799~~
~~01 FC:1599 4120.00 DA~~

ATTENTION: OFFICE OF PETITIONS
U.S. Patent and Trademark Office
Customer Service Window, **MAIL STOP PETITIONS**
Randolph Building 401 Dulany Street
Alexandria, Virginia 22314

Sir:

Applicant petitions the U.S. Patent and Trademark Office to Accept Notification of Loss of Entitlement To Small Entity Status in connection with the above-identified application pursuant to 37 C.F.R. §1.28(c).

Applicant's representative contacted the Office of Petitions on February 4, 2009 and discussed this response with Ms. Joanne Burke. Ms. Burke indicated that a proper response merely required the filing of a Petition To Accept Notification Of Loss Of Entitlement To Small Entity Status Under 37 C.F.R. §1.28(c), along with the payment of the deficiency owed and itemization of the deficiency payment. Please contact Applicant's undersigned representative with any questions.

APPLICANT HEREBY PETITIONS FOR THE ACCEPTANCE OF THIS NOTIFICATION OF LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS UNDER 37 C.F.R. §1.28(c) OF THIS APPLICATION

06/15/2009 DALLEN 00000032 10470702
01 FC:1461 1200.00 DA

Adjustment date: 09/14/2009 CKHLOK
01/11/2007 SZEWDIE1 00000088 10470702
01 FC:2253 -510.00 OP

Adjustment date: 09/14/2009 CKHLOK
06/15/2009 DALLEN 00000032 160607 10470702
01 FC:1461 1200.00 CR

RECEIVED
CENTRAL FAX CENTER
JUN 0 8 2009

Serial No. **10/470,702**
Patent No. **7,282,715**

Docket No. **KC-0097**

NOTE: The error will be excused upon compliance with the following items:
(1) Payment of deficiency owed; and
(2) Itemization of the deficiency payment.

1. **Payment of Deficiency Owed Under 37 C.F.R. 1.28(c)(2)**

☒ The Commissioner is hereby authorized to charge my Deposit Account No. 16-0607 in the amount of **$1,200.00**.

2. **Itemization of the Deficiency Payment Under 37 C.F.R. 1.28(c)(2)(ii)**

Date of Erroneous Small Entity fee Paid	Type of Fee	Amount of Erroneous Small Entity fee	Current Amount for Non Small Entity Fee	Amount Due
May 8, 2006	Three Month Extension of Time	510.00	1,110.00	600.00
January 10, 2007	Three Month Extension of Time	510.00	1,110.00	600.00
				$1,200.00

Serial No. **10/470,702**
Patent No. **7,282,715**

Docket No. **KC-0097**

Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
KED & ASSOCIATES, LLP

Carol L. Druzbick
Registration No. 40,287
Joanna K. Mason
Registration No. 56,408

Correspondence Address:
P.O. Box 221200
Chantilly, VA 20153-1200
703 766-3777 CLD:JKM:lhd

Date: June 8, 2009

Please direct all correspondence to Customer Number 34610

184684

Encs: ☒ **Payment of Deficiency Owed Under 37 C.F.R. 1.28(c)(2)**
☒ **Itemization of the Deficiency Payment Under 37 C.F.R. 1.28(c)(2)(ii)**

197791

14 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
www.uspto.gov

B. Aaron Schulman
LARSON & TAYLOR, PLC.
1199 NORTH FAIRFAX ST.
SUITE 900
ALEXANDRIA, VA 22314

In re Application of	:	DECISION ON
TUCKER, Mark R. et al	:	
PCT No.: PCT/GB02/00464	:	
Application No: 10/470,711	:	
Int. Filing Date: 04 February 2002	:	PETITION UNDER
Priority Date: 02 February 2001	:	
Attorney's Docket No.: P08016US00/BAS	:	
For: ORAL DRUG DELIVERY SYSTEM	:	37 CFR 1.47(b)

This is in response to the "PETITION UNDER 37 CFR 1.47(b)" filed on 03 June 2004. The requisite $130 petition fee has been paid by check.

BACKGROUND

On 04 February 2002, applicants filed international application PCT/GB02/00464. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 02 August 2003. A copy of the intentional application was transmitted on 15 August 2002 to the USPTO from the International Bureau.

On 03 November 2003, petitioner filed for entry into the national stage in the United States of America. Filed with the application was, inter alia, the requisite basic national fee. However, no executed declaration or oath was submitted at such time.

On 03 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) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), applicant filed on 03 June 2004, *inter alia*, the following:

1) Petition For Filing Application Without All Inventors Signing;

2) the required petition fee.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Applicant has satisfied items (1) but not items (2), (3), (4), (5) and (6) thus not completing the requirements under 37 CFR 1.47(b).

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

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

INVENTOR CANNOT BE REACHED:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under **37 CFR 1.47**, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under **37 CFR 1.47**.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under **37 CFR 1.47**. **37 CFR 1.43** may be available under these circumstances. See **MPEP § 409.02**. Such a petition under **37 CFR 1.47** will be dismissed as inappropriate.

Regarding item (1), the petition has been paid by check.

Regarding item (2), the averments of Tuhfa Nairoukh are insufficient to support a finding that the nonsigning inventors, Eamon Flahive, Alistair Stokes, and John Watts could not be found after diligent effort because Mr. Nairoukh fails to show diligent effort to locate inventor Mr. Goodreid. He only indicates that he sent them

emails and the correspondence to their last current address, respectively, but was not received by them. However, Mr. Nairoukh has not provided copies that he has searched for the above non-signing inventors' new address by using a broad search in the internet and phone directory, which would show diligent effort to satisfy item (2).

With respect to co-inventor Tucker, who refuses to sign, a complete set of the application papers were not presented to Mr. Tucker for his signature. Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for his signature. From the declaration provided by Mr. Nairoukh, there was no bona fide attempt to send the application papers to Mr. Tucker for his signature at his last known address.

In addition, no documentary evidence to support this assertion has been provided such as a registered returned envelope, a certified mail return receipt, etc..., to show that the correspondence was sent to Mr. Tucker.

Regarding item (3), applicant has not stated explicitly the last known addresses of the inventors in the petition:

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

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

Regarding item (6) applicant has presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response to this decision will result in Abandonment of the application.

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

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

08 APR 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

LARSON & TAYLOR, PLC
1199 NORTH FAIRFAX ST.
SUITE 900
ALEXANDRIA, VA 22314

In re Application of	:	DECISION ON
TUCKER, Mark R. et al	:	
PCT No.: PCT/GB02/00464	:	
Application No: 10/470,711	:	PETITION UNDER
Int. Filing Date: 04 February 2002	:	
Priority Date: 02 February 2001	:	
Attorney's Docket No.: 08016US00/BAS	:	37 CFR 1.47(a)
For: ORAL DRUG DELIVERY SYSTEM	:	

This is in response to the "PETITION UNDER 37 C.F.R. 1.47(a)" filed on 14 February 2005.

BACKGROUND

In a decision from this Office on 14 September 2004, the petition filed on 03 June 2004 was dismissed because petitioner did not satisfy items (2) - (6) under 37 CFR 1.47(b).

On 14 February 2005, petitioner filed a petition under 37 CFR 1.47(a) since inventors Watts, Stokes and Flahive have executed the declaration and the only remaining inventor that allegedly refuses to sign is Mark Tucker. The petition includes, inter alia, evidence to support petitioner's assertion that the application papers were sent to the non-signing inventor and he refused to sign.

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.

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. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. 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.

Petitioner has satisfied requirements (1) and (3) of 37 CFR 1.47(a). However, requirements (2) and (4) have not been satisfied.

Regarding requirement 2, although Nalroukh's declaration asserts that no executed declaration was obtained from inventor Tucker despite the fact that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and declaration) to inventor Tucker's last known address there is no statement from a person having first hand knowledge enumerating the steps taken to obtain Mr. Tucker's signature as required by MPEP Section 409.03(d). It is unclear if Nalroukh has first hand knowledge of the mailing to the nonsigning inventor since the statements indicate that a copy of the patent application was sent to the inventors but it is vague as to who mailed these copies. If Nalroukh doesn't have first-hand knowledge then petitioner needs to submit statements with specific facts on the actions referred to the mailing of the documents to the nonsigning inventor by persons who have first-hand knowledge of such facts.

The copy of proof of delivery certificate and Nalroukh statements are helpful in the determination of the petition under 37 CFR 1.47(a) about these are not dispositive by itself without collaborating evidence by a person having first-hand knowledge of the specific facts taken to secure Mr. Tucker's signature and in this case it would be appear Nalroukh does not have first hand knowledge.

Regarding requirement 3, petitioner has provided a statement of the last known address of the missing inventor.

Regarding requirement 4, the declaration provided is defective because it does not state the citizenship of inventor, Mark Tucker, as required under 37 CFR 1.63(a)(3).

Consequently, the current record does not sufficiently establish Mr. Tucker's refusal to join in the application for the reasons stated above.

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, petitioner 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 SEP 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

LARSON & TAYLOR, PLC
1199 NORTH FAIRFAX ST.
SUITE 900
ALEXANDRIA, VA 22314

In re Application of	DECISION ON
TUCKER, Mark R. et al	
PCT No.: PCT/GB02/00464	
Application No: 10/470,711	PETITION UNDER
Int. Filing Date: 04 February 2002	
Priority Date: 02 February 2001	
Attorney's Docket No.: 08016US00/BAS	37 CFR 1.47(a)
For: ORAL DRUG DELIVERY SYSTEM	

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 08 September 2005.

BACKGROUND

In a decision from this Office on 08 April 2005, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that requirements (2) and (4) had not been satisfied.

On 08 September 2005, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 08 April 2005 with respect to accepting the above application without the signature of nonsigning inventor Mr. Tucker. Filed with the renewed petition, *inter alia*, is a declaration stating Tucker's citizenship.

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 08 September 2005 has satisfied requirements 2 and 4 under 37 CFR 1.47(a). Thus satisfying all the requirements under 37 CFR 1.47(a).

Mr. Schulman's averments do sufficiently demonstrate that a *bona fide* attempt was made to obtain the signature of Mr. Tucker and that he refused to sign the required papers. The declaration and application papers were mailed to him and he signed for the papers on August 01, 2005, but has not returned the required papers. Accordingly, the conduct of Mr. Tucker is interpreted based on the evidence of the papers submitted as a refusal to sign the required papers. Consequently, the current record does sufficiently establish Mr. Tucker's refusal to join in the application.

In addition, petitioner has provided a declaration with the citizenship of Mr. Tucker

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 **08 September 2005.**

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

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) 272-6312
Facsimile: (571) 273-0459

23 SEP 2005

#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

Mark Tucker
Curdle Hill Farmhouse
Chadlington OX7 3NS
Great Britian

In re Application of	:	DECISION ON
TUCKER, Mark R. et al	:	
PCT No.: PCT/GB02/00464	:	
Application No: 10/470,711	:	
Int. Filing Date: 04 February 2002	:	PETITION UNDER
Priority Date: 02 February 2001	:	
Attorney's Docket No.: 08016US00/BAS	:	
For: ORAL DRUG DELIVERY SYSTEM	:	37 CFR 1.47(a)

Dear Mr. Tucker:

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.

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

LARSON & TAYLOR, PLC
1199 NORTH FAIRFAX ST.
SUITE 900
ALEXANDRIA, VA 22314

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

Aaron J. Capron
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
901 New York Avenue, NW
Washington, D.C. 20001-4413

MAILED

MAY 03 2007

TECHNOLOGY CENTER 2100

In re Application of:
Axel VON BERGEN, et al.
Application No. 10/470,720
Filed: December 18, 2003
For: DATA STRUCTURE FOR INFORMATION SYSTEMS

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

This is a decision on the petition, filed 10 April 2007, under 37 CFR § 1.181 to reconsider and reverse the examiner's premature Final rejection mailed 04 January 2007.

The petitión is **DISMISSED**.

On 10 April 2007, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner Michael Le and SPE Don Wong in relation to the Final Office action mailed 04 January 2007. In the petition, applicant's counsel alleged that the rejection of claim 6 and the interpretation of claim 5 were improper; thus, rendered the Final Office action premature.

MPEP § 1201 states, in part:

> The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board ...

37 C.F.R. § 1.181(f) states, in part:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition ...

A review of the prosecution history in the instant application and the petition indicates that there is a disagreement between the examiner and applicant's counsel on how to interpret the limitations in claim 5 as recited in the alternative language and ultimately resulting whether

certain claimed limitation(s) in claim 6 depending on claim 5 should be treated and/or given weight to. All claims have been rejected under 35 U.S.C. §§ 102(b) or 103(a). Thus, it is apparent that such a disagreement regarding claim interpretation and rejection is appealable, not a petitionable matter.

Pursuant to MPEP § 1201, the petition is **DISMISSED.** Further, pursuant to 37 C.F.R. § 1.181(f), the shortened statutory period for reply is continued to run three months from the mailing date of the Final Office Action.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

James Dwyer, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

22 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

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of RIGUIDEL et al	:	
U.S. Application No.: 10/470,748	:	
PCT Application No.: PCT/FR02/00438	:	
Int. Filing Date: 05 February 2002	:	DECISION
Priority Date Claimed: 09 February 2001	:	
Attorney Docket No.: 241166US6XPCT	:	
For: DATA COPY-PROTECTING SYSTEM FOR CREATING A COPY-SECURED OPTICAL DISC AND CORRESPONDING PROTECTING METHOD	:	

This is in response to applicant's "Petition Under 37 C.F.R. §1.182" filed 12 April 2004.

BACKGROUND

On 05 February 2002, applicant filed international application PCT/FR02/00438, which claimed priority of an earlier France application filed 09 February 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 22 August 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 11 August 2003 (09 August 2003 was a Saturday).

On 11 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 20 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 20 January 2004, applicant filed an executed declaration.

On 11 February 2004, this Office mailed a communication which identified a discrepancy in the name of one of the inventors.

On 12 April 2004, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of the application file reveals that the given name of the inventor is listed in the international application as "Michel" while the given name is listed in the declaration as "Thierry". Applicant has filed a proper petition under 37 CFR 1.182 including the requisite petition fee as well as the appropriate statements from those having knowledge of the error. These statements set forth the circumstances as to how and when the error was made and discovered and also set forth that the mistake was an inadvertent error without deceptive intent.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

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 20 January 2004.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed 10/21/04

wak
Paper No.

In re Application of
John J. Meyers, III et al.
Serial No. 10/470,750
Filed: August 12, 2003
For: RECYCLABLE COMPOSITE MATERIALS, ARTICLES OF MANUFACTURE, AND STRUCTURES AND METHODS OF USING COMPOSITE MATERIALS

DECISION
ON
PETITION
UNDER 708.02 (V)

This is a decision on the petition filed on October 28, 2003, requesting that the above-identified application be granted Special Status under Sections 37 C.F.R. 1.102 and MPEP 708.02.

The petition has been considered and found to comply with the requirements set forth under the above noted sections.

Accordingly, the petition is **GRANTED**.

William Krynski, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

Robert J. Webster
Birch, Stewart, Kolasch & Birch, LLP
P. O. Box 747
Falls Church, VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: 6/15/05

BC
Paper No. _____

In re application of
John J. Myers III et al.
Serial No. 10/470,750
Filed: August 12, 2003
For: RECYCLABLE COMPOSITE MATERIALS ARTICLES OF MANUFACTURE AND STRUCTURES AND METHOD OF USING COMPOSITE MATERIALS

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 AND 1.181 filed December 30, 2004 requesting that the outstanding holding of lack of unity of invention be withdrawn and modified to no more than the six groups suggested by the Petitioner on pages 6 and 7 of the present Petition. The instant Petition under 37 CFR 1.44 and 1.181 was timely filed. The Petitioner notes that the examiner's lack of unity of inventions requirement and traversal fails to follow the criteria dealing with different statutory categories of inventions set forth in 37 CFR 1.475. Accordingly, the Petitioner states that the Applicants have been denied an opportunity to fully respond to the requirement. The Petitioner submits that lack of unity of inventions exists with respect to only six inventions (detailed on pages 6 and 7 of the present Petition).

DECISION

This Decision substantially agrees with the Petitioner's proposed groupings. The only exception being claims 92, 93 and 105, which the Petitioner proposes to be in Group I, should be a separate and distinct Group. Specifically, claims 92, 93 and 105 do not require the specific composite mixture of Group I, which is the "special technical feature." If claims 92, 93 and 105 where to be amended to include the "special technical feature", i.e. the composite mixture recited in claim 1, these claims would properly belong to Group I. Accordingly, this Decision hereby modifies the original lack of unity of inventions to include seven (7) groups. Namely, the six (6) groups suggested by the Petitioner in the December 30, 2004 Petition and an additional group, hereinafter Group 7, drawn to a method of incorporating an elastic strain to a (non-specific) composite mixture material. For clarity sake, the additional claims added subsequent to the filing of the present Petition, namely claims 140-142, are deemed to be proper for grouping in Group I, the elected invention. Per the amendment filed on April 4, 2005, claims 11 and 95 are also now grouped in Group I for the reasons set forth by the examiner in the Office action of February 16, 2005.

This Petition is **GRANTED-IN-PART**.

It is noted that Decision does not preclude further lack of unity of inventions requirement of any of the seven (7) groupings of claims in this application or any divisional application where a showing can be made that the shared technical feature is not a "special" technical feature, i.e. the particular technical feature does not make a contribution over the art. See PCT Rule 13.2; AI Annex B, Part 1(b) and the PCT International Search and Preliminary Examination Guidelines Chapter 10 (http://www.wipo.int/pct/en/texts/pdf/ispe.pdf).

This application is currently with the examiner awaiting action in response to the amendment filed on April 4, 2005. An appropriate action on the merits will follow in due course.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert Webster
Birch, Stewart, Kolasch & Birch
P.O. Box 747
Falls Church, VA 22040-0747

22 FEB 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

26161
FISH & RICHARDSON
225 Franklin Street
Boston, MA 02110
San Diego, CA 92130

In re Application of
HOUSMAN, David E. *et al*
U.S. Application No.: 10/470,765
PCT No.: PCT/US02/04059
Int. Filing Date: 11 February 2002
Priority Date: 09 February 2001
Attorney Docket No.: 01997-293US1
For: METHODS OF IDENTIFYING AGENTS THAT MEDIATE POLYPEPTIDE AGGREGATION

DECISION ON RENEWED PETITION UNDER 37 CFR 1.497(d)

This is a decision on applicants' renewed petition filed 22 December 2004 requesting to add Aleksey G. Kazantsev as an inventor in the above-captioned national stage application.

BACKGROUND

On 04 June 2004, a decision dismissing applicants' petition under 37 CFR 1.497(d) was mailed. Applicants failed to provide all of the items required for a grantable petition. Applicants were given two months to respond with extensions of time available.

On 22 December 2004, applicants filed a renewed petition which was accompanied by, *inter alia*, a five-month extension with a $2,160.00 extension fee and a declaration by Aleksey G. Kazantsev.

DISCUSSION

As previously indicated, 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:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:

> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in § 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicants completed item (2) of 37 CFR 1.497(d) in the initial petition. However, applicants failed to provide the requisite statement from the inventor being added and address whether an assignment has been executed in the above-captioned application. Thus, items (1) and (3) of 37 CFR 1.497(d) were not satisfied.

In the renewed petition, applicants have provided a statement by Mr. Aleksey G. Kazantsev who pronounces that "through error, without any deceptive intention on my part, the above-captioned application was filed naming solely DAVID E. HOUSMAN, rather than DAVID E. HOUSMAN AND ALEKSEY G. KAZANTSEV. This error was discovered after the application was filed." This statement satisfies item (1) of 37 CFR 1.497(d). In addition, applicants declare in the renewed petition that "[t]he original named inventor has not executed an assignment." This addresses item (3) of 37 CFR 1.497(d).

All the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) to add Aleksey G. Kazantsev as an inventor is hereby **GRANTED**.

However, a review of the declaration submitted on 05 May 2004 signed by Mr. Housman and Mr. Kazantsev shows that the declaration is only a partial declaration. The declaration consists of 3 pages, *i.e.*, one (Page 1 of 2), and two (Page 2 of 2). While each inventor need not execute the same oath or declaration, applicants must provide a complete copy of the declaration signed by each co-inventor. In this case, it is clear that the declaration provided on 05 May 2004 is a composite of two different declarations. Hence, the declaration is not in compliance with 37 CFR 1.497(a) and (b).

Applicants must provide a declaration in compliance with 37 CFR 1.497(a) and (b) within **ONE (1) MONTH** from the mail date of this decision, or any time remaining in the Notification of Missing Requirements, whichever is longer. **FAILURE TO TIMELY RESPOND 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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

JC03 Rec'd PCT/PTO 2[illegible] MAR 2005

Attorney's Docket No.: 01997-293US1 / MIT Case 9033

8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : David E. Housman *et al.* Art Unit : Unknown
Serial No. : 10/470,765 Examiner : Unknown
Filed : July 29, 2003
Title : METHODS OF IDENTIFYING AGENTS THAT MEDIATE POLYPEPTIDE AGGREGATION

RECEIVED

2[illegible] MAR 2005

Legal Staff
International Division

Mail Stop PCT
Commissioner for Patents
ATTN: Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO DECISION ON RENEWED PETITION

Responsive to the Decision on Renewed Petition Under 37 CFR 1.497(d) dated February 22, 2005 (copy enclosed; the "Decision"), we submit the attached Combined Declaration and Power of Attorney in compliance with 37 CFR 1.497(a) for the above-referenced application. The present submission addresses the point raised in the Decision at pages 2-3.

No fee is believed due. However, please apply any charges or credits to Deposit Account No. 06-1050, referencing attorney docket number 01997-293US1.

Respectfully submitted,

Date: March 21, 2005

Lee Crews, Ph.D.
Reg. No. 43,567

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906
21047465.doc

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

3/21/05
Date of Deposit

Signature

K Hutchens
Typed or Printed Name of Person Signing Certificate

22 FEB 2005

LLC
MHF

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

26161
FISH & RICHARDSON
225 Franklin Street
Boston, MA 02110
San Diego, CA 92130

Docketed By Practice Systems
Action Code: Response (Mth)
Base Date: 2/22/05
Due Date: 3/22/05
Deadline: 3/22/05
Initial: LSK

RECEIVED
FEB 28 2005
FISH & RICHARDSON, P.C.
BOSTON OFFICE

In re Application of
HOUSMAN, David E. *et al*
U.S. Application No.: 10/470,765
PCT No.: PCT/US02/04059
Int. Filing Date: 11 February 2002
Priority Date: 09 February 2001
Attorney Docket No.: 01997-293US1
For: METHODS OF IDENTIFYING AGENTS THAT MEDIATE POLYPEPTIDE AGGREGATION

DECISION ON RENEWED PETITION UNDER 37 CFR 1.497(d)

This is a decision on applicants' renewed petition filed 22 December 2004 requesting to add Aleksey G. Kazantsev as an inventor in the above-captioned national stage application.

Docketed By Billing Secretary
Due Date:
Deadline:
Initials:

BACKGROUND

On 04 June 2004, a decision dismissing applicants' petition under 37 CFR 1.497(d) was mailed. Applicants failed to provide all of the items required for a grantable petition. Applicants were given two months to respond with extensions of time available.

On 22 December 2004, applicants filed a renewed petition which was accompanied by, *inter alia*, a five-month extension with a $2,160.00 extension fee and a declaration by Aleksey G. Kazantsev.

DISCUSSION

As previously indicated, 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:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:

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

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

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

Applicants completed item (2) of 37 CFR 1.497(d) in the initial petition. However, applicants failed to provide the requisite statement from the inventor being added and address whether an assignment has been executed in the above-captioned application. Thus, items (1) and (3) of 37 CFR 1.497(d) were not satisfied.

In the renewed petition, applicants have provided a statement by Mr. Aleksey G. Kazantsev who pronounces that "through error, without any deceptive intention on my part, the above-captioned application was filed naming solely DAVID E. HOUSMAN, rather than DAVID E. HOUSMAN AND ALEKSEY G. KAZANTSEV. This error was discovered after the application was filed." This statement satisfies item (1) of 37 CFR 1.497(d). In addition, applicants declare in the renewed petition that "[t]he original named inventor has not executed an assignment." This addresses item (3) of 37 CFR 1.497(d).

All the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) to add Aleksey G. Kazantsev as an inventor is hereby **GRANTED**.

However, a review of the declaration submitted on 05 May 2004 signed by Mr. Housman and Mr. Kazantsev shows that the declaration is only a partial declaration. The declaration consists of 3 pages, *i.e.*, one (Page 1 of 2), and two (Page 2 of 2). While each inventor need not execute the same oath or declaration, applicants must provide a complete copy of the declaration signed by each co-inventor. In this case, it is clear that the declaration provided on 05 May 2004 is a composite of two different declarations. Hence, the declaration is not in compliance with 37 CFR 1.497(a) and (b).

Applicants must provide a declaration in compliance with 37 CFR 1.497(a) and (b) within **ONE (1) MONTH** from the mail date of this decision, or any time remaining in the Notification of Missing Requirements, whichever is longer. **FAILURE TO TIMELY RESPOND 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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

05 APR 2005

#9

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

26161
FISH & RICHARDSON
225 Franklin Street
Boston, MA 02110
San Diego, CA 92130

In re Application of :
HOUSMAN, David E. *et al* :
U.S. Application No.: 10/470,765 :
PCT No.: PCT/US02/04059 :
Int. Filing Date: 11 February 2002 : **DECISION**
Priority Date: 09 February 2001 :
Attorney Docket No.: 01997-293US1 :
For: METHODS OF IDENTIFYING AGENTS :
THAT MEDIATE POLYPEPTIDE :
AGGREGATION :

This decision is in response to the "Response on Decision on Renewed petition" filed 23 March 2005.

On 22 February 2005, a decision was mailed granting applicants' petition under 37 CFR 1.497(d) to add Aleksey G. Kazantsev as an inventor in the above-captioned application. However, the declaration previously submitted on 05 May 2004 was only a partial declaration. As such, it was not in compliance with 37 CFR 1.497(a) and (b). Applicants were given one month to provide a proper declaration.

Here, applicants have furnished a newly executed declaration signed by both inventors. A review of the declaration shows that it is in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 11 February 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 23 March 2005.

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

04 JUN 2004

#5

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

26161
FISH & RICHARDSON
225 Franklin Street
Boston, MA 02110
San Diego, CA 92130

In re Application of
HOUSMAN, David E.
U.S. Application No.: 10/470,765
PCT No.: PCT/US02/04059
Int. Filing Date: 11 February 2002
Priority Date: 09 February 2001
Attorney Docket No.: 01997-293US1
For: METHODS OF IDENTIFYING AGENTS THAT MEDIATE POLYPEPTIDE AGGREGATION

DECISION ON PETITION UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Petition to Correct Inventorship Inventor's Declaration" filed 09 February 2004 requesting to add Aleksey G. Kazantsev as an inventor in the above-captioned national stage application. This is treated as a request under 37 C.F.R. 1.497(d).

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 that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to comply With extensions of time available pursuant to 37 CFR 1.136(a).

On 09 February 2004, applicants filed a "Petition to Correct Inventorship Inventor's Declaration."

On 05 May 2004, applicants filed a "Response to Notification of Missing requirements which was accompanied by, *inter alia*, a four-month extension and $1,480.00 fee, a declaration executed by two joint inventors, and a $130.00 surcharge fee pursuant to 37 CFR 1.492(e).

DISCUSSION

In the petition filed 09 February 2004, applicants request that Aleksey G. Kazantsev be added as inventor to the above-captioned national stage application of PCT/US02/04059. A review of the international publication for PCT/US02/04059 ("WO

02/064618") shows that the sole inventor recorded was David E. Housman. There is no record of a change in the inventorship pursuant to PCT Rule 92*bis* in the international application.

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:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17(i); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Here, applicants have <u>not</u> provided the requisite statement from Aleksey G. Kazantsev. As such, item (1) is not satisfied.

The $130.00 fee has been charged to Deposit Account No. 06-1050 as authorized. Item (2) is complete.

Applicants have also not provided the written consent of the assignee or addressed whether an assignment has been executed in the above-captioned national stage application. Applicants must address this item in their renewed petition. For this reason, item (3) is also not satisfied.

Therefore, all the requirements of 37 CFR 1.497(d) are not yet satisfied.

<u>CONCLUSION</u>

For the reason discussed above, applicants' request under 37 CFR 1.497(d) to add Aleksey G. Kazantsev as an inventor is **<u>DISMISSED</u>** without prejudice.

Accordingly, the declaration filed 05 May 2004 is not yet in compliance with 37 CFR 1.497(a) and (b).

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. Applicants must address items (1) and (3) of 37 CFR 1.497(d) above with any response. 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.: (703) 308-6457

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

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

COPY MAILED

NOV 21 2005

OFFICE OF PETITIONS

In re Application of
Masaaki Harasawa, et al.
Application No. 10/470,770
Filed: July 31, 2003
Attorney Docket No.: AIA-0150

ON PETITION

This is a decision on the petition, filed November 15, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 10, 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 2839 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).

27 JAN 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
1100 Glebe Road
8th Floor
Arlington, VA 22201-4714

In re Application of :
ANDERSEN, Kristinn *et al* :
U.S. Application No.: 10/470,775 :
PCT No.: PCT/IS02/00004 :
Int. Filing Date: 01 February 2002 : **DECISION**
Priority Date: 01 February 2001 :
Attorney's Docket No.: 4395-4 :
For: METHOD AND APPARATUS FOR :
DETERMINING A THREE :
DIMENSIONAL IMAGE OF A MOVING :
OBJECT BY MEANS OF LIGHT :

This is a decision on the request under 37 C.F.R. 1.497(d) to add an inventor in the above-captioned application which was filed on 29 December 2003.

BACKGROUND

On 05 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 declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to respond.

On 29 December 2003, applicants filed the instant request which was accompanied by, *inter alia*, the $130.00 processing fee; a document titled "Inventorship Statement of Vidar Erlingsson"; a document titled "Statement of Marel HF Consenting to Correction of Inventorship"; an executed declaration; and an Assignment.

DISCUSSION

Applicants request to add Vidar Erlingsson as an inventor in the above-captioned application. 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:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

> (1) A statement from each person being added as an inventor . . . 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(l); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicants filed a statement by Vidar Erlingsson who requests to be added as an inventor in the above-captioned application. The statement declares that the omission "occurred without any deceptive intent on my part." The processing fee of $130.00 has been paid. Applicants also submitted a document titled "Statement of Marel HF Consenting to Correction of Inventorship" signed by the Managing Director of Marel HF consenting to the change of inventorship in the above-identified application. The position of Managing Director is a position recognized as having the authority to sign for a corporation. *See* § 324 MPEP. In addition, applicants submitted an executed assignment and assignment fee for the above-captioned application granting Marel HF all rights, title, and interest for the United States.

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) to add Vidar Erlingsson as a joint inventor in the above-captioned application is **GRANTED**.

The declaration filed 29 December 2003 is in compliance with 37 CFR 1.497(a) and (b). Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 01 February 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 29 December 2003.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

18 NOV 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of ISHIGURO et al	:	
U.S. Application No.: 10/470,778	:	
PCT Application No.: PCT/JP02/11529	:	
Int. Filing Date: 05 November 2002	:	DECISION
Priority Date Claimed: 06 November 2001	:	
Attorney Docket No.: 240376US3PCT	:	
For: MOISTURE SEPARATOR, AND VAPOR GENERATOR	:	

This is in response to the papers filed 29 October 2003, which is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 05 November 2002, applicant filed international application PCT/JP02/11529, which claimed priority of an earlier Japan application filed 06 November 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 15 May 2003. The thirty-month period for paying the basic national fee in the United States expires on 06 May 2004.

On 31 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 an executed declaration.

On 29 October 2003, applicant filed the present petition under 37 CFR 1.182.

11/18/2003 LLANDGRA 00000100 150030 10470778

01 FC:1460 130.00 DA

DISCUSSION

The name of the seventh inventor is listed as Kaori Nagai in the declaration and is listed as Kaori Izumi in the international application. The DO/EO/US has not received a Notification of the Recording of a Change (Form PCT/IB/306) which indicates that the requested name changes have been accepted for recording.

MPEP 605.04(c) states in relevant part,

> 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.

Applicant has filed a petition under 37 CFR 1.182 along with an affidavit signed with both names. The requisite petition fee will be charged to Deposit Account 15-0030 as authorized in the petition.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 05 November 2002, and a date under 35 U.S.C. 371(c) of 31 July 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

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.
10/470,779	01/05/2004	Yoshihisa Sanagi	240960US2PCT	2780

22850 7590 02/22/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
WALKER, KEITH D

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
02/22/2010	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 22 2010

wk

Mailed :	:	
In re Application of	:	DECISION ON
Sanagi et al.	:	PETITION
Serial No. 10/470,779	:	
Filed: January 5, 2004		
For: Fuel Cell System And Purging Method Therefor		

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 to have the Examiner consider the Documents cited in the information Disclosure Statements filed on September 7, 2007 and November 9, 2007.

A review of the record indicates that Applicants did provide an English language translation and statement of relevancy.

DECISION

Accordingly, the petition is **GRANTED**.

The Examiner is requested to consider the respective documents filed in the IDS's dated September 7, 2007 and November 9, 2007.

/Jacqueline M. Stone/

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Eckhard H. Kuesters
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

05 DEC 2003

#5

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

KLARQUIST SPARKMAN LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

In re Application of :
REBHOLTZ, Paul C. *et al* :
Application No.: 10/470,785 :
PCT No.: PCT/US02/02930 :
Int. Filing Date: 30 January 2002 : **DECISION**
Priority Date: 30 January 2001 :
Attorney Docket No.: 6346-66368 :
For: SYSTEMS OF TRANSFERRING :
EMBRYOS AND MANAGING :
RECIPIENTS :

This is a decision on the declaration filed with the national stage papers on 29 July 2003 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 29 July 2003, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, an executed declaration signed by a legal representative for one of the two deceased co-inventors, Paul C. Rebholtz. The legal representative of deceased co-inventor, George L. Holzer, did not execute the declaration.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

Applicants have furnished a declaration signed by Amy K. Rebholtz as the legal representative of deceased co-inventor, Paul C. Rebholtz. Kathleen Holzer is also recorded on the declaration and the international publication as the legal representative of deceased co-inventor, George L. Holzer. However, applicants have not provided a declaration executed by Kathleen Holzer.

Accordingly, the declaration does not comply with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reason listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

19 APR 2004

#7

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

KLARQUIST SPARKMAN LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

In re Application of
REBHOLTZ, Paul C. *et al*
Application No.: 10/470,785
PCT No.: PCT/US02/02930
Int. Filing Date: 30 January 2002
Priority Date: 30 January 2001
Attorney Docket No.: 6346-66368
For: SYSTEMS OF TRANSFERRING EMBRYOS AND MANAGING RECIPIENTS

DECISION ON RENEWED PETITION

This is a decision on the declaration filed on 15 December 2003 which has been treated as a renewed petition under 37 CFR 1.42.

BACKGROUND

On 05 December 2003, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed because applicants did not provide a declaration executed by Kathleen Holzer, as the legal representative of a deceased joint inventor, George L. Holzer. Applicants were given two months to respond.

On 15 December 2003, applicants filed the instant response which was accompanied by, *inter alia*, a declaration signed by Kathleen Holzer.

DISCUSSION

In the renewed petition, applicants have furnished a declaration signed by Kathleen Holzer as the legal representative of a deceased joint inventor, George L. Holzer.

The citizenship of the deceased inventor is listed on the declaration as well as the residence, and citizenship of the legal representative as required by 37 CFR 1.497(b)(2). However, this declaration does not contain the mailing address of the legal representative as required by 37 CFR 1.497(b)(2).

Therefore, the declaration does not comply with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reasons listed above, applicants' renewed petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

27 JUL 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
www.uspto.gov

KLARQUIST SPARKMAN LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

In re Application of
REBHOLTZ, Paul C. *et al*
Application No.: 10/470,785
PCT No.: PCT/US02/02930
Int. Filing Date: 30 January 2002
Priority Date: 30 January 2001
Attorney Docket No.: 6346-66368
For: SYSTEMS OF TRANSFERRING EMBRYOS AND MANAGING RECIPIENTS

DECISION ON RENEWED PETITION

This is a decision on the declaration filed on 21 June 2004 which has been treated as a renewed petition under 37 CFR 1.42.

BACKGROUND

On 19 April 2004, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed because applicants did not provide a declaration in compliance with 37 CFR 1.497(a) and (b). The residence of legal representative Kathleen Holzer was not provided. Applicants were given two months to respond.

On 21 June 2004, applicants filed the instant response which was accompanied by, *inter alia*, a declaration executed by Kathleen Holzer as legal representative of George L. Holzer.

On 25 June 2004, applicants filed a declaration executed by Amy K. Rebholtz as legal representative of Paul C. Rebholtz.

DISCUSSION

In the second renewed petition, applicants have furnished a declaration signed by Kathleen Holzer as the legal representative of a deceased joint inventor, George L. Holzer.

The declaration records the citizenship, residence, and mailing address of Ms. Holzer and lists the citizenship, former residence and mailing address of both deceased inventors. The declaration by Ms. Holzer meets the requirements of 37 CFR 1.497(a)

and (b).

Applicants also submitted another declaration executed by Amy K. Rebholtz as the legal representative of Paul C. Rebholtz. A declaration signed by Ms. Rebholtz in compliance with 37 CFR 1.497(a) and (b) was previously provided on 29 July 2003.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 30 January 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 21 June 2004.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEYDIG VOIT & MAYER LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

COPY MAILED

SEP 1 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Kazuhiko Okazaki et al	:	
Application No. 10/470,813	:	DECISION ON PETITION
Filed: July 30, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 223703	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 9, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not brought to the attention of the deciding official's office within sufficient time to avert the issuance of the above-identified application into a patent. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the $790 filing fee submitted therefor, as well as the petition fee of $130, will be refunded in due course.

The Information Disclosure Statement has been placed of record in the above-identified application without further consideration. See 37 CFR 1.97(i).

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

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

30 JAN 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

Mattingly Stanger & Malur, PC
1800 Diagonal Road, Suite 370
Alexandria, VA 22301

In re Application of	:	
IIZUKA, Hidehiro et al.	:	DECISION ON
Application No.: 10/470,830	:	
PCT No.: PCT/JP01/00761	:	REQUEST
Int. Filing Date: 02 February 2001	:	
Priority Date: None	:	UNDER 37 CFR 1.42
Attorney's Docket No.: H&A-121	:	
For: EMISSION GAS PURIFICATION ...	:	
WITH THE CATALYST	:	

This decision is in response to applicant's submission of a declaration under 35 USC 371 filed in the United States Patent and Trademark Office on 03 December 2003. The declaration includes an indication that joint inventor Kojiro Okude is deceased. It has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 02 February 2001, applicant filed international application PCT/JP01/00761. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 August 2002. The deadline for entry into the national stage in the United States was 02 August 2003.

On 30 July 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.

On 20 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 03 December 2003, applicant submitted an executed 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.

In this case, the declaration is executed by the legal representative for the deceased inventor and remaining inventor/applicants. It provides the necessary information for the deceased inventor, the legal representative and the applicant/inventors. The declaration complies with both 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 an international filing date of 02 February 2001 under 35 U.S.C. §363 and a date of 03 December 2003 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.

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

10/470848

DT08 Rec'd PCT/PTO 31 JUL 2003

PATENT
Attorney Docket No.: **04853.0105**
CUSTOMER NUMBER 22,852

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
Tetsuyuki KITAMOTO et al.	)	Group Art Unit: **Not Yet Assigned**
Serial No.: **Not Yet Assigned**	)	Examiner: **Not Yet Assigned**
Filed: **July 31, 2003**	)	
National Stage of International Application No. **PCT/JP02/00803** under 35 U.S.C. 371, for **SCREENING METHOD FOR INFECTIOUS AGENT OF PRION DISEASE**	)	

MAIL STOP PCT

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

Sir:

PETITION TO ACCEPT COLOR PHOTOGRAPHS UNDER 37 C.F.R. § 1.84(b)(2)

Applicants respectfully request that color photographs of Figures 2A, 2B, 3 and 6 in the above patent application be accepted under 37 C.F.R. § 1.84 (b)(2).

The specification has been amended as required under 37 C.F.R. 1.84 (a)(2)(iv). Three sets of color photographs of Figures 2A, 2B, 3 and 6 are enclosed. A black and white photocopy that accurately depicts, to the extent possible, the subject matter shown in Figures 2A, 2B, 3 and 6 is attached to Figures 1, 4 and 5 filed with the patent application.

A check in the amount of $130.00 is enclosed for the petition fee as required under 37 C.F.R. § 1.17(h).

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

DT08 Rec'd PCT/PTO 31 JUL 2003

The color drawings are necessary to show the details of the staining and absence of staining in the FDC of Figures 2A and 2B. The color drawing is necessary in the Western blot of Figure 3 to show the three bands in the aberrant prion protein in the spleen (p. 21, lines 17-23 of the specification). The color drawing is necessary in the Western blot of Figure 6 to show the intensity of the electrophoresed fractions of the spleens (p. 22, lines 17-25 of the specification).

If there are any additional fees required in connection with this petition to accept color photographs, authorization is hereby given to charge the required fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 31, 2003

By: _____
Ernest F. Chapman
Reg. No. 25,961

EFC/FPD/peg

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

09 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of KITAMOTO et al	:	
U.S. Application No.: 10/470,848	:	
PCT Application No.: PCT/JP02/00803	:	
Int. Filing Date: 31 January 2002	:	DECISION
Priority Date Claimed: 31 January 2001	:	
Attorney Docket No.: 04853.0105	:	
For: METHOD OF SCREENING PRION	:	
DISEASE INFECTION FACTOR	:	

This is in response to applicant's "Request to Correct Inventorship Under 37 C.F.R. § 1.48(a) and Reply to the Notification of Missing Requirements Under 35 U.S.C. § 371" filed 20 February 2004, which is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 31 January 2002, applicant filed international application PCT/JP02/00803, which claimed priority of an earlier Japan application filed 31 January 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 on 31 July 2003.

On 31 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 an executed declaration.

On 20 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 the name of second inventor on the declaration did not match that shown in the published international application.

On 20 February 2004, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition and the accompanying affidavit signed by inventor Ichiro Miyoshi sufficiently sets forth the specific circumstances as to how and when the error in the inventor's name was made and discovered and also sets forth that the mistake was an inadvertent error without deceptive intent. The requisite petition fee has been submitted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 31 January 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 31 July 2003.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

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

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

COPY MAILED

OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Hans Ronneke et al	:	
Application No. 10/470,851	:	ON PETITION
Filed: January 8, 2004	:	
Attorney Docket No. P14181-US1	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) 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 2416 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAYER HEALTHCARE LLC
P.O. BOX 390
SHAWNEE MISSION, KS 66201

COPY MAILED

JAN 25 2008

OFFICE OF PETITIONS

In re Application of :
Jochen Kalbe et al :
Application No. 10/470,853 :
Filed: January 15, 2004 :
Attorney Docket No. LEA 34954 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 19, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 20, 2005.

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 1654 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Jean M. Dickman
Shook, Hardy, & Bacon LLP
2555 Grand Boulevard
Kansas City, MO 64108-2613

22 JAN 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

Patricia L. Prior
Dinsmore & Shohl, LLP
One Dayton Centre
One South Main Street - Suite 500
Dayton, Ohio 45402-2050

In re Application of BROWNING, et al. U.S. Application No.: 10/470,857 PCT No.: PCT/US02/03158 Int. Filing Date: 31 January 2002 Priority Date: 02 February 2001 Attorney Docket No.: BAT0021P2 For: SINGLE COMPONENT ROOM TEMPERATURE CURABLE LOW VOC EPOXY COATINGS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 12 January 2004 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" 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 inventors is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBIN W. ASHER
CLARK HILL
500 WOODWARD AVENUE, SUITE 3500
DETROIT, MI 48226-3435

COPY MAILED

JAN 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Omar D. Tame	:	
Application No. 10/470,864	:	DECISION ON PETITION
Filed: January 12, 2004	:	UNDER 37 CFR 1.181
Attorney Docket No. 19365-094577	:	

This is a decision on the petition, filed June 22, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before April 12, 2005, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed January 12, 2005.

Petitioner asserts that the Notice dated January 12, 2005 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of a statement from the practitioner stating that the Notice was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received. A copy of the docket record where the nonreceived Notice would have been entered had it been received 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 MPEP Section 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action."

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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

This application is being referred to the Technology Center technical support staff for remailing the Notice of January 12, 2005. The statutory period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notice is remailed.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

JAN 13 2006

TECHNOLOGY CENTER 3600

Robin W. Asher
Clark Hill PLC
500 Woodward Ave. Suite 3500
Detroit, MI 48226-3435

In re Application of	:	DECISION ON PETITION
Omar D. Tame	:	TO WITHDRAW THE
Application No. 10/470,864	:	HOLDING OF
Filed: January 12, 2004	:	ABANDONMENT

For: VEHICLE SEAT RECLINER HAVING A SLIDING PAWL

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on June 22, 2005.

The petition is **DISMISSED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Office action (Notice of Allowance and Fee Due) mailed to applicant on January 12, 2005. A Notice of Abandonment was mailed on May 16, 2005.

Applicant's petition indicates that the Office action was never received.

There is a strong presumption that the Office communication, properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

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 that 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 to which the action was properly sent with the due date at and around April 12, 2005**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

Practitioner submits a statement that the above-noted Office action was not received. Practitioner also attests to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Applicant's petition provides a copy of a docket record showing where such action would have been entered had it been received.

The petitioner has failed to comply with requirement (3) indicated above. Petitioner has not provided a complete docket record with a copy of the list of all responses in the practitioner's office to which the action was sent with the due date at and around April 12, 2005.

Petitioner's evidence of non-receipt of the Office action mailed January 12, 2005 is insufficient to withdraw the holding of abandonment, and 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 1.181." Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

for

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6587

RAR/js: 9/16/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

FEB 01 2006

TECHNOLOGY CENTER 3600

Robin W. Asher
Clark Hill
Suite 3500
500 Woodward Ave.
Detroit, MI 48226-3435

In re Application of	:	DECISION ON PETITION
Omar D. Tame	:	TO WITHDRAW THE
Application No. 10/470,864	:	HOLDING OF
Filed: January 12, 2004	:	ABANDONMENT

For: VEHICLE SEAT RECLINER HAVING A SLIDING PAWL

Applicant filed a petition on June 22, 2005 to withdraw the holding of abandonment in the above-identified application. The Office of Petitions granted the petition to withdraw the holding of abandonment and mailed the decision to applicant on January 5, 2006. Technology Center 3600 dismissed the petition to withdraw the holding of abandonment and mailed the decision to applicant on January 13, 2006. The Office apologizes for mailing out two conflicting decisions to the applicant. Upon further review, it has been determined that the decision mailed on January 5, 2006 by the Office of Petitions is the correct decision. Therefore, the petition is **GRANTED**. The Decision mailed on January 13, 2006 was in error, and is **vacated**.

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

KJD/bkg: 1/31/06

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

Lucas, Gesmer & Updegrove, LLP
40 Broad Street
Suite 300
Boston, MA 02109

COPY MAILED
SEP 0 6 2006
OFFICE OF PETITIONS

In re Application of	:	
Brian reynolds et al.	:	
Application No. 10/470,880	:	DECISION ON PETITION
Filed: January 13, 2004	:	TO WITHDRAW
Attorney Docket No. IBK-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 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 request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on February 28, 2006.

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

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Brian Reynolds
Main Street, Hopewell
Hanover
Jamaica, West Indies

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.: 08-06

Paper No: __

COPY MAILED

AUG 2 0 2007

OFFICE OF PETITIONS

BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
2300 BP TOWER
200 PUBLIC SQUARE
CLEVELAND OH 44114

In re Application of	:	
Schneider, et al.	:	DECISION
Application No.: 10/470,906	:	
Filing Date: 31 July, 2003	:	
Attorney Docket No. 29404-1	:	

This is a decision on the petition filed on 10 November, 2006, to revive the instant application as abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter, however, the petition was received by the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

---

[1] **NOTES:**

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Moreover, Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects that:

- Petitioner failed to reply to the final Office action mailed on 8 February, 2006, with reply, due absent extension of time on or before 8 May, 2006;
- the application went abandoned by operation of law after midnight 8 May, 2006;
- the Office mailed the Notice of Abandonment on 15 August, 2006;
- on 10 November, 2006, Petitioner filed the instant petition with fee and reply n th eform of a request for continued examination (RCE) with fee and amendment as a submission under 37 C.F.R. §1.114, and made a statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the

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] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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).

[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.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the regulatory requirements.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

07 APR 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

John P. Murtaugh
1801 East 9th Street
Suite 1200
Cleveland, OH 44114-3108

In re Application of	:
Rieke, et al.	:
Application No.: 10/470,908	: DECISION ON
PCT No.: PCT/EP02/00971	:
Int. Filing Date: 30 January 2002	: PETITION
Priority Date: 01 February 2001	:
Attorney's Docket No.: 35986	: UNDER 37 CFR 1.181
For: CUTTING TOOL	:

This decision is in response to applicant's communication filed on the 24 February 2004 requesting that the Patent Office vacate the "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) mailed 21 November 2003 and the "NOTIFICATION OF ABANDONMENT" (form PCT/DO/EO/909) mailed 18 October 2004. This communication is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 30 January 2002, applicant filed international application PCT/EP02/00971 which claimed the benefit of a German priority document filed 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. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 01 August 2003.

On 31 July 2003, applicant filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, an international application status form, a preliminary amendment and the basic national fee of $900 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/470,908.

On 21 November 2003, the United States Patent and Trademark Office in its capacity as an Elected Office mailed out 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 applicant was required to file an oath/declaration and a surcharge fee. The notice set a response period of two (2) months.

On 18 October 2004, the United States Patent and Trademark Office in its capacity as an Elected Office mailed out a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909).

On 25 January 2005, applicant filed the current communication requesting that the Patent Office vacate the "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) mailed 21 November 2003 and the "NOTIFICATION OF ABANDONMENT" (form PCT/DO/EO/909) mailed 18 October 2004.

The applicant also filed the same request on 27 January 2004. This decision is responsive to both communications.

DISCUSSION

A review of the application file reveals that applicant did not provide a customer number on the original transmittal letter filed on 31 July 2003. However, an error was made and the attorney docket number was entered as the customer number. As a result the "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) mailed 21 November 2003 was mailed to the wrong address. Because applicant did not ever receive that notification, that notification and the "NOTIFICATION OF ABANDONMENT" (form PCT/DO/EO/909) mailed 18 October 2004 are hereby vacated.

It is noted that the title of the application is "CUTTING TOOL" as set out in the publication. See MPEP 1893.03(e).

CONCLUSION

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

The "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 applicant was required to file an oath/declaration and a surcharge fee mailed 21 November 2003 and the "NOTIFICATION OF ABANDONMENT" (form PCT/DO/EO/909) mailed 18 October 2004 are hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Debra Brittingham
Office of PCT Legal Administration
DSB/LS:dsb

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

28 MAR 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

COATS & BENNETT
PO Box 5
Raleigh, NC 27602

In re Application of: BINOT, Patrick	:	
U.S. Application No.: 10/470,934	:	
PCT No.: PCT/FR02/00501	:	DECISION
International Filing Date: 08 February 2002	:	
Priority Date: 09 February 2001	:	
Attorney's Docket No.: 4195-015	:	
For: METHOD AND PLANT FOR THICKENING SLUDGE DERIVED FROM WATER TREATMENT BY FLOCCULATION-DECANTATION WITH BALLASTED FLOC	:	

This decision is issued in response to applicant's "Request For Filing Receipt Correction" originally filed 10 December 2003 and resubmitted via facsimile on 23 March 2005. No petition fee is required.

BACKGROUND

The present application is a U.S. national stage of international application number PCT FR02/00501.

On 19 November 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) and filing receipt.

On 10 December 2003, applicant filed the "Request For Filing Receipt Correction" considered herein (the request was resubmitted on 23 March 2005). The request seeks correction of the foreign priority information set forth in the filing receipt. Specifically, applicant asserts that the filing date for the French priority application should be corrected from 09 February 2001 (as listed on the filing receipt) to 08 February 2001.

DISCUSSION

The published international application identifies the priority application herein as French application number 01/01832, with a filing date of 09 February 2001. The application file contains a certified copy of this French application. The certified copy also identifies the filing date as 09 February 2001.

Based on the above, the 09 February 2001 filing date for this application set forth in the filing receipt appears correct. Correction of this date to 08 February 2001, as requested by applicant, would therefore be inappropriate.

CONCLUSION

Applicant's "Request For Filing Receipt Correction" filed 10 December 2003 and resubmitted 23 March 2005 is **DISMISSED** without prejudice. The filing date of record for the French priority application remains 09 February 2001.

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: (571) 272-3296
Facsimile: (571) 273-0459

22 DEC 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David M. Ovedovitz
Wenderoth, Lind & Ponack LLP
2033 K Street, N. W. Suite 800
Washington D. C. 20006-1021

In re Application of:	:	
MURAJI	:	DECISION ON
Application No.: 10/470,966	:	PETITION
PCT No.: PCT/JP01/09772	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 08 November 2001	:	
Priority Date: 10 November 2000		
Docket No. 2003_1065A	:	

For: ELECTRONIC CONTROL THROTTLE BODY :

This is in response to the petition filed 04 August 2003 under 37 CFR 1.137 (b) to revive the above-identified abandoned application for "unintentional" delay.

BACKGROUND

On 08 November 2001, applicants filed international application PCT/JP01/09772, which claimed priority to an earlier application, filed 10 November 2000. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 10 May 2003.

On 04 August 2003, the present petition was submitted. This petition further includes an authorization to charge Deposit Account No. 23-0975. A check of the amount $2200.00 was enclosed for the basic national fee of $900.00, and the petition fee of $1300.00. A Declaration not executed by the inventor was submitted with the petition.

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 by a check.

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 08 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 37CFR1.137(b).

A Declaration executed by the inventor and an English translation of the international application are required by 35 U.S.C.371 (c)(2) and (4). Surcharges of $260.00 for submitting the Declaration and English translation later than the 30 months of the priority date will be charged to the counsel's Deposit Account No. 23-0975.

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 decision.

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

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

HAMRE SCHUMANN MUELLER & LARSON, P.C.
P.O. BOX 2902-0902
MINNEAPOLIS, MN 55402

COPY MAILED

JUL 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Shinya Sannohe et al	:	
Application No. 10/470,977	:	ON PETITION
Filed: July 31, 2003	:	
Attorney Docket No. 10873.1226USWO	:	

This is a decision on the petition, filed July 18, 2005, which is being treated under 37 CFR 1.313 (c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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

---

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

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

Francis C. Hand
Carella Byrne Bain Gilfillan Cecchi
Stewart & Olstein
6 Becker Farm Road
Roseland, NJ 07068

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of Camille Borer, et. al. Application No. 10/470,988 Filed: March 1, 2004 Attorney Docket No. 76775.5	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 27, 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, April 11, 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 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment After Non-Final Office Action, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Francis C. Hand
Carella Byrne Bain Gilfillan Cecchi
Stewart & Olstein
5 Becker Farm Road
Roseland, NJ 07068

30 SEP 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#3

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

In re Application of	:	
CALVANI	:	
Application No.: 10/470,999	:	DECISION ON
PCT No.: PCT/IT00/00520	:	
Int. Filing Date: 15 December 2000	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: 2818-165	:	37 CFR 1.137(b)
For: USE OF L-CARNITINE AS STABILIZING	:	
AGENT OF PROTEINS	:	

This decision is in response to applicant's "PETITION UNDER RULE 1.137(b) TO REVIVE UNINTENTIONALLY ABANDONED" filed 01 August 2003.

BACKGROUND

On 15 December 2000, applicant filed international application PCT/IT00/00520, which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 June 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 15 June 2003.

On 01 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, a declaration of the inventor, and the instant "PETITION UNDER RULE 1.137(b) TO REVIVE UNINTENTIONALLY ABANDONED".

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 01 August 2003.

As to item (2), applicant submitted the petition fee on 01 August 2003.

With regard to item (3), petitioner's statement that "[t]he delay in prosecuting this case (i.e., filing the declaration and paying the filing fee) 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.

The declaration of inventors filed 01 August 2003 is not in compliance with 37 CFR 1.497(a)-(b). The published international application indicates the inventor as Menotti Calvini while the declaration filed 01 August 2003 indicates the inventor as Menotti Calvin.

CONCLUSION

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

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response. A proper response would be a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application. The surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date is also required. Extensions of time under 37 CFR 1.136(a) are available.

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

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

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

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

01 MAR 2004

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

In re Application of CALVANI Application No.: 10/470,999 PCT No.: PCT/IT00/00520 Int. Filing Date: 15 December 2000 Priority Date: None Attorney Docket No.: 2818-165 For: USE OF L-CARNITINE AS STABILIZING AGENT OF PROTEINS	:	NOTIFICATION

This notification is in response to applicant's response filed 01 December 2003.

BACKGROUND

On 15 December 2000, applicant filed international application PCT/IT00/00520, which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 June 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 15 June 2003.

On 01 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, a declaration of the inventor, and the instant "PETITION UNDER RULE 1.137(b) TO REVIVE UNINTENTIONALLY ABANDONED".

On 30 September 2003, a decision was mailed granting applicant's petition to revive under 37 CFR 1.137(b). However, it was noted that the declaration of inventors filed 01 August 2003 was not in compliance with 37 CFR 1.497(a)-(b) because the published international application indicated the inventor as Menotti Calvini while the declaration filed 01 August 2003 indicated the inventor as Menotti Calvin. A two-month time limit was set to file a proper response.

On 01 December 2003 (30 November 2003 being a Sunday), applicant filed the instant response which includes a declaration of the inventor.

DISCUSSION

The declaration filed 01 December 2003 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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) date of **01 December 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

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

COPY MAILED
MAY 11 2006
OFFICE OF PETITIONS

Foley & Lardner
Suite 500
3000 K Street NW
Washington DC 20007

In re Application of
Fmisawa et al.
Application No. 10/471,009
Filed: September 9, 2003
Attorney Docket 049441-0132

: DECISION GRANTING PTA REQUEST

This decision is in response to Applicants' "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed on November 01, 2005 requesting that the Patent Term Adjustment be reviewed to verify the PTA determination. The Office construes this request as a letter of good faith and candor regarding PTA and accordingly will not assess a fee in bringing this discrepancy to the Office's attention.

Applicants' request is **GRANTED.**

Applicants advise the Office of a discrepancy but do not advise the Office of grounds for such discrepancy.

The Office has reviewed the determination and has found such determination to be inaccurate in the determination of 77 days. The Office notes that the only delay by either applicant or the Office was the failure of the Office to meet the requirement of 37 CFR 1.702(a)(1).[1] The delay amounted to 76 days rather than 77 assessed because the requirements were satisfied on September 9, 2003 not September 8, 2003. Accordingly, the delay was for the period of November 10, 2003 until January 24, 2004, a seventy-six (76) day delay.

After the mailing of this Office action, the Office will forward such application to the Office of Patent Publication for a prompt issuance of the patent. Any delays in not issuing the patent within four months of the payment of the issue fee under 37 CFR 1.704(a)(4) will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance of the patent.

---

[1]Applicant met the requirements on September 9, 2003 not September 8, 2003 accordingly the Office had 14 months from 9/9/2003 to act upon the application as required under 37 CFR 1.702(a)(1).

Application No.10/471,009

The Office will not assess the $200.00 fee if applicants out of good faith and candor concerns are bringing to our attention a PTA determination that is greater than what applicants believed the determination correctly should have been calculated.

Any questions concerning this determination should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery Fries

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

cc: Adjusted PAIR calculation

13 FEB 2004

#3

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

Lin Sun-Hoffman, Ph.D.
Celera Genomics
45 W. Gude Dr. C2
Rockville, Maryland 20850

In re Application of MERKULOV, Gennady et al. Application No.:10/471,010 PCT Application No.: PCT/US02/00456 International Filing Date: 10 January 2002 Priority Date: 22 January 2001 Attorney Docket No.: CL001044-US For: ISOLATED HUMAN TRANSPORTER PROTEINS, NUCLEIC ACID MOCECULES ENCODING HUMAN TRANSPORTER PROTEINS AND USES THEREOF	DECISION ON PETITION UNDER 37 CFR 1.137(b)

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 08 September 2003 is **GRANTED**.

BACKGROUND

On 10 January 2002, applicant filed international application number PCT/US02/00456. A copy of the international application was transmitted by the International Bureau on 10 October 2002. A demand was made before the expiration of nineteen months from the priority date. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 22 July 2003.

On 08 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a petition to revive and the basic national 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 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).

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," satisfies the requirements of 37 CFR 1.137(b)(3). Applicant has paid both the petition fee and the basic national fee. A terminal disclaimer is not required as application was filed on after 08 June 1995. Accordingly, all requirements 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 and the surcharge set forth in 37 CFR 1.492(e) are due.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Ankur Parekh
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WENDEROTH LIND & PONACK
SUITE 800
2033 K STREET NW
WASHINGTON DC 20006

COPY MAILED

SEP 13 2007

OFFICE OF PETITIONS

In re Patent No. 7,011,232	:	
Issued March 13, 2006	:	
Application No. 10/471,013	:	DECISION ON PETITION
Filed: September 8, 2003	:	
Attorney Docket No. 2003-1146A	:	

This is a decision on the petition filed June 19, 2007, under 37 CFR 1.182, requesting a certificate of correction to correct the name of the inventor.

Although the patent is printed based on the typed name found on the oath or declaration not the signed name, in accordance with the petitioned request and the certificate of correction, the inventor's name has been corrected as follows:

Fabio Giovanni Fedele Colombo

This matter is being referred to the Certificate of Corrections Branch for issuance of a certificate of correction. Questions regarding the certificate of correction should be directed to that branch at 703-305-8309, inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/471,013	09/08/2003	3754	750	2003-1146A	13	1

CONFIRMATION NO. 7284

CORRECTED FILING RECEIPT

OC000000025811634

Wenderoth Lind & Ponack
Suite 800
2033 K Street NW
Washington, DC 20006

Date Mailed: 09/13/2007

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

Applicant(s)

Fabio Giovanni Fedele Colombo, Milano, ITALY;

Power of Attorney:

Nils Pedersen--33145

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/IT02/00317 05/15/2002

Foreign Applications

ITALY MI2001 U 000281 05/18/2001

If Required, Foreign Filing License Granted: 09/13/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/471,013

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

INFLATOR FOR INFLATING PNEUMATIC PROTECTIVE ARTICLES OR GEAR

Preliminary Class

222

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

AUG 0 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of
Naoki Ejima, et al.
Application No. 10/471,019
Filed: September 8, 2003
For: **ERROR CORRECTION ENCODING METHOD, ERROR CORRECTION DECODING METHOD, ERROR CORRECTION ENCODING APPARATUS, AND ERROR CORRECTION DECODING APPARATUS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed June 24, 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.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 FIFTH AVENUE, 16TH FLOOR
NEW YORK, NY 10001-7708

COPY MAILED

MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:
Tetsuo Ikegame	:
Application No. 10/471,041	: DECISION GRANTING PETITION
Filed: September 4, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03543/LH	:

This is a decision on the petition, filed May 16, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 23, 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 2872 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\May10\471041.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

29 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

Richard H. Tushin
Dykema Gossett
Franklin Square, Third Floor West
1300 I Street, N.W.
Washington, DC 20005-3353

In re Application of	:	
KOPKE	:	
Application No.: 10/471,057	:	DECISION ON PETITION
PCT No.: PCT/EP02/02533	:	
Int. Filing Date: 07 March 2002	:	UNDER 37 CFR 1.181
Priority Date: 09 March 2001	:	
Attorney Docket No.: 66722-029-7	:	
For: DEVICE FOR DETERMINING ACOUSTICALLY	:	
EVOKED BRAINSTEM POTENTIALS	:	

This decision is in response to applicant's "Request For Corrected Notice of Acceptance And Corrected Filing Receipt" filed 19 July 2004, requesting that the United States Patent and Trademark Office (USPTO) correct the 371(c) date for the above captioned application to 12 February 2004. The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

A review of the application file finds that the filed "Submission of Declaration" is stamped "DT04 Rec'd PCT/PTO 12 February 2004. As such, it is proper to **GRANT** applicant's petition at this time. The application will be given an international filing date of 07 March 2002 under 35 U.S.C. 363 and a date of **12 February 2004** 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 02 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 1.495" (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

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Martin Vorbach	: DECISION ON REQUEST FOR
Patent Number	: 7581076	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/471,061	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **472** 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.

14 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

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

In re Application of MUSIL et al	:	
U.S. Application No.: 10/471,068	:	
PCT Application No.: PCT/US01/07319	:	
Int. Filing Date: 07 March 2001	:	DECISION
Priority Date Claimed: (none)	:	
Attorney Docket No.: NETS0070	:	
For: INTEGRATION OF E-MAIL WITH	:	
INSTANT MESSAGING SERVICES	:	

This is in response to applicant's "Petition Based Upon Unavailability of Inventor (37 CFR § 1.47/MPEP 409.03)" filed 23 March 2004.

BACKGROUND

On 07 March 2001, applicant filed international application PCT/US01/07319. The thirty-month period for paying the basic national fee in the United States expired on 07 September 2003.

On 05 September 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 January 2004, 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 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 declarations signed by the available inventors, each 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 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 Alex Musil cannot be located. However, applicant has not established that a diligent effort was made to contact Musil. Although a letter was purportedly sent to Musil's last known address on 05 March 2003 and attempts were allegedly made to contact Musil through his former employer and by searching telephone and internet directories, applicant has not furnished appropriate affidavits from the people with firsthand knowledge of the attempts to locate Musil. Furthermore, applicant has not provided details of any attempts to contact Musil through the other joint inventors. Thus, it would be unreasonable to conclude at the present time that Musil cannot be found.

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). 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

#7

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

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

In re Application of MUSIL et al	:	
U.S. Application No.: 10/471,068	:	
PCT Application No.: PCT/US01/07319	:	
Int. Filing Date: 07 March 2001	:	DECISION
Priority Date Claimed: (none)	:	
Attorney Docket No.: NETS0070	:	
For: INTEGRATION OF E-MAIL WITH	:	
INSTANT MESSAGING SERVICES	:	

This is in response to applicant's "Request for Reconsideration for Renewed Petition Under 37 CFR 1.47(a)" filed 14 June 2004.

BACKGROUND

On 07 March 2001, applicant filed international application PCT/US01/07319. The thirty-month period for paying the basic national fee in the United States expired on 07 September 2003.

On 05 September 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 January 2004, 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 March 2004, applicant filed a petition under 37 CFR 1.47(a).

On 14 April 2004, this Office mailed a decision dismissing the 23 March 2004 petition.

On 14 June 2004, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) 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.

Applicant has previously satisfied items (1), (3), and (4) above.

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 Alex Musil cannot be located. Applicant has sufficiently established that a diligent effort was made to contact Musil. In particular, the affidavits of Carol Currie Bailey and Annette Seng provide details of unsuccessful attempts to contact Musil by postal mail, electronic mail, telephone, directory listings, and through the other joint inventors. Thus, it can be concluded with reasonable certainty that Musil cannot be reached.

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 07 March 2001 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 23 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

10 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

Alex Musil
14222 N. 11th Street
Phoenix, AZ 95022

In re Application of MUSIL et al
U.S. Application No.: 10/471,068
PCT Application No.: PCT/US01/07319
Int. Filing Date: 07 March 2001
Priority Date Claimed: (none)
For: INTEGRATION OF E-MAIL WITH INSTANT MESSAGING SERVICES

Dear Alex Musil:

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

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

Attorney Docket No.: NETS0070

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

JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES, CA 90067

COPY MAILED

AUG 14 2007

OFFICE OF PETITIONS

In re Application of	:	
HODSDON	:	
Application No.: 10/471,070	:	DECISION ON PETITION
Filing Date: March 6, 2002	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 67134-5075	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 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 January 11, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on April 12, 2007.

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

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

13 SEP 2004

#5

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

In re Application of DEIMAN et al. Application No.: 10/471,073 PCT No.: PCT/EP02/02600 Int. Filing Date: 06 March 2002 Priority Date: 07 March 2001 For: METHOD FOR THE AMPLIFICATION AND DETECTION OF HBV DNA USING A TRANSCRIPTION BASED AMPLIFICATION	DECISION ON PETITION

This is a decision on applicants' "Petition For Acceptance Without Petition and Fee for Extension of Time", filed with the United States Patent and Trademark Office (USPTO) on 28 July 2004. Applicants request that the "the Response to Notification of Missing Requirements be accepted without a petition and payment of fee for an extension of time.

BACKGROUND

On 21 January 2004, 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) and (b) and the $130 surcharge for filing the oath or declaration after the thirty month period was required. On 28 July 2004, applicants filed a response to the Notification of Missing Requirements, including an executed declaration. Applicants request that the response be accepted without petition and extension of time fee because the 21 January 2004 Notification of Missing Requirements was never received.

DISCUSSION

Applicants indicated that upon review of the file on 09 June 2004, it was noted that no correspondence had been received from the USPTO in this application. Applicant reviewed PAIR and contacted the PCT Help Desk for assistance on 10 June 2004. Applicants indicates that the Notice was received on 14 June 2004. However, applicant does not indicate whether the Notification was received via regular first class mail or via facsimile from the PCT Help Desk.

An allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. *See Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office action must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner 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 and docketed must be attached to and referenced in practitioner's statement). *See Official Gazette* at 1156 OG 53 and MPEP 711.03(c) I. A. Here a

two month period for reply was set in the nonreceived Office action. A copy of the docket report showing all replies docketed for the date two months from the mail date of the nonreceived Office action (or on 28 March 2004) must be submitted as documentary proof of the nonreceipt of the Office action.

Applicant has not submitted a petition accompanied by the proof set forth above; that is, a practitioner's statement that the Office action was not received by the practitioner and his statement attesting that a search of the file jacket and docket records indicated that the Office action was not received was not submitted. The docket record required is the record showing all responses docketed for the date a response was due (28 March 2004 in this case) indicating that there was no record of a response for the present application being due on that date. This docket record was not attached to and referenced in practitioner's statement to show that the Notification of Missing Requirements for this application was not received.

Per applicant's request and authorization, applicant's request for an extension of time (four months) from the date a reply to the Notification was due (28 March 2004) until the response was received by the USPTO (28 July 2004) is **GRANTED**. The fee of $1480 will be charged to applicant's deposit account.

CONCLUSION

For the reasons presented above, applicant's "Petition For Acceptance Without Petition and Fee for Extension of Time' is **DISMISSED WITHOUT PREJUDICE**.

Applicant's request for an extension of time (four months) is **GRANTED**. The fee of $1480 will be charged to applicant's deposit account.

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 **29 July 2004.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration.

Telephone: (703) 306-5467

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

Breiner & Breiner
115 North Henry Street
P.O. Box 19290
Alexandria, VA 22320-0290

COPY MAILED
JUL 1 0 2006
OFFICE OF PETITIONS

In re Patent No. 6,887,304	:	
Issue Date: May 3, 2005	:	
Application No. 10/471,091	:	ON PETITION
Filed: November 10, 2003	:	
Patentee(s): Norbert Stroh, et. al.	:	

This is a decision on the Request for Certificate of Correction filed January 4, 2006, which is being treated as a request under 37 CFR 3.81[1], to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED TO THE EXTENT INDICATED ABOVE**.

Finance records show that on January 4, 2004, petitioner submitted $400 for treatment of the instant petition. However, since a petition under 37 CFR 3.81 requires a processing fee of $130 and $100 is needed for the requested Certificate of Correction, those fees will be deducted from the $400. Accordingly, the overpayment of $170 will be refunded to petitioner's deposit account.

This patented file is being referred to the Certificates of Correction Branch for review of the additional corrections requested in the Certificate of Correction filed January 4, 2006.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

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

JAN - 4 2005

MAILED

JAN - 4 2005

OFFICE OF THE DIRECTOR
TC 3600

DAVIDSON BEQUIST JACKSON & GOWDY LLP
4501 North Fairfax Drive, Suite 920
Arlington, VA 22203

In re application of
Mario Spatafora :
Application No. 10/471,099 :
Filed: September 08, 2003 :
For: UNIT FOR FEEDING CIGARETTES TO A PACKER MACHINE :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on July 21, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks reason for the withdrawal under condition A) and B) above.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

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

SNM/pav: 12/27/04

CC: TIMOTHY J. KLIMA, Esq.
Klima & Jackson LLP
4501 North Fairfax Drive, Suite 920
Arlington, VA 22203

25 JUN 2004

#4

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. Carrithers
Carrithers Law Office, PLLC
One Paragon Centre
6060 Dutchman's Lane, Suite 140
Louisville, KY 40205

In re Application of	:	
SPATOLA, Arno F. et al.	:	
Application No.: 10/471,120	:	DECISION ON
PCT No.: PCT/US02/07093	:	
Int. Filing Date: 11 March 2002	:	REQUEST
Priority Date: 09 March 2001	:	
Attorney's Docket No.: AE107/2002	:	UNDER 37 CFR 1.42
For: HELICOMIMETICS AND STABILIZED	:	
LXXLL PEPTIDOMIMETICS	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371. A review of the declaration reveals an indication that joint inventor Arno F. Spatula is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 11 March 2002, applicants filed international application PCT/US02/07093, which claimed a priority date of 09 March 2001. On 02 October 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 09 September 2003.

On 08 September 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 January 2004, 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 09 June 2004, applicant submitted a declaration and the fee for a three month extension of time.

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 declaration is signed by an executor. 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 executed by the legal representative does not list inventor Leduc. As such, the declaration does not comply with 37 CFR 1.497.

Additionally, the declarations include impermissible, non-initialed, non-dated alterations. See 37 CFR 1.52(c)(1). The declaration of the legal representative includes redactions on pages two and three. Those on page three clearly occurred subsequent to the execution of the declaration by the legal representative. It is improper for anyone to alter the declaration after execution by the applicant. MPEP605.04(a). The declaration of inventor Leduc contains an alteration to the page number on page four of the declaration. Applicants must supply a declaration in compliance with 37 CFR 1.497(a)-(b) and 37 CFR 1.42 executed by the legal representative and inventor Leduc.

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.

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 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

David W. Carrithers
Carrithers Law Office, PLLC
One Paragon Centre
6060 Dutchman's Lane, Suite 140
Louisville, KY 40205

In re Application of SPATOLA, Arno F. et al. Application No.: 10/471,120 PCT No.: PCT/US02/07093 Int. Filing Date: 11 March 2002 Priority Date: 09 March 2001 Attorney's Docket No.: AE107/2002 For: HELICOMIMETICS AND STABILIZED LXXLL PEPTIDOMIMETICS	DECISION ON REQUEST UNDER 37 CFR 1.42

This decision is in response to applicants' "Renewed Submission For Status Under 37 CFR 1.42," filed in the United States Patent and Trademark Office on 23 September 2004.

BACKGROUND

On 11 March 2002, applicants filed international application PCT/US02/07093, which claimed a priority date of 09 March 2001. On 02 October 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 09 September 2003.

On 08 September 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 January 2004, 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 09 June 2004, applicants submitted a declaration and the fee for a three month extension of time.

On 25 June 2004, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicants' request for status.

On 23 September 2004, applicants' submitted the instant renewed request accompanied by a declaration and a petition for a one month extension of time.

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 declaration is signed by an executor. The declaration lists the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. The declaration complies with 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 an international filing date of 11 March 2002 under 35 U.S.C. §363 and a date of 23 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.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

E. M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Jane Catherine Emery	: DECISION ON REQUEST FOR
Patent Number	: 7659292	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/471,125	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **499** 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.

11 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

Mark L. Chael
McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive
Chicago, IL 60606

In re Application of	:	
Towne et al.	:	
Application No.: 10/471,126	:	DECISION
PCT No.: PCT/US02/07147	:	
Int. Filing Date: 07 March 2002	:	UNDER
Earlier Priority Date: 07 March 2001	:	
Attorney Docket No.: 98-541-O5	:	37 CFR 1.497(d)
For: Automated Immunohistochemical And	:	
In Situ Hybridization Assay Formulations	:	

This is a decision on the papers filed on 07 October 2004, which are being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 07 March 2002, claimed an earlier priority date of 07 March 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 08 September 2003 (since 07 September 2003 was a Sunday). On 08 September 2003, applicants filed *inter alia* the basic national fee.

On 07 April 2004, 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). It was noted that "In regard to the papers filed under '37 CFR 1.48(a)(5)' filed on 08 September 2003, applicant has not filed an acceptable declaration of the inventors in this application. An executed declaration and surcharge under 37 CFR 1.492(e) is required." It is further noted that no copy of such "papers filed under 37 CFR 1.48(a)(5)" is currently present in the application file.

DISCUSSION

Inspection of the declaration of the inventors filed on 07 October 2004 reveals that it names three inventors, Kimberly Christensen, Ethel Macrea and Noemi Sebastiao, who are not enumerated in the published international application. Counsel implicitly requests treatment under 37 CFR 1.48(a), but treatment under 37 CFR 1.497(d) would be proper in this case.

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.).

Regarding requirement (1), applicants have provided a "Statement Pursuant To 37 C.F.R. § 1.48(a)(2)" signed by the seven inventors named in the declaration filed on 07 October 2004, attesting that "inventorship error in the application identified above occurred without deceptive intent." Thus, requirement (1) has been satisfied.

Regarding requirement (2), the required $130.00 processing fee is being charged to counsel's Deposit Account No. 13-2490, as authorized by the Transmittal Letter filed on 08 September 2003. Note that this fee is a separate requirement from the surcharge under 37 CFR 1.492(e).

Regarding requirement (3), counsel has also filed a "Consent Of The Assignee Pursuant To 37 C.F.R. § 1.48(a)(5)" signed by Huw R. Jones and "Director of Intellectual Property" of Ventana Medical Systems, Inc., indicating that

> as a duly appointed representative of the assignee authorized to act on behalf of the assignee in this matter, the undersigned consents to the request to correct the inventorship in the patent application identified above. The recorded assignment executed by the originally named inventors is located at Reel Number 011787, Frame Number 0772.

The submission is also accompanied by a copy of an assignment document executed in favor of Ventana Medical Systems, Inc. by all of the inventors named in the declaration filed on 07 October 2004. Based on the present record, requirement (3) is deemed to have been satisfied.

CONCLUSION

The declaration filed on 07 October 2004 is **ACCEPTED** under 37 CFR 1.497 (d).

Counsel's Deposit Account No. 13-2490 is being charged in the amount of $130.00 for the required processing fee.

This application is being forwarded to the National Stage Processing Branch for further processing consistent with this decision. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **07 October 2004**.

Richard Cole
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

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

COPY MAILED

OCT 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Kwang Mien Chan, et al.	:	
Application No. 10/471,141	:	DECISION ON PETITION
Filed: February 23, 2004	:	TO WITHDRAW
Attorney Docket No. 449122063100	:	FROM RECORD
	:	

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster has been revoked by the assignee of the patent application on August 3, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN R. SPIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

25 MAY 2007

Sonnenschein Nath & Rosenthal LLP
For Paula Evans
P.O. BOX 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

In re Application of	:	
SHIRATORI, et al.	:	DECISION ON PETITION
Serial No.: 10/471,147	:	
PCT No.: PCT/JP02/02070	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 06 March 2002	:	
Priority Date: 08 March 2001	:	
Atty Docket No.: 10939/2162	:	
For: ETHYLENE GAS ADSORBENT, ETHYLENE	:	
GAS CONCENTRATION CONTROLLING	:	
METHOD AND ETHYLENE GAS SENSOR	:	

This decision is in response to applicant's petition under 37 C.F.R. § 1.47 filed 01 June 2004 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of co-inventor Hitoshi Hayashibara.

BACKGROUND

On 06 March 2002, applicant filed international application PCT/JP02/02070. 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 06 September 2003.

On 05 September 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; an application data sheet and a preliminary amendment.

On 20 January 2004, 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 accompanied by payment of the surcharge for providing an executed oath or declaration of the inventors later than thirty months from the priority 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 01 June 2004, applicant filed the present petition under 37 CFR 1.47(a) accompanied by payment of a three-month extension of time fee of $475.00.

On 25 June 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).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (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 items1, 3 and 4.

Regarding item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature."
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47... The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should include a statement of facts. It is important that the statement contain facts as opposed to conclusions.

In support of the petition applicant has included a declaration from Kyoko Yoshimi detailing the efforts to contact the non-signing inventor. However, applicant has not included any documentary evidence to support the contention that the inventor can not be located. As

shown above, such evidence is necessary for proceeding pursuant to 37 CFR 1.47. In order to take Mr. Hayashibara's silence as a refusal it must be shown that he was presented with a complete set of application papers and has yet to respond. Alternatively, the declaration seems to suggest that Mr. Hayashibara can not be located. If this is the case, documentary evidence as detailed above must be provided.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

The "Notification of Acceptance" (Form PCT/DO/EO/903) is hereby **VACATED**.

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 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

0 1 DEC 2004

#6

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

Judson K Champlin
Westman Champlin & Kelly
900 Second Avenue South
Suite 1600 - International Centre
Minneapolis MN 55402-3319

In re Application of MATTES et al. Application No.: 10/471,153 PCT No.: PCT/EP02/02580 Int. Filing: 08 March 2002 Priority Date: 08 March 2001 Attorney Docket No.: U21.12-0001 For: QUANTITATIVE ANALYSIS, VISUALIZATION AND MOVEMENT CORRECTION IN DYNAMIC PROCESSES	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "INFORMATION FOR WITHDRAWAL OF ABANDONMENT -PTO HAS NO EVIDENCE THAT MAILED CORRESPONDENCE RECEIVED" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 09 November 2004. The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 08 September 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 21 January 2004, 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), an English translation of the international application, the surcharge for filing oath or declaration, and the processing fee for filing the English translation after the thirty month period, were required.

On 20 October 2004, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 09 November 2004, in response to the Notification of Abandonment, applicant filed the instant response with a copy of 20 July 2004 response to Missing Requirements, a copy of the declaration and an itemized USPTO date-stamped postcard indicating that an executed declaration and a request for a four month extension of time was filed on 20 July 2004.

DISCUSSION

The original declaration filed on 20 July 2004 is not located in the application file. A review of the finance records for 10/471,153 indicates that on 20 July 2004, the $130 surcharge for filing the declaration after the thirty month period was paid, along with fees for a four month

extension of time.

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 combined declaration and power of attorney was deposited with the USPTO on 20 July 2004.

The evidence submitted is sufficient to establish that a declaration for this application was received in the USPTO on 20 July 2004. The communication filed 09 November 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 20 July 2004. 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.

However, applicant has not provided evidence of the submission of the English translation of the international application and processing fee, which was also required in response to the Notification of Missing Requirements. Since the English translation of the international application and processing fee for filing the English translation after the thirty month period was not submitted, the application remains abandoned.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The copy of the declaration originally submitted on 20 July 2004 and resubmitted on 09 November 2004 is acceptable and meets the requirements of 37 CFR 1.497.

The application remains **ABANDONED**.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

25 MAY 2005

#8

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

Judson K Champlin
Westman Champlin & Kelly
900 Second Avenue South
Suite 1600 - International Centre
Minneapolis MN 55402-3319

In re Application of MATTES et al. Application No.: 10/471,153 PCT No.: PCT/EP02/02580 Int. Filing: 08 March 2002 Priority Date: 08 March 2001 Attorney Docket No.: U21.12-0001 For: QUANTITATIVE ANALYSIS, VISUALIZATION AND MOVEMENT CORRECTION IN DYNAMIC PROCESSES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on 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 (USPTO) via facsimile on 11 April 2005.

BACKGROUND

On 08 September 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 21 January 2004, 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), an English translation of the international application, the surcharge for filing oath or declaration, and the processing fee for filing the English translation after the thirty month period, were required.

On 20 October 2004, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 09 November 2004, in response to the Notification of Abandonment, applicant filed the instant response with a copy of 20 July 2004 response to Missing Requirements, a copy of the declaration and an itemized USPTO date-stamped postcard indicating that an executed declaration and a request for a four month extension of time was filed on 20 July 2004.

On 01 December 2004, a decision granting the petition to accept the 20 July 2004 response to the Notification of Missing Requirements was mailed. However, the decision

indicated the application remained abandoned for failure to provide an English translation of the international application by the expiration of the thirty month period to fulfill the requirements of 35 U.S.C. 371(c).

On 11 April 2005, applicant filed a copy of the petition to revive along with a copy of the English translation of the international application originally filed in the USPTO on 09 December 2004 along with a copy of the itemized USPTO date-stamped postcard receipt.

DISCUSSION

The original petition to revive an application unintentionally abandoned and the English translation of the international application filed on 09 December 2004 are not located in the application file. A review of the finance records for 10/471,153 indicates that on 09 December 2004, the $130 surcharge for filing the English translation after the thirty month period and the $1500 petition to revive fee 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 English translation of the application and a petition to revive was deposited with the USPTO on 09 December 2004.

The evidence submitted is sufficient to establish that an English translation of this application was received in the USPTO on 09 December 2004. The communication filed 11 April 2005 includes a copy of the English translation of the international application. Accordingly, it is appropriate to accept the copy of the English translation of the international application as a replacement for the missing original English translation with a deposit date of 09 December 2004. 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.

With respect to the petition to revive under 37 CFR 1.137(b) filed 09 December 2004 in the above-captioned application, the petition is hereby GRANTED as follows:

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

A review of the application file reveals that the English translation of the international application and the $130 processing fee for filing the English translation after the thirty month period, which was also required in response to the Notification of Missing Requirements, was provided. The required petition fee of $1500 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.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**. The Petition for Revival of Application Abandoned Unintentionally is **GRANTED**.

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 09 December 2004.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Julian Mattes	: DECISION ON REQUEST FOR
Patent Number	: 7590264	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/471,153	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1141** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

Mail Date: 04/20/2010

Applicant	: Dieter Jaepel	: DECISION ON REQUEST FOR
Patent Number	: 7613685	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/471,165	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1161** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:
Magnus Lidman et al	:
Application No. 10/471,172	: DECISION ON PETITION
Filed: March 1, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 19200-000019/US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 2, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/183,000, filed November 25, 2002, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

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

The granting of the petition to accept the delayed benefit claim to the above-noted, prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the above-noted, prior-filed application. In order for the instant application to be entitled to the benefit of the above-noted, prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the above-noted, prior-filed application should not be construed as meaning that applicants are entitled to the claim for benefit of priority to the above-noted, 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 second petition fee ($1,370) is unnecessary and will be credited to petitioner's deposit account in due course.

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

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

This matter is being referred to Technology Center Art Unit 3643 for appropriate action on the amendment filed November 2, 2005, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/471,172	03/01/2004	3643	1244	19200-000019/US	2	23	2

CONFIRMATION NO. 1363

CORRECTED FILING RECEIPT

OC000000018202318

30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

Date Mailed: 03/06/2006

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

Applicant(s)

Magnus Lidman, Ronninge, SWEDEN;
Staffan Persson, Tumba, SWEDEN;

Power of Attorney: The patent practitioners associated with Customer Number **30593**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/SE02/00522 03/19/2002
and is a CIP of 10/183,000 11/25/2002 PAT 6,782,705
which is a 371 of PCT/SE01/00192 02/01/2001

Foreign Applications

SWEDEN 0100970-3 03/20/2001
SWEDEN 0000362-4 02/04/2000

If Required, Foreign Filing License Granted: 03/04/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/471,172

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Cooling of milk in an automatic milking system

Preliminary Class

119

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, N.W.
WASHINGTON DC 20006

MAILED

APR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Jong Seok Kim et al	:	
Application No. 10/471,181	:	DECISION GRANTING PETITION
Filed: September 9, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9988.052.00-US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 22, 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 February 18, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1792 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

May 16, 2010

Patent No. : 7,694,475 B2
Appl. No. : 10/471,203
Inventor(s) : Michael Scott Rae
Issued : April 13, 2010
Title : **FIRE RATED GLASS FLOORING**
Docket No. : **006329.00002**

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 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 petition to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (571) 273-8300
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.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

26 JAN 2004

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

In re Application of SÖDERSTRÖM et al. Serial No.: 10/471,233 PCT No.: PCT/SE02/00231 Int. Filing Date: 08 February 2002 Priority Date: 09 February 2001 Attorney's Docket No.: 2380-787 For: METHOD, SYSTEM AND EQUIPMENT FOR RETRANSMISSION IN COMMUNICATIONS SYSTEMS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 09 September 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "entire delay in filing the U.S. National phase request for examination from the due date for filing until the filing of a grantable petition pursuant to 37 CFR 1.137(b)(3) was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the basic national fee of $1060 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. The $130 surcharge for filing the oath or declaration after the thirty month period is required and has been charged to applicant's deposit account per their authorization. The 35 U.S.C. 371 date is **09 September 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of Patent Cooperation Treaty
Legal Administration Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAY 1 1 2006

OFFICE OF PETITIONS

CHRISTIAN D. ABEL
ONSAGERS AS
POSTBOKS 6963 ST. OLAVS PLASS
NORWAY N-013-0 NO NORWAY

In re Application of
Thor Olav Rorheim
Application No. 10/471,255
Filed: December 8, 2003
Attorney Docket No: 115586

ON PETITION

This is a decision on the petition filed November 24, 2005, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on July 14, 2005, for failure to file a timely response to the Final Office Action mailed April 13, 2005. A three month period for reply was set. No response and no extension of time having been filed, accordingly, a Notice of Abandonment was mailed on November 15, 2005.

Petitioner asserts that a response to the Final Office Action was filed by facsimile transmission on May 9, 2005 but that due to a typographical error, the application serial number was incorrectly identified on the response.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, a review of the materials submitted show that other identifiable information was found to be on the papers filed as the response and could therefore have been properly matched. As such, the papers were not matched.

Additionally, petitioner submits a copy of the response which includes a certificate of facsimile transmission pursuant to 37 CFR 1.8.

In view of the evidence submitted, it can be concluded that a response to the Final Office Action was timely filed.

Accordingly, the Notice of Abandonment mailed January 11, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 3673 for a review of the response filed May 9, 2005 and resubmitted with the instant petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GWENDOLINE BRUNEAU
GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL, CANADA H2A 3-H3

COPY MAILED

MAY 1 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Karazivan et al.	:	DECISION ON PETITION
Application No. 10/471,284	:	TO WITHDRAW
Filed: September 22, 2003	:	FROM RECORD
Attorney Docket No. P1008US00	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 23, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on May 30, 2006 the power of attorney to Goudreau Gage Dubuc was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Anglehart et al.
Suite 1, Sutton House
186, Place Sutton
Beaconsfield QC H9W 5S3 CA CANADA

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 24,2007

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/471,291 Patent No.: 7258065 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: The application number and the patent number do not match.

Judy Nguyen
JUDY NGUYEN
SUPERVISORY PATENT EXAMINER

SPE

2854
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
DIW May-05

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

COPY MAILED

MAY 2 7 2005

OFFICE OF PETITIONS

In re Patent No. 6,768,407	:	
Issued: 27 July, 2004	:	
Application No. 10/471,295	:	ON PETITION
Filed: 23 September, 2003	:	
Atty Docket No. 031191	:	

This is a decision on the petition filed on 7 January, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. 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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 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

FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMDEN, ME 04444-0726

COPY MAILED
SEP 0 6 2006
OFFICE OF PETITIONS

In re Application of	:	
Konrad Kapser et al.	:	
Application No. 10/471,296	:	ON PETITION
Filed: May 2, 2005	:	
Attorney Docket No. 4571/PCT	:	

This is a decision on the petition under 37 CFR 1.10 (c) filed April 19, 2006 to correct the filing date to May 2, 2005, rather than a filing date of May 21, 2005.

Petitioner alleges that the application was deposited in Express Mail service on May 2, 2005. In support, petitioner supplied a copy of Express Mail Label No. EV511024528US. The "date-in" on the Express Mail Label is May 2, 2005. Additionally, petitioner has submitted a copy of the return postcard itemizing the response to the Notice of Missing Requirements date-stamped by the USPTO on May 2, 2005. The express mail label and the additional evidence corroborates the express mail date and thus is sufficient for correcting the filing date.

In view of the above, the petition is **GRANTED** and no petition fee is due.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to May 2, 2005** and for issuance of a corrected filing receipt.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

1 6 NOV 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 W. Muirhead
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109-2804

In re Application of ROMBACH, et al. PCT No.: PCT/EP03/00033 Application No.: 10/471,307 Int. Filing Date: 03 January 2003 Priority Date: 30 January 2002 Atty. Docket No.: WEM-06801 For: METHOD AND DEVICE FOR CALIBRATING A MOISTURE SENSOR AND SENSOR ARRANGEMENT HAVING A MOISTURE SENSOR CAPABLE OF CALIBRATION	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicant's "Request For Issuance of Corrected Filing Receipt And Notice of Acceptance of Application" filed on 05 November 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 03 January 2003, applicant filed international application PCT/EP03/00033 which claimed priority to an earlier application filed 30 January 2002.

On 09 September 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 an executed declaration of the inventors.

On 16 July 2004, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 02 October 2003.

On 05 November 2004, applicant filed the present request for a corrected filing receipt and for PCT/DO/EO/903.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt

containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by title, applicants and Express Mail number. Among the items listed on the receipt are: 3) Executed Declaration; 4) Translation of PCT Application (14 pages) and 10) Checks for $40.00 and $1,068.00. The postcard is stamped "DT20 Rec'd PCT/PTO 09 SEP 2003 10/471,307." The evidence is sufficient to establish that the transmittal letter, filing fee check of $1,068.00, English translation and executed declaration was received in the USPTO on 09 September 2003. Lastly, an examination of the application file and stamped transmittal letter 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 09 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 03 January 2003 under 35 U.S.C. 363 and a date of **09 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 16 July 2004 indicating a date of 02 October 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

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

11/14/07

SNIDER & ASSOCIATES
P. O. BOX 27613
WASHINGTON DC 20038-7613

In re Application of: Denda, Mitsuhiro	:	
Appl. No.: 10/471,319	:	DECISION ON PETITION
Filed: Sep. 10, 2003	:	
For: METHOD FOR ACCELERATING THE IMPROVEMENT OF BARRIER FUNCTION OF SKIN	:	

This is a decision on the petition filed on Sep. 28, 2007 by which petitioner request withdrawal of the finality of the Office action dated Aug. 22, 2007. The petition is considered pursuant to 37 CFR 1.181 and no fee is required.

The petition is granted.

In the petition, petitioner argues that in response to the Appeal Brief filed on May 16, 2007, the examiner re-opened prosecution by issuing a final rejection with new grounds of rejection on Aug. 22, 2007, which resulted in depriving the applicant an opportunity from amending the claims. In particular, petitioner opines that the examiner should have issued an examiner answer with the new grounds of rejection in accordance with MPEP § 1207.03 so that the applicant would have had the opportunity to amend the claims in response to the new grounds of rejection (M.P.E.P.§1207.03v1). Petitioner also argues that the second final rejection of Aug. 22, 2007 was not necessitated by any amendment to the claims and only necessitated by the appeal brief of May 16, 2007.

While the examiner states that new grounds of rejection were necessitated by amendment in the final rejection mailed Jul. 12, 2006, it is noted that the grounds of rejection with respect to the applied references remains the same, i.e., the combination of Zanakis, Ellis and Nilsson et al., as in the non-final rejection mailed Feb. 14, 2006. The application of a single reference in the newest final rejection, while being the same primary reference, the patent to Zanakis, indicates that the reference was necessitated by the appeal brief rather than previously standing rejection. In addition, it is noted that approval for the new grounds of rejection in the Aug. 22, 2007 final rejection was not shown by a Supervisory Patent Examiner as required by MPEP 1207.04.

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed Aug. 22, 2007 is hereby withdrawn. The finality of the Office action mailed on Aug. 22, 2007 is withdrawn and the period to respond the Office action still remains unchanged. The examiner has been directed to treat the applicant's response to the Office action of Aug. 22, 2007 as a 37 CFR § 1.111 amendment.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

for Karen M. Young

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND OH 44114

MAILED

APR 24 2009

OFFICE OF PETITIONS

In re Application of

Denda, et al.

Application No. 10/471,319

Filed: October 3, 2003

Attorney Docket No. IKUTP103US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed January 30, 2008, which set a shortened statutory period for reply of three (3) months. A proper response was not received within the allowable period and the application became abandoned on July 1, 2008. A Notice of Abandonment was mailed October 16, 2008.

The Request for Continued Examination and amendment filed April 9, 2009, are noted and made of record.

The application is being forwarded to Technology Center 3700, GAU 3762 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARK FRIEDMAN
BILL POLKINGHORN
DISCOVERY DISPATCH
9003 FLORIN WAY
UPPER MARLBORO, MD 20772

COPY MAILED

FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Yosi BAR-EREZ et al. :
Application No. 10/471,320 : DECISION ON PETITION
Filed: September 10, 2003 :
Attorney Docket No. 1529/30 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 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, December 12, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 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 750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 12, 2005 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 1733 for appropriate action on the concurrently filed amendment.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

10 MAR 2004

#3

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

Leonard W. Pojunas
SchlumbergerSema, Inc.
30000 Mill Creek Ave, Suite 100
Alpharetta, GA 30022

In re Application of FOUGEROUX, Nicolas et al. Application No.:10/471,322 PCT Application No.: PCT/FR01/04126 International Filing Date: 20 December 2001 Priority Date: 21 December 2000 Attorney Docket No.: 71.03885 For: METHOD FOR DYNAMICALLY ALLOCATING MEMORY WORKSPACE BY ELEMENTARY MEMORY BLOCKS TO A DATA STRUCTURE, AND CORRESPONDING ONBOARD SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.137(b)

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 (USPTO) on 09 September 2003 is **DISMISSED**.

BACKGROUND

On 20 December 2001, applicant filed international application number PCT/FR01/04126. This application claims priority of a French application that was filed on 21 December 2000. A copy of the international application was transmitted by the International Bureau on 27 June 2002. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 23 June 2003 (21 June 2003 fell on a Saturday).

On 09 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a petition to revive, a form authorizing the USPTO to charge Deposit Account No. 50-2299 the basic national fee (along wih the surcharge for a late declaration or oath, the processing fee for a late English translation of the international application, and the fee for recording an assignment), and a form authorizing the USPTO to charge the same deposit account the $1,300 fee for a Rule 137(b) petition.

On 22 September 2003, the USPTO Finance Division attempted to charge the fees required for a proper Rule 137(b) petition, i.e., the basic national fee and the petition fee. No fees were actually charged on that date due to insufficient funds.

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 proper reply, (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 08 June 1995). A proper reply requires payment of the basic national fee and a copy of the international application, if such a copy has not already been communicated by the International Bureau.

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," satisfies the requirements of 37 CFR 1.137(b)(3). A copy of the international application was previously communicated by the International Bureau. A terminal disclaimer is not required because the application was filed on or after 08 June 1995. However, the petition is not grantable because applicant has not paid the basic national fee or the petition fee. Although authorizations to charge these fees to the deposit account of applicant's represenative accompanied the petition, there were insufficient funds in the account on the day the USPTO Finance division attempted to charge these fees to the account.

CONCLUSION

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

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Ankur Parekh
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

15 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

Pehr Jansson
Attorney At Law
7628 Parkview Circle
Austin, Texas 78731

In re Application of	:	
FOUGEROUX et al.	:	
Application No.: 10/471,322	:	DECISION ON PETITION
PCT No.: PCT/FR01/04126	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 20 December 2001	:	
Priority Date: 21 December 2000	:	
Attorney Docket No.: 71.038855	:	
For: METHOD FOR DYNAMICALLY ALLOCATION MEMORY WORKSPACE BY ELEMENTARY MEMORY BLOCKS TO A DATA STRUCTURE, AND CORRESPONDING . . .		

The renewed petition to revive under 37 CFR 1.137(b) filed 14 June 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 the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Deposit Account No. 50-2299 will be charged a $1330.00 petition fee under 37 CFR 1.17(m). Deposit Account No. 50-2299 will be charged a $130.00 surcharge fee under 37 CFR 1.492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date and a $130 processing under 37 CFR 1.492(f) for supplying an English translation 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

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)
7024535	2006-04-04	10471322	2003-09-09	0655-Misc

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	/Benoit Castel/	Date (YYYY-MM-DD)	2010-06-22
Name	Benoit Castel	Registration Number	35041

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7024535
Issue Date: April 4,2006
Application No. 10471322
Filed: September 9,2003
Attorney Docket No. 71.03885

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

This is a decision on the electronic petition, filed June 22,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 22,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

01 OCT 2007

THE JANSSON FIRM
9501 N. CAPITAL OF TX HWY #202
AUSTIN, TX 78759

In re Application of GIRAUD et al. Serial No.: 10/471,323 PCT No.: PCT/FR01/04124 Int. Filing Date: 20 December 2001 Priority Date: 21 December 2000 Attorney's Docket No.: 71.03922 For: METHOD FOR MAKING SECURE A LOGICAL OR MATHEMATICAL OPERATOR IN A MICRO-PROCESSOR-BASED ELECTRONIC MODULE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 01 August 2007 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 proper reply to the Notification of Missing Requirements, that is, a declaration executed in compliance with 37 CFR 1.497(a) and (b), has been provided. The $130 surcharge for filing the declaration after the thirty month period was paid. The required petition fee of $1500 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. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 01 August 2007.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

27 JAN 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

Schlumberger Sema, Inc.
30000 Mill Creek Ave.
Suite 100
Alpharetta, GA 30022

In re Application of GIRAUD et al. Serial No.: 10/471,323 PCT No.: PCT/FR01/04124 Int. Filing Date: 20 December 2001 Priority Date: 21 December 2000 Attorney's Docket No.: 71.03922 For: METHOD FOR MAKING SECURE A LOGICAL OR MATHEMATICAL OPERATOR IN A MICRO-PROCESSOR-BASED ELECTRONIC MODULE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 09 September 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 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.

It is noted that the declaration is signed by the second inventor as Abraham Brohl, rather than as identified in the published international application as Abraham Brolh. 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 1.182 to correct inventor Brolh should be filed explaining the error in inventor's last name.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of Patent Cooperation Treaty
Legal Administration Office

Telephone: (703) 306-5467
Facsimile : (703) 308-6459

#9

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

13 JUL 2007

THE JANSSON FIRM
9501 N. CAPITAL OF TX HWY #202
AUSTIN, TX 78759

In re Application of GIRAUD et al. Serial No.: 10/471,323 PCT No.: PCT/FR01/04124 Int. Filing Date: 20 December 2001 Priority Date: 21 December 2000 Attorney's Docket No.: 71.03922 For: METHOD FOR MAKING SECURE A LOGICAL OR MATHEMATICAL OPERATOR IN A MICRO-PROCESSOR-BASED ELECTRONIC MODULE	DECISION ON PETITION UNDER 37 CFR 1.137(a)

The petition to revive under 37 CFR 1.137(a) filed in the United States Patent and Trademark Office on 12 January 2006 in the above-captioned application.

BACKGROUND

On 09 September 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 and a petition to revive the unintentionally abandoned international application.

On 27 January 2004, the petition to revive was granted. Applicant was advised that the declaration was signed by the second inventor as Abraham Brohl, rather than as identified in the published international application as Abraham Brolh. Applicant was further advised that a copy of the Notification of the Recording of a Change (Form PCT/IB/306) should be submitted or in the alternative, a petition under 37 CFR 1.182 to correct inventor Brolh should be filed explaining the error in inventor's last name.

On 15 June 2004, a Notification of Missing Requirements (Form PCT/DO/EO/905) mailed to applicant indicating that the spelling of the second named inventor was not the same as found on the international application and that an English translation of the international application was required..

On 15 January 2005, the application went abandoned for failure to response to the 905.

On 8 February 2005, applicant filed, via facsimile, a change of correspondence which was not accompanied by a power of attorney.

On 23 February 2005, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 25 August 2005, applicant filed, via facsimile, a power of attorney signed by the general counsel for Axalto, Inc. and correspondence address indication form (PTO/SB/01) and statement under 37 CFR 3.73(b) for Axalto (PTO/SB/96).

On 09 September 2005, applicant, through Pehr Jansson, filed a second Power of Attorney and Correspondence Address Indication Form. The Power of Attorney was signed Patricia Renault, Patent Attorney for CP8 Technologies. A assignment executed by the inventors and identifying CP8 Technologies as the assignee was attached.

On ~~15 November 2004~~, applicant filed the instant petition for revival of an application for patent abandoned unavoidably under 37 CFR 1.137(a) accompanied by a statement of Pehr Jansson.

DISCUSSION

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay requires (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 Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable; and (4) a terminal disclaimer pursuant to 37 CFR 1.137(c).[1]

Regarding Item (1), the proper response was not provided. The 905 indicated that the second inventor's name was not the same as that found on the published international application and that an English translation of the international application was required. An English translation of the international application was not provided and is required. A new declaration is also required because the declaration submitted on 09 September 2003 does not identify the application to which it is directed. Also an explanation of the difference in the inventor's second name is required if it is different than the name indicated in the published international application. Thus, Item (1) is not yet satisfied.

The petition fee was paid, satisfying Item (2).

Concerning item (3), counsel states that he attempted to filed a Change of Correspondence on February 8, 2005. A review of the submission of 8 February 2005 does not indicate that a Power of Attorney was submitted simultaneously with the change of correspondence address. Thus, the change of correspondence address could not be made. Regardless, the Notification of Missing Requirements was mailed to the address of record on 15 June 2004, almost 8 months prior to the request to change the correspondence address. Applicant has the duty to maintain their correct correspondence address with the USPTO. Applicant does not argue that the Notice was not received at the address of record.

Counsel does not provided sufficient evidence to conclude that the abandonment of the U.S. national stage application was unavoidable. The burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unavoidable rests on the applicant. MPEP §711.03(c) II F.

Thus, the petition to revive under 37 CFR 1.137(a) for unavoidable delay is dismissed without prejudice.

RECOMMENDATION

As an alternative, applicant may request revival of the application via petition under 37 CFR 1.137(b).

A terminal disclaimer is not required in this application since it was filed after 08 June 1995.

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 the date on which the application became abandoned. Such a petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply; (2) the petition fee required by law, and (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional".

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

This recommendation to file a petition under 37 CFR 1.137(b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

For the reasons above, the petition to revive under 37 CFR 1.137(a) is **DISMISSED without prejudice**.

The application remains **ABANDONED**.

Any request for reconsideration of 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 1.137(a)." 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.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

#12

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

01 OCT 2007

THE JANSSON FIRM
9501 N. CAPITAL OF TX HWY #202
AUSTIN, TX 78759

In re Application of GIRAUD et al. Serial No.: 10/471,323 PCT No.: PCT/FR01/04124 Int. Filing Date: 20 December 2001 Priority Date: 21 December 2000 Attorney's Docket No.: 71.03922 For: METHOD FOR MAKING SECURE A LOGICAL OR MATHEMATICAL OPERATOR IN A MICRO-PROCESSOR-BASED ELECTRONIC MODULE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 01 August 2007 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 proper reply to the Notification of Missing Requirements, that is, a declaration executed in compliance with 37 CFR 1.497(a) and (b), has been provided. The $130 surcharge for filing the declaration after the thirty month period was paid. The required petition fee of $1500 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. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 01 August 2007.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

18 MAY 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. Carrithers
Carrithers Law Office, PLLC
One Paragon Centre
6060 Dutchman's Lane, Suite 140
Louisville, KY 40205

In re Application of SPATOLA et al	:	
U.S. Application No.: 10/471,328	:	
PCT Application No.: PCT/US02/07092	:	DECISION
Int. Filing Date: 11 March 2002	:	
Priority Date Claimed: 09 March 2001	:	
Attorney Docket No.: AE108/2002	:	
For: ALKYLATED C-SUGARS AND USES THEREOF	:	

This is in response to the papers filed 03 May 2004, which is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 11 March 2002, applicant filed international application PCT/US02/07092, which claimed priority of an earlier United States application filed 09 March 2001. The thirty-month period for paying the basic national fee in the United States expired on 09 September 2003.

On 08 September 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 30 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 03 May 2004, applicant filed the present request for status under 37 CFR 1.42 along with declarations executed by inventors Grant Taylor and Florence Brunel and a declaration executed by the executor for Arno Spatola, who according to the declaration is deceased.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration executed by the legal representative of Arno Spatola is improper. Specifically, while the signature blocks are properly signed with the name of the legal representative, they should not be signed with the name of the deceased inventor. Furthermore, all of the declarations incorrectly identify the application as having U.S. Serial No. "10/471,120" and international application "PCT/US02/07093".

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request 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 Request for Status Under 37 CFR 1.42". No petition fee is required.

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

Bryan Tung

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

30 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

David W. Carrithers
Carrithers Law Office, PLLC
One Paragon Centre
6060 Dutchman's Lane, Suite 140
Louisville, KY 40205

In re Application of SPATOLA et al	:	
U.S. Application No.: 10/471,328	:	
PCT Application No.: PCT/US02/07092	:	DECISION
Int. Filing Date: 11 March 2002	:	
Priority Date Claimed: 09 March 2001	:	
Attorney Docket No.: AE108/2002	:	
For: ALKYLATED C-SUGARS AND USES THEREOF	:	

This is in response to the "Renewed Request for Status Under 37 CFR 1.42" filed 08 June 2004.

BACKGROUND

On 11 March 2002, applicant filed international application PCT/US02/07092, which claimed priority of an earlier United States application filed 09 March 2001. The thirty-month period for paying the basic national fee in the United States expired on 09 September 2003.

On 08 September 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 30 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 03 May 2004, applicant filed a request for status under 37 CFR 1.42 along with declarations executed by inventors Grant Taylor and Florence Brunel and a declaration executed by the executor for Arno Spatola, who according to the declaration is deceased.

On 18 May 2004, this Office mailed a decision dismissing the 03 May 2004 request for status.

On 08 June 2004, applicant filed the present renewed request for status under 37 CFR 1.42 along with newly executed declarations.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

Each of the declarations filed 08 June 2004 is improper because it does not list all of the inventors.

CONCLUSION

For the reasons above, the renewed request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request 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 Request for Status Under 37 CFR 1.42". No petition fee is required.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

27 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
www.uspto.gov

David W. Carrithers
Carrithers Law Office, PLLC
One Paragon Centre
6060 Dutchman's Lane, Suite 140
Louisville, KY 40205

In re Application of SPATOLA et al	:	
U.S. Application No.: 10/471,328	:	
PCT Application No.: PCT/US02/07092	:	DECISION
Int. Filing Date: 11 March 2002	:	
Priority Date Claimed: 09 March 2001	:	
Attorney Docket No.: AE108/2002	:	
For: ALKYLATED C-SUGARS AND USES THEREOF	:	

This is in response to the "Renewed Request for Status Under 37 CFR 1.42" filed 23 September 2004.

BACKGROUND

On 11 March 2002, applicant filed international application PCT/US02/07092, which claimed priority of an earlier United States application filed 09 March 2001. The thirty-month period for paying the basic national fee in the United States expired on 09 September 2003.

On 08 September 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 30 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 03 May 2004, applicant filed a request for status under 37 CFR 1.42 along with declarations executed by inventors Grant Taylor and Florence Brunel and a declaration executed by the executor for Arno Spatola, who according to the declaration is deceased.

On 18 May 2004, this Office mailed a decision dismissing the 03 May 2004 request for status.

On 08 June 2004, applicant filed a renewed request for status under 37 CFR 1.42 along with newly executed declarations.

On 30 June 2004, this Office mailed a decision dismissing the 08 June 2004 renewed request for status.

On 23 September 2004, applicant filed the present renewed request for status under 37 CFR 1.42 along with a newly executed declaration.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 23 September 2004 is improper. Specifically, the first sentence of the declaration states, "As the spouse appointed the Executrix and legal representative for for the below named deceased inventor, I hereby declare that: . . . ." However, two of the persons who apparently signed the declaration, Grant Taylor and Florence Brunel, clearly are not the spouse of the deceased inventor. Furthermore, pages 1 and 2 of the declaration appear to be original sheets, while page 3 of the declaration appears to have been transmitted multiple times via facsimile. This raises doubt as to whether pages 1 and 2 of the declaration were associated with page 3 of the declaration at the time of execution. Applicant is required to submit either: (1) a single complete declaration which is presented to and executed by each of the inventors or (2) multiple complete declarations, each of which is presented to and executed by at least one of the inventors.

CONCLUSION

For the reasons above, the renewed request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are NOT available under 37 CFR 1.136(a). Failure to file a timely response will result in

ABANDONMENT of the application. Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42". No petition fee is required.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

02 NOV 2004

#10

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. Carrithers
Carrithers Law Office, PLLC
One Paragon Centre
6060 Dutchman's Lane, Suite 140
Louisville, KY 40205

In re Application of SPATOLA et al	:	
U.S. Application No.: 10/471,328	:	
PCT Application No.: PCT/US02/07092	:	DECISION
Int. Filing Date: 11 March 2002	:	
Priority Date Claimed: 09 March 2001	:	
Attorney Docket No.: AE108/2002	:	
For: ALKYLATED C-SUGARS AND USES THEREOF	:	

This is in response to the "Renewed Request for Status Under 37 CFR 1.42" filed 26 October 2004.

BACKGROUND

On 11 March 2002, applicant filed international application PCT/US02/07092, which claimed priority of an earlier United States application filed 09 March 2001. The thirty-month period for paying the basic national fee in the United States expired on 09 September 2003.

On 08 September 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 30 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 03 May 2004, applicant filed a request for status under 37 CFR 1.42 along with declarations executed by inventors Grant Taylor and Florence Brunel and a declaration executed by the executor for Arno Spatola, who according to the declaration is deceased.

On 18 May 2004, this Office mailed a decision dismissing the 03 May 2004 request for status.

On 08 June 2004, applicant filed a renewed request for status under 37 CFR 1.42 along with newly executed declarations.

On 30 June 2004, this Office mailed a decision dismissing the 08 June 2004 renewed request for status.

On 23 September 2004, applicant filed a renewed request for status under 37 CFR 1.42 along with a newly executed declaration.

On 27 September 2004, this Office mailed a decision dismissing the 23 September 2004 renewed request for status.

On 26 October 2004, applicant filed the present renewed request for status under 37 CFR 1.42 along with newly executed declarations.

DISCUSSION

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declarations filed 26 October 2004 are in compliance with 37 CFR 1.42 and 1.497.

CONCLUSION

For the reasons above, the renewed request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 11 March 2002, and a date under 35 U.S.C. 371(c) of 26 October 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
Office of PCT Legal Administration

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

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
www.uspto.gov

Birch Stewart Kolasch & Birch LLP
PO Box 747
Falls Church, VA 22040-0747

In re Application of PÜHLER, Alfred et al. Application No.: 10/471,370 PCT No.: PCT/EP02/02904 Int. Filing Date: 12 March 2002 Priority Date: 12 March 2001 Attorney's Docket No.: 2428-0124P For: NOVEL GENES FOR CONDITIONAL CELL ABLATION	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on "Submission of Additional Inventors Under 37 C.F.R. 1.497(d)," filed in the United States Patent and Trademark Office on 06 July 2004.

BACKGROUND

On 12 March 2002, applicant filed international application PCT/EP02/02904, which claimed a priority date of 12 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 19 September 2002. On 30 September 2002, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight on 12 September 2002.

On 11 September 2003, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 03 February 2004, 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 11 March 2004, applicant filed a declaration and the request under 37 CFR 1.497(d).

On 05 April 2004, applicant submitted an amendment and a copy of the 11 March 2004 submission.

On 23 April 2004, the Office mailed Notification of Defective Response indicating that the declaration is executed by two inventors who were not listed on the international application.

On 06 July 2004, applicant submitted a Request Under 37 CFR 1.497(d) and the fee for a one month extension of time.

DISCUSSION

The inventor in the international application is Alfred Pühler. Applicant requests to add Guido Kriete and Inge Broer as inventors.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) have been satisfied. Applicant has furnished the fee and a statement from each inventor being added that his or her omission occurred without deceptive intention on his or her part.

Item (3) has not been satisfied. Under 37 CFR 3.73, the assignee must establish its ownership of the invention either through providing a copy of the assignment or indicating exactly where the assignment is recorded in Office records (*e.g.* reel and frame number). This has not been done.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.497(d) 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 Request Under 37 CFR 1.497(d)".

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's phone number will be (571) 272-3292 and PCT Legal Administration's facsimile number will be (571) 273-0459.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

24 NOV 2004

#10

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

Birch Stewart Kolasch & Birch LLP
PO Box 747
Falls Church, VA 22040-0747

In re Application of PÜHLER, Alfred et al. Application No.: 10/471,370 PCT No.: PCT/EP02/02904 Int. Filing Date: 12 March 2002 Priority Date: 12 March 2001 Attorney's Docket No.: 2428-0124P For: NOVEL GENES FOR CONDITIONAL CELL ABLATION	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on "Renewed Request Under 37 C.F.R. 1.497(d)," filed in the United States Patent and Trademark Office on 13 October 2004.

BACKGROUND

On 12 March 2002, applicant filed international application PCT/EP02/02904, which claimed a priority date of 12 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 19 September 2002. On 30 September 2002, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight on 12 September 2002.

On 11 September 2003, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 03 February 2004, 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 11 March 2004, applicant filed a declaration and the request under 37 CFR 1.497(d).

On 05 April 2004, applicant submitted an amendment and a copy of the 11 March 2004 submission.

On 23 April 2004, the Office mailed Notification of Defective Response indicating that the declaration is executed by two inventors who were not listed on the international application.

On 06 July 2004, applicant submitted a Request Under 37 CFR 1.497(d) and the fee for a one month extension of time.

On 13 September 2004, the Office mailed Decision On Request Under 37 CFR 1.497(d) refusing applicant's request.

On 13 October 2004, applicant submitted the instant renewed request.

DISCUSSION

The inventor in the international application is Alfred Pühler. Applicant requests to add Guido Kriete and Inge Broer as inventors.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) were previously satisfied.

Item (3) has now been satisfied. Applicant has supplied a copy of the assignment from the inventors in support of the previously supplied consent of the assignee. Contrary to applicant's claims, the assignment was not present in the file and is not listed on the postcard supplied for the 06 July 2004 submission.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.497(d) is **GRANTED**.

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 **11 March 2004**.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

06 JUL 2004

#6

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

Steven G Davis
Hamilton Brook Smith & Reynolds
530 Virginia Road
PO Box 9133
Concord MA 01742-9133

In re Application of BELL et al. Application No.: 10/471,383 PCT No.: PCT/US02/07718 Int. Filing Date: 12 March 2002 Priority Date: 14 March 2001 Attorney Docket No.: 2947.1004-008 For: FLUORINATED TRIENES AND THEIR USE AS RXR MODULATORS	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Request for Correction/Amendment of Inventorship under 37 CFR 1.497(d)(3)", filed on 15 April 2004 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add Lawrence G. Hamann as inventor in the above referenced application. The requisite $130 petition fee was paid. The $130 surcharge for filing the declaration after the 30 month period was also paid. Applicant requests a one month extension of time, which is granted.

BACKGROUND

On 15 January 2004, a Notification of Missing Requirements was mailed to applicants, indicating that an oath or declaration of the inventors, 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 15 April 2004, in response to the Notification of Missing Requirements, applicant filed a request for correction of inventorship under 37 CFR 1.497(d), to add inventor Lawrence G. Hamann. In addition to the $130 petition fee, Petitioner provided the statement of the inventor Mr. Hamann in support of the correction of inventorship under 37 CFR 1.497(d) and the written consent of the assignees. An declaration executed by the joint inventors was also submitted.

DISCUSSION

37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor . . . 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.

Applicants provided a statement, signed by Lawrence G. Hamann, stating that "the error of omitting my name as a co-inventor occurred without deceptive intent on my part". This statement satisfies item (1) of 37 CFR 1.497(d).

The processing fee of $130.00 has been paid, satisfying Item (2) above.

With regard to Item (3), the request also included a "Written Consent of Assignee in Correction of Inventorship under 37 CFR 1.497(d)(3)" and a statement under 37 CFR 3.73(b) signed by Warner R. Broaddus, General Counsel, Vice-President and Secretary of Ligand Pharmaceuticals, Inc., consenting to the addition of Lawrence G. Hamann as an inventor in this application. Likewise the consent of assignee, Eli Lilly and Company has been provided with the "Written Consent of Assignee in Correction of Inventorship under 37 CFR 1.497(d)(3)" and a statement under 37 CFR 3.73(b) signed by McCharri R. Vorndran-Jones, Patent Counsel for Eli Lilly and Company, who states that she has the authority to act on behalf of the assignee and that Eli Lilly and Company consents to the addition of Lawrence G. Hamann as an inventor in this application. Item (3) above has been satisfied.

Accordingly, applicant has met all of the requirements to add Lawrence G. Hamann as co-inventor in the above-identified international application. The declaration submitted on 15 April 2004 satisfies the requirements of 37 CFR 1.497.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Mr. Hamann as an inventor is hereby **GRANTED**.

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 **15 April 2004.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SALIWANCHIK LLOYD &
SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

COPY MAILED
MAY 31 2006
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Malik et al.	:	
Application No. 10/471,388	:	
Filed: March 3, 2004	:	
Atty Docket No.: 7414-7-1	:	

This is a decision on the Petition for Withdrawal of Abandonment Under 37 CFR 1.181, filed May 3, 2006.

The petition is **granted**.

Applicant avers non-receipt of the final office action, mailed November 29, 2005. Applicant provides that a Change of Correspondence Address was filed October 3, 2005; however, the Office action was mailed to an incorrect correspondence address.

A review of the application file reveals that applicant filed a Change of Correspondence address in this Office on October 3, 2005; however, this Office incorrectly mailed the final Office action to to an incorrect correspondence address.

In view of the above, the petition is granted. The Notice of Abandonment is hereby withdrawn. No fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 1723 for re-mailing the Office action.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

DEC 0 3 2004

TECHNOLOGY CENTER 3600

McGarry Bair PC
171 Monroe Avenue, N.W.
Suite 600
Grand Rapids, MI 49503

In re application of
Gary Hingst
Application No. 10/471,389
Filed: September 9, 2003
For: ANIMAL CHEW TOY

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed December 8, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed December 8, 2003 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on December 8, 2003.

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.

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

SNM/snm: 11/16/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6902078
Issue Date: June 7,2005
Application No. 10471423
Filed: September 11,2003
Attorney Docket No. 2520-1032

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

This is a decision on the electronic petition, filed September 9,2009 ,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 9,2009 . 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)
6902078	2005-06-07	10471423	2003-09-11	2520-1032

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	/Benoit Castel/	Date (YYYY-MM-DD)	2009-09-09
Name	Benoit Castel	Registration Number	35041

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : March 16, 2007

Patent No. : 7,138,429 B2
Inventor(s) : Osawa, et al.
Issued : November 21, 2006
Title : **FLAVONOID COMPOUND AND PROCESS FOR PRODUCING THE SAME**
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 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 denied.

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.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

-

PHARMACEUTICAL PATENT ATTORNEYS, LLC
55 MADISON AVENUE
4TH FLOOR
MORRISTOWN NJ 07960-7397

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

PHARMACEUTICAL PATENT ATTORNEYS, LLC
55 MADISON AVENUE
4TH FLOOR
MORRISTOWN NJ 07960-7397

COPY MAILED

AUG 0 7 2007

OFFICE OF PETITIONS

In re Patent No. 7,138,429	:	
Application No. 10/471,438	:	
Filed: September 10, 2003	:	ON PETITION
Issued: November 21, 2006	:	
Attorney Docket No. JAPAN SCI TECH CORP	:	

This is a decision on the petition filed April 9, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh for
Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHARMACEUTICAL PATENT ATTORNEYS, LLC
55 MADISON AVENUE
4TH FLOOR
MORRISTOWN, NJ 07960-7397

Mail Date: 04/20/2010

Applicant	: Toshihiko Osawa	: DECISION ON REQUEST FOR
Patent Number	: 7138429	: RECALCULATION of PATENT
Issue Date	: 11/21/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/471,438	: OF WYETH
Filed	: 09/10/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

04 AUG 2004

#5

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

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

In re Application of	:	
LEE et al.	:	
U.S. Application No. 10/471,446	:	DECISION ON
PCT No.: PCT/CN02/00158	:	REQUEST UNDER 37 CFR 1.42
Int. Filing Date: 14 March 2002	:	&
Priority Date: 14 March 2001	:	PETITION UNDER
Attorney Docket No.: 930082-2001	:	37 CFR 1.47(a)
For: METHOD AND COMPOSITION FOR EVALUATING RISK OF DEVELOPING TYPE 2 DIABETES IN PEOPLE OF CHINESE DECENT	:	

This is a decision on applicants' "Petition to Accord Application Status under 37 CFR 1.47(a)" filed 20 April 2004 to accept the application without the signature of joint-inventor, Shao C. Lee. The petition fee has been submitted. Additionally, the declaration filed 20 April 2004 is being treated as a Request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 14 March 2002, applicants filed international application PCT/CN02/00158 which claimed a priority date of 14 March 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 in the United States was to expire 30 months from the priority date, 14 September 2003.

On 10 September 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 copy of the international application; and a preliminary amendment.

On 21 October 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 20 April 2004, applicants filed the present petition under 37 CFR 1.47(a) and a four-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) and (3) have been satisfied.

Regarding item (2) above, petitioner states that the Shao C. Lee has refused to sign the application. Section 409.03(d) of the MPEP, **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.

It is noted that the Declaration of Ms. Alice Man Wai Ngan (w/ Exhibits A-J) listed in the Petition Under 37 CFR 1.47 was not included with the present petition.

A review of the present petition reveals that applicants have not satisfied the item (2) above, in that the applicants have not shown that a bona fide attempt was made to

present the application papers, including the specification, claims, and drawings to Shao C. Lee. In order to meet the requirements of 37 CFR 1.47(a) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers was sent to the legal representative and when such papers were sent and that the legal representative has subsequently refused to execute the application. 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 (4) above, 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 has been submitted with the present petition, however, the declaration is not in compliance with 37 CFR 1.42 and 37 CFR 1.497(b)(2).

Declaration of the Inventors 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.

A review of the declaration filed reveals that the fourth joint inventor, Julian A.J.H. Critchley, is deceased. The declaration has been executed by his successor, Christina Parry West. However, the declaration does not state the relationship of Christina Parry to the deceased inventor. Absent a statement that the signing "successor" is the sole heir or legal representative (executor) of the deceased inventor, the declaration cannot be accepted under 37 CFR 1.42.

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 37 CFR 1.497(b)(2), in addition to the residence, citizenship, and post office address of the deceased inventor, the declaration must also provide this information (residence, citizenship, and post office address) for the legal representative. The declaration filed on 20 April 2004 provides this information with respect to Christian Parry West, but not the inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(a)(3) and 37 CFR 1.63.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Shao C. Lee under 37 CFR 1.47(a) at this time.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

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

1 6 DEC 2004

#7

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

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

In re Application of	:	
LEE et al.	:	
U.S. Application No. 10/471,446	:	DECISION ON
PCT No.: PCT/CN02/00158	:	REQUEST UNDER 37 CFR 1.42
Int. Filing Date: 14 March 2002	:	&
Priority Date: 14 March 2001	:	PETITION UNDER
Attorney Docket No.: 930082-2001	:	37 CFR 1.47(a)
For: METHOD AND COMPOSITION FOR EVALUATING RISK OF DEVELOPING TYPE 2 DIABETES IN PEOPLE OF CHINESE DECENT	:	

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 01 October 2004 to accept the application without the signature of joint-inventor, Shao C. Lee. Additionally, the declaration filed 01 October 2004 is being treated as a Request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 14 March 2002, applicants filed international application PCT/CN02/00158 which claimed a priority date of 14 March 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 in the United States was to expire 30 months from the priority date, 14 September 2003.

On 10 September 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 copy of the international application; and a preliminary amendment.

On 21 October 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 20 April 2004, applicants filed a petition under 37 CFR 1.47(a) and a four-month extension of time. In a "Decision on Petition" dated 04 August 2004, applicant's petition under 37 CFR 1.47(a) and request under 37 CFR 1.42 were dismissed without prejudice.

On 01 October 2004, applicants filed the present renewed petition under 37 CFR 1.47(a) and renewed request under 37 CFR 1.42.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) and (3) have been satisfied.

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Shao C. Lee. The steps taken are sufficient to show that Shao C. Lee has refused to execute the application.

Regarding item (4) above, the declaration filed 01 October 2004 is executed by Christina Parry West as the "legal representative or Executrix" of the deceased inventor. 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 01 October 2004.

CONCLUSION

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

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

The application will be given an international filing date of 14 March 2002 under 35 U.S.C. 363, and a date of **01 October 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 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 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: (571) 272-3298
Fax: (571) 273-0459

16 DEC 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

Shao C. Lee
Flat B, 17th Floor, Block 14
City Gardens
233 Electric Road
North Point, Hong Kong, China

In re Application of
LEE et al.
U.S. Application No. 10/471,446
PCT No.: PCT/CN02/00158
Int. Filing Date: 14 March 2002
Priority Date: 14 March 2001
Attorney Docket No.: 930082-2001
For: METHOD AND COMPOSITION FOR EVALUATING RISK OF DEVELOPING TYPE 2 DIABETES IN PEOPLE OF CHINESE DECENT

Dear Mr. Lee:

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 1.497.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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

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 8910
RESTON, VA 20195

COPY MAILED

SEP 0 2 2005

OFFICE OF PETITIONS

In re Patent No. :
Issue Date: :
Application No. 10/471,454 : ON PETITION
Filed: April 2, 2004 :
Attorney Docket No. 45900-000816US :

This is a decision on the petition filed July 13, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignees' names on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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

COPY MAILED
NOV 27 2007
OFFICE OF PETITIONS

In re Application of	:	
Andreas KNAEBCHEN	:	
Application No. 10/471,456	:	DECISION ON PETITION
Filed: March 12, 2004	:	TO WITHDRAW
Attorney Docket No. 449122063500	:	FROM RECORD
	:	

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster has been revoked by the assignee of the patent application on October 29, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April M. Wise
Petitions Examiner
Office of Petitions

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

03 MAR 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

CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET NW
WASHINGTON, DC 20036-3425

In re Application of JOHNSSON	:	
U.S. Application No.: 10/471,458	:	
PCT Application No.: PCT/SE02/00550	:	
Int. Filing Date: 20 March 2002	:	DECISION
Priority Date Claimed: 20 March 2001	:	
Attorney Docket No.: 20459-00377-US	:	
For: METHOD OF SYNCHRONIZING FIN	:	
FOLD-OUT ON A FIN-STABILIZED	:	
ARTILLERY SHELL. . . .	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Pursuant to 37 U.S.C. 371 & 37 CFR 1.495" filed 03 December 2004.

BACKGROUND

On 20 March 2002, applicant filed international application PCT/SE02/00550, which claimed priority of an earlier Sweden application filed 20 March 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 10 October 2002. The thirty-month period for paying the basic national fee in the United States expired on 20 September 2003.

On 12 September 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 19 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 05 January 2004, applicant purportedly filed an executed declaration via facsimile.

On 19 November 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 the present petition.

DISCUSSION

A review of the application file reveals that the declaration filed on 05 January 2004 is not present. However, because applicant has satisfied the requirements of 37 CFR 1.8(b), the copy of the declaration filed 03 December 2004 is considered to be timely filed.

CONCLUSION

For the reasons above, the petition is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 19 November 2004 is hereby VACATED.

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 Defective Response (Form PCT/DO/EO/916) which should indicate that the declaration filed 05 January 2004 is improper because it does not indicate the citizenship of the inventor.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

08 APR 2004

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gary C. Chon PLLC
4010 Lake Washington Blvd. NE
Suite 105
Kirkland, WA 98040

In re Application of	:	
HARTMAN et al.	:	
Application No.: 10/471,462	:	DECISION ON
PCT No.: PCT/US02/07348	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 11 March 2002	:	
Priority Date: 11 March 2001	:	
Attorney Docket No.: CEN014CUS	:	
For: METHOD FOR PUMPING FLUIDS	:	

This decision is in response to the declaration filed 11 March 2004 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 11 March 2002, applicants filed the above-identified international application which claimed a priority date of 11 March 2001. A Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 11 September 2003.

On 11 September 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 30 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 11 March 2004, applicants filed an executed declaration/power of attorney. The declaration is executed by: Eric M. Moe; Richard E. Breidenthal; and Jesse Rehr; and as inventors and Elaine Hartman as legal representative.

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 11 March 2004 is executed by: Eric M. Moe; Richard E. Breidenthal; and Jesse Rehr as inventors and Elaine Hartman as legal representative. The declaration filed does not indicate that Elaine Hartman (the person signing the declaration for the deceased co-inventor) is the legal representative of the deceased inventor, Michael G. Hartman. The legal representative of a deceased inventor must make the application for patent "on the same terms and conditions applicable to the inventor." 35 U.S.C. 117. Additionally, the declaration submitted on 11 March 2004 is defective (see 37 CFR 1.64) since the names of the legal representative(s) of the deceased inventor must be set forth in the declaration and they must identify themselves as the legal representative of the deceased inventor. Therefore, a declaration which indicates Elaine Hartman as legal representative of deceased inventor, Michael G. Hartman, is required.

Additionally, the declaration submitted on 11 March 2004 appears to have been executed by the proper party under 37 CFR 1.42, however, 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 petition includes duplicate sheets of supplemental sheet page 1 of 1. It is unclear if the inventors were presented with the supplemental sheet, 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, which is improper. (See MPEP 201.03(B) on how to correct this matter.)

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) MONTHS** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" 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 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
Fax: (703) 308-6459

26 MAY 2005

#2

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gary C. Cohn
4010 Lake Washington Blvd. NE
Suite 105
Kirkland, WA 98040

In re Application of	:	
HARTMAN et al.	:	
Application No.: 10/471,462	:	DECISION ON
PCT No.: PCT/US02/07348	:	REQUEST UNDER 37 CFR 1.42
Int. Filing Date: 11 March 2002	:	
Priority Date: 11 March 2001	:	
Attorney Docket No.: CEN014CUS	:	
For: METHOD FOR PUMPING FLUIDS		

This decision is in response to applicants' "Renewed Submission under 37 CFR 1.42" filed 14 June 2004. No petition fee is required.

BACKGROUND

On 11 March 2002, applicants filed international application PCT/US02/07348, which claimed a priority date of 11 March 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, 11 September 2003.

On 11 September 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 30 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 11 March 2004, applicants filed an executed declaration/power of attorney. The declaration was executed by: Eric M. Moe; Richard E. Breidenthal; and Jesse Rehr as inventors and Elaine Hartman as legal representative. In a decision dated 08 April 2004, applicants' request was dismissed because the declaration was defective pursuant to 37 CFR 1.497(b).

On 14 June 2004, applicants filed the present renewed request 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 14 June 2004 is executed by Elaine Hartman as the "legal representative" of Michael G. Hartman 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).

CONCLUSION

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

The application has an international filing date of 11 March 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **14 June 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

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.

GARY C. COHN, PLLC
1147 NORTH FOURTH STREET
UNIT 6E
PHILADELPHIA PA 19123

COPY MAILED

JUL 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Hartman et al.	:	DECISION ON PETITION
Application No. 10/471,462	:	
Filed: June 14, 2004	:	
Atty Docket No. CEN 014C US	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 filed March 6, 2007.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed August 15, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective November 16, 2006. A courtesy Notice of Abandonment was mailed on February 28, 2007.

Petitioner requests that the Director withdraw the holding of abandonment, restore the case to active status, enter amendments that were filed on February 14, 2006, and resume normal examination of the application on the merits. Petitioner states that the response was timely filed by virtue of a certificate of mailing dated February 14, 2007 with an accompanying petition for response within the third month. In support thereof, petitioner submits a copy of those papers including the extension of time as maintained to have been timely filed and a copy of the USPTO date-stamped postcard.

Petitioner's evidence has been reviewed, and is persuasive. However, consideration of their evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of February 16, 2007.

Further, a review of the response and extension of time reveals that the response stating that a three-month extension of time is being filed therewith includes a properly signed and dated certificate of mailing dated February 14, 2007. The three-month extension of time, required to make the response timely, was previously charged to petitioner's Deposit Account.

Accordingly, the Notice of Abandonment mailed February 28, 2007 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

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

No fee is required on petition under § 1.181.

Technology Center AU 3672 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response shown to have been timely filed on February 16, 2007 (with a certificate of mailing dated February 14, 2007).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDWARDS ANGELL PALMER & DODGE LLP
PO BOX 55874
BOSTON, MA 02205

Mail Date: 04/21/2010

Applicant	: Michael R. Robinson	: DECISION ON REQUEST FOR
Patent Number	: 7658364	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/471,468	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/03/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1341** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDWARDS ANGELL PALMER & DODGE LLP
PO BOX 55874
BOSTON, MA 02205

Mail Date: 05/18/2010

Applicant : Michael R. Robinson
Patent Number : 7658364
Issue Date : 02/09/2010
Application No : 10/471,468
Filed : 05/03/2004

: 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 **1376** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

COPY MAILED

AUG 16 2007

OFFICE OF PETITIONS

In re Application of	:
Achim Hofmann et al	:
Application No. 10/471,469	: DECISION GRANTING PETITION
Filed: December 2, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 05587-00357-US	:

This is a decision on the petition, filed August 13, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 15, 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 1751 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\aug10\471469.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

29 JAN 2004

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LADAS & PARRY
224 South Michigan Avenue, Suite 1200
Chicago, IL 60604

In re Application of:	:	
KLUKIN, Kemark Mikhailovich	:	
U.S. Application No.: 10/471,489	:	DECISION ON PETITION
PCT No.: PCT/RU02/00002	:	
International Filing Date: 08 January 2002	:	
Priority Date: 11 March 2001	:	
Attorney's Docket No.: CU-3358 RJS	:	
For: METHOD FOR THERMAL DIAGNOSIS OF	:	
PATHOLOGY OF A BIOOBJECT AND DEVICE	:	
FOR CARRYING OUT SAID METHOD	:	

This decision is issued in response to applicant's "Petition Under 37 CFR 1.181 To Withdraw Notice Of Abandonment" filed 28 January 2004. No petition fee is required.

BACKGROUND

On 08 January 2002, applicant filed international application PCT/RU02/00002 which claimed a priority date of 11 March 2001 and which designated the United States. On 19 September 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 11 September 2003.

On 11 September 2003, applicant purportedly 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 and an executed declaration.

On 06 November 2003, applicant made a second submission which included a translation of the international application into English, the $130 processing fee for filing the translation later than thirty months after the priority date, a Preliminary Amendment, and an Information Disclosure Statement.

On 22 January 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 based on applicant's purported failure to pay the basic national fee within thirty months of the priority date. A review of the application file reveals that the DO/EO/US had accorded all materials submitted herein a filing date of 06 November 2003 (including the payment of the basic national fee), and that this was the basis for holding the fee payment to be untimely.

On 28 January 2004, applicant filed the petition considered herein. The petition asserts that on 11 September 2003, prior to the expiration of the thirty month deadline, applicant filed materials initiating this national stage application (including a Form PTO-1390, payment of the basic national fee, and an executed declaration). Attached to the petition are copies of the materials purportedly filed on 11 September 2003, as well as a copy of a return postcard itemizing these materials and bearing a USPTO receipt stamp dated 11 September 2003.

DISCUSSION

Based on applicant's statements in the present petition, the attached return postcard, and internal USPTO records which indicate the receipt of the $530 basic national fee payment on 11 September 2003, it is concluded that the materials attached to the present petition, including the basic national fee and executed declaration, were originally filed in the USPTO on 11 September 2003, prior to the expiration of thirty months from the priority date. Accordingly, the Notification Of Abandonment mailed 22 January 2004, based as it was on applicant's purported failure to timely file the basic national fee, is appropriately vacated.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The materials attached to the present petition, including the Form PTO-1390, the executed declaration and the payment of the basic national fee, are considered to have been filed on 11 September 2003, prior to the expiration of thirty months from the priority date.

The Notification Of Abandonment mailed 22 January 2004 is hereby **VACATED**.

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.

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

13 OCT 2005

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James G. Dilmore
REED SMITH LLP
P.O. Box 488
Pittsburgh, PA 15230-0488

In re Application of: SIMISKER, JAAN, et al. U.S. Application No.: 10/471,514 PCT No.: PCT/EE02/00003 International Filing Date: 15 March 2002 Priority Date: 16 March 2001 Attorney's Docket No.: 03-420-WO For: THERMOPHILIC MICROORGANISM BACILLUS COAGULANS STRAIN SIM-7 DSM 14043 ...	DECISION ON PETITION UNDER 37 CFR 1.181 AND SECOND SUBMISSION UNDER 37 CFR 1.42

The present decision is issued in response to the "Communication" filed by applicants on 11 October 2005, treated herein as a petition under 37 CFR 1.181 and a renewed submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the communication mailed by this Office on 13 May 2004. In that communication, applicants' 26 April 2004 submission under 37 CFR 1.42 was rejected without prejudice for failure to include all the information required under 37 CFR 1.497(b)(2).

On 11 October 2005, applicants' filed the "Communication" and accompanying materials considered herein. The submission asserts that the accompanying materials were originally filed in the USPTO on 09 August 2004, and the materials include a copy of a return postcard itemizing these materials and bearing a USPTO receipt stamp dated 09 August 2004.

DISCUSSION

1. Petition Under 37 CFR 1.181

The present submission asserts that the attached materials, including the supplemental declaration, were originally filed in the USPTO on 09 August 2004. Based on applicants' statements, the itemized return postcard bearing the USPTO receipt stamp, and USPTO records confirming the 09 August 2004 receipt of the $55 extension fee payment, it is concluded that the materials itemized on the return postcard, including the supplemental declaration, were filed in

the USPTO on 09 August 2004. The copies of these materials included with the present submission will therefore be treated as having been filed on 09 August 2004.

2. **Renewed Submission Under 37 CFR 1.42**

The supplemental declaration attached to the present submission (treated as having been filed on 09 August 2004) contains the information required under 37 CFR 1.497(b)(2), including the citizenship, address, and residence information for both the deceased inventor and the legal representative. The supplemental declaration is therefore acceptable under 37 CFR 1.42.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The materials accompanying the present "Communication," including the supplemental declaration, will be treated as having been originally filed on 09 August 2004. Based on the one-month extension fee included with the 09 August 2004 submission, the supplemental declaration is considered a timely response to the communication mailed by this Office on 13 May 2004.

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Jaan SIMISKER is **GRANTED**.

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 09 August 2004.

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

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Thomas Fuehrer	: DECISION ON REQUEST FOR
Patent Number	: 7616560	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/471,515	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2004	: 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.

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

Gregory P LaPointe
Bachman & LaPointe
Suite 1201
900 Chapel Street
New Heaven, CT 06510

Mail Date: 04/21/2010

Applicant	: Jurgen Frey	: DECISION ON REQUEST FOR
Patent Number	: 7597827	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/471,519	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **166** 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.

08 MAR 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

Browdy and Neimark
624 Ninth Street NW
Suite 300
Washington DC 20001

In re Application of SAIJO et al. Application No.: 10/471,543 PCT No.: PCT/JP02/003677 Int. Filing: 12 April 2002 Priority Date: 20 April 2001 Attorney Docket No.: SAIJO=15 For: LAMINATED PLATE AND PART USING THE LAMINATED PLATE	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "PETITION TO VACATE HOLDING OF ABANDONMENT" pursuant to 37 CFR 1.181 filed in the United States Patent and Trademark Office (USPTO) on 25 January 2005. No petition fee is required.

BACKGROUND

On 11 September 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 18 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 17 December 2004, in response to applicant's request for status, the USPTO advised applicant that the application was abandoned for failure to respond to the Notification of Missing Requirements issued on 17 December 2004 within the time period set therein.

On 25 January 2005, applicant filed the instant petition to withdraw the holding of abandonment along with a copy of the declaration and an itemized USPTO date-stamped postcard indicating that a declaration was filed on 12 February 2004.

DISCUSSION

The original declaration filed on 12 February 2004 is not located in the application file. A review of the finance records for 10/471,543 indicates that on 11 September 2003, 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 was deposited with the USPTO on 12 February 2004.

The evidence submitted is sufficient to establish that a declaration for this application was received in the USPTO on 12 February 2004. The communication filed 25 January 2005 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 12 February 2004. 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 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 copy of the declaration originally submitted on 12 February 2004 and resubmitted on 25 January 2005 is acceptable and meets the requirements of 37 CFR 1.497.

The application will be forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (2) and (4) date is **12 February 2004.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

COPY MAILED

SEP 04 2007

OFFICE OF PETITIONS

In re Application of
Sato et al.
Application No. 10/471,551
Filed: September 11, 2003
Attorney Dkt. No.: 0210-0188P

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed August 13, 2007.

The petition to withdraw the holding of abandonment is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on December 1, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on May 1, 2007. A Notice of Appeal was filed on May 31, 2007 along with a three month extension of time. An advisory action was mailed on June 6, 2007 indicating that the amendment filed on May 1, 2007 failed to place the application in condition for allowance. A Notice of Abandonment was mailed on August 9, 2007.

In the present petition, petitioner contends a timely reply in the form of a Notice of Appeal and three month extension of time was submitted on May 31, 2007.

A review of the record shows that a Notice of Appeal and three month request for extension of time was received on May 31, 2007. Further review shows that the response contained a certificate of mailing date of May 31, 2007 pursuant to 37 CFR 1.8.

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

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision. See 37 CFR §§ 41.31 and

41.37.

The application is being referred to Art Unit 1652 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Wolf et al.	:	
Application No. 10/471557	:	ON PETITION
Filing or 371(c) Date: 02/11/2004	:	
Title of Invention: MOTOR-DRIVEN	:	
PIVOTING DEVICE FOR A SUPPORT	:	
PLATE, ESPECIALLY THE SUPPORT	:	
PLATE OF A MOTOR VEHICLE MIRROR	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed March 7, 2007. The delay in treating this application is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed June 7, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on September 8, 2006. A Notice of Abandonment was mailed January 9, 2007.

Applicant files the present petition and the response, a continuation application, was filed March 7, 2007. The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application; (2) the petition fee; and (3) a proper statement of unintentional delay.

Accordingly, the petition is granted.

This application is being revived for continuity purposes, and is again abandoned in favor of the continuing application, serial no. 11/715313, filed March 7, 2007.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

31 AUG 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William T. Ellis
Foley & Lardner, LLP
Suite 500
3000 K Street, NW
Washington, D.C. 20007

In re Application of TSUCHIDA et al. Application No.: 10/471,558 PCT No.: PCT/JP02/02472 Int. Filing Date: 15 March 2002 Priority Date: 15 March 2001 Atty. Docket No.: 044499-0176 For: PROXIMITY SENSOR	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicants' "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Notice to File Missing Parts of Nonprovisional Application Per MPEP §711.03" filed in the United States Patent and Trademark Office on 29 March 2005, which is being treated as a Petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 15 March 2002, applicants filed international application no. PCT/JP02/02472 which claimed a priority date of 15 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 September 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 15 September 2003.

On 12 September 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; a translation of the international application; and a preliminary amendment.

On 16 October 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 05 October 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 16 October 2003 within the time period set therein.

On 29 March 2005, applicants filed "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Notice to File Missing Parts of Nonprovisional Application Per MPEP §711.03."

DISCUSSION

Applicants state that the Notification of Missing Requirements mailed 16 October 2003 was not received. With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner 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 nonreceived Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Applicants have satisfied item (1),(2), and (3) above.

CONCLUSION

For the reasons above, the request is **GRANTED**. The holding of Abandonment is withdrawn.

This application is being returned to the DO/EO/US for processing in accordance with this decision, that is, for issuance of a new Notification of Missing Requirements (Form PCT/DO/EO/905), to inform applicant that an oath or declaration of the inventors in compliance with 37 CFR 1.497 must be submitted in order to avoid abandonment of the application.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

2 7 DEC 2004

#6

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

Rebecca Hale
CHIRON CORPORATION
Intellectual Property - R338
P.O. Box 8097
Emeryville, CA 94662-8097

In re Application of	:	
Masignani et al.	:	
US Application No.: 10/471,571	:	
PCT Application No.: PCT/IB02/02637	:	
International Filing Date: 27 March 2002	:	DECISION ON REQUEST
Priority Date: 27 March 2001	:	FOR WITHDRAWAL
Attorney's Docket No.: 002441.00065	:	OF ABANDONMENT
For: STAPHYLOCOCCUS AUREUS	:	
PROTEINS AND NUCLEIC ACIDS	:	

This decision is in response to the "Request for Withdrawl of Holding of Abandonment" filed 20 October 2004 which is being properly treated as a "Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment".

BACKGROUND

On 07 April 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), advising Applicants that (1) an oath/declaration in compliance with 37 CFR 1.497(a) and (b); (2) a surcharge of $130 for providing the oath/declaration later than 30 months from the priority date(37 CFR 1.492(e)); (3) an initial or substitute computer readable form (CRF) of the "Sequence Listing" and an initial or substitute paper copy or compact disc of the "Sequence Listing" as well as an amendment directing its entry into the specification; (4) additional claim fees of $542 as a non-small entity, including any required multiple dependent claim fee were required. An extendable 2-month reply period was provided.

A Notice of Abandonment (Form PCT/DO/EO/909) was mailed on 13 October 2004.

The instant petition was accompanied by the missing items along with a 5-month extension of time.

ANALYSIS

The USPTO records indicate receipt on 20 October 2004 of, *inter alia*, an authorization to charge for the 5-month extension of time, excess claim fees and surcharge for submitting the oath/declaration later than 30 months from the priority to Deposit Account 19-0733; a declaration executed by all inventors; preliminary amendment and transmittal of sequence listing under 37 CFR 1.821(c). These items are timely as extensions of time under 37 CFR 1.136(a) are permitted and applicant filed a 5-month extension to extend the time period of the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) to end 07 November 2004. Therefore, the notification of abandonment was premature and was mailed in error.

An additional review shows errors were detected when processing the computer readable form. The disk containing the RAW Sequence Listing is not acceptable.

CONCLUSION

In view of the above, the petition to withdraw the holding of abandonment in this application is **GRANTED.**

The Form PCT/DO/EO/909 mailed on 13 October 2004 is hereby **VACATED.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing notice of defective response (Form PCT/DO/EO/916) and the disk error report.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Nathan Newhouse
Detailee
PCT Legal Administration
Telephone: 571-272-6095
Facsimile: 571-273-0459

```
 (FILE 'HOME' ENTERED AT 11:40:55 ON 17 DEC 2008)

     FILE 'CAPLUS, MEDLINE, BIOSIS, EMBASE, WPIX, PASCAL, SCISEARCH' ENTERED
     AT 11:42:07 ON 17 DEC 2008
L1           36 S MASIGNANI/AU
L2          415 S MORA/AU
L3           26 S SCARSELLI/AU
L4       449403 S STAPHYLOCOCCUS
L5            9 S LI-L4
```

PLEASE ENTER,

PADMA BASKAR

12/8/08

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	Group Art Unit: 1645
	)	
Vega MASIGNANI *et al.*	)	Conf. No. 8200
	)	
Serial No. 10/471,571	)	Examiner: Baskar, P.
	)	
Filed: October 20, 2004	)	Atty. Docket: PP017712.0003
	)	(002441.00065)

For: STAPHYLOCOCCUS AUREUS PROTEINS AND NUCLEIC ACIDS

RESPONSE TO FINAL OFFICE ACTION

U.S. Patent and Trademark Office
401 Dulany Street
Alexandria, VA 22314

Sir:

This paper timely responds to the final Office Action mailed August 6, 2008. No additional fees are believed to be due. However, should any additional fees be required or an overpayment of fees made, please debit or credit our Deposit Account No. 19-0733.

Claims 1-3, 11-13, 19, 21, and 22 are pending. Claims 4-10, 14-18, and 20 are withdrawn. Claim 1 is rejected. Claims 11-13, 21, and 22 are objected to. Claim 19 is allowed. Please enter the following amendments.

Amendments to the Claims Begin on page 3.

Remarks begin on page10.

WEST Search History for Application 10471571

Creation Date: 2008121711:35

Query	DB	Op.	Plur.	Thes.	Date
MASIGNANI,VEGA .in.	PGPB, USPT, USOC, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
MASIGNANI.in.	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
mora .in.	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
mora,MARIROSA .in.	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
mora,m.in.	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
SCARSELLI.in.	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
(MASIGNANI.in.) and (mora .in.) and (SCARSELLI.in.)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
STAPHYLOCOCCUS AUREUs.clm.	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
(STAPHYLOCOCCUS AUREUs.clm.) and (MASIGNANI.in. and mora .in. and SCARSELLI.in.)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
(STAPHYLOCOCCUS AUREUs.clm.) and (polypeptide)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
(STAPHYLOCOCCUS AUREUs.clm. and (polypeptide)) and (composition)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
(STAPHYLOCOCCUS AUREUs.clm. and (polypeptide) and (composition)) and(carrier or pbs or saline)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
(STAPHYLOCOCCUS AUREUs.clm. and (polypeptide) and (composition) and(carrier or pbs or saline)) and (Helicobacter pylori protein or antigen)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
(STAPHYLOCOCCUS AUREUs.clm. and (polypeptide) and (composition) and(carrier or pbs or saline) and (Helicobacter pylori protein or antigen)) .clm.	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008

(STAPHYLOCOCCUS AUREUs.clm. and (polypeptide) and (composition) and(carrier or pbs or saline) and (Helicobacter pylori protein or antigen)) and (antigens)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
(STAPHYLOCOCCUS AUREUs.clm. and (polypeptide) and (composition) and(carrier or pbs or saline)) and (h.pylori)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008
(STAPHYLOCOCCUS AUREUs.clm. and (polypeptide) and (composition) and(carrier or pbs or saline) and (Helicobacter pylori protein or antigen)) and (helicobacter pylori)	USPT, EPAB, JPAB, DWPI	ADJ	YES		12-17-2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
Emeryville, CA 94662-8097

Mail Date: 04/30/2010

Applicant	: Vega Masignani	: DECISION ON REQUEST FOR
Patent Number	: 7608276	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/471,571	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1074** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

COPY MAILED

JAN 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Allan L. GOLDSTEIN	:	
Application No. 10/471,621	:	DECISION ON PETITION
Filed: February 26, 2004	:	
Attorney Docket No. 2600-104	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 18, 2007, which set a shortened statutory period for reply of three (3) months. A one (1) month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of April 18, 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 1654 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LOUIS P HERZBERG
INTELLECTUAL PROPERTY LAW DEPT
IBM CORPORATION
PO BOX 218
YORKTOWN HEIGHTS NY 10598

COPY MAILED

APR 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Christian CACHIN et al.	:	
Application No. 10/471,667	:	DECISION ON PETITION
Filed: September 10, 2003	:	
Attorney Docket No. **CH920000056**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 07, 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 28, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 26, 2007. Accordingly, the date of abandonment of this application is January 29, 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. Accordingly, the Issue Fee and the Publication Fee are 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.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

#7

UNITED STATES PATENT and TRADEMARK OFFICE

23 NOV 2005

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Joel N. Bock
SILLS CUMMIS RADIN TISCHMAN
EPSTEIN & GROSS, P.A.
One Riverfront Plaza
Newark, NJ 07102

In re Application of	DECISION ON
Rosenberg et al	
Application No.: 10/471,701	
PCT No.: PCT/US02/07657	
Int. Filing Date: 12 March 2002	PETITION UNDER
Priority Date: 12 March 2001	
Attorney's Docket No.: 01730010P001bus	
For: SYSTEM AND METHOD FOR PROVIDING	
SECURE TRANSACTIONS	37 CFR 1.137(b)

This decision is in response to applicants' "Petition To Revive For Unintentional Abandonment -- Under 37 CFR 1.137(b)," filed on 24 October 2005.

BACKGROUND

On 12 March 2002, this international application was filed, claiming an earliest priority date of 12 March 2001. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 12 September 2003.

On 12 September 2003, applicants filed the Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee. No executed declaration or oath was filed at such time.

On 23 December 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date must be furnished within the time period set forth. The notification set a two months time limit or 32 months from the priority date for the application, whichever is later to respond. Failure to properly respond would result in abandonment.

On 19 November 2004, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned because applicant has failed to respond to the notification of MISSING REQUIREMENT (Form PCT/DO/EO/905), mailed 12/23/2003 within the time period set therein.

On 24 October 2005, applicants filed in the United States Patent and Trademark Office (USPTO) the instant petition, accompanied by, an executed declaration and the petition fee for revival of an unintentionally abandoned application.

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 have satisfied requirements (2), (3), and (4) under 37 CFR 1.137(b) but not requirement (1).

Applicants have not provided: (1) the proper reply that is a properly executed declaration. The declaration is defective because it does not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3) must identify each inventor. See MPEP § 602. In this instance, applicants submitted a composite declaration comprising of two sets of declarations. Each declaration must contain the names all inventors on it and not as here in which there is one declaration with 2 sheets of page 2 rather than two declarations each with 3 sheets. The signatures of the inventors may be on separate declarations but each declaration must list all the inventors. Therefore the composite Declaration is defective.

Applicants' statement that "the entire delay is filing this reply 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).

Applicants have provided: (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 not 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 **DISMISSED** without prejudice.

A proper response to this decision is a new declaration, which must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

31 MAR 2006

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

#9

Joel N. Bock
SILLS CUMMIS RADIN TISCHMAN
EPSTEIN & GROSS, P.A.
One Riverfront Plaza
Newark, NJ 07102

In re Application of	:	DECISION ON
Rosenberg et al	:	
Application No.: 10/471,701	:	
PCT No.: PCT/US02/07657	:	
Int. Filing Date: 12 March 2002	:	PETITION UNDER
Priority Date: 12 March 2001	:	
Attorney's Docket No.: 01730010P001bus	:	
For: SYSTEM AND METHOD FOR PROVIDING	:	
SECURE TRANSACTIONS	:	37 CFR 1.137(b)

This decision is in response to applicants' "Renewed Petition To Revive For Unintentional Abandonment- Under 37 CFR 1.137(b)," filed on 27 December 2005.

BACKGROUND

In a decision from this Office on 22 November 2005, the petition filed on 24 October 2005 was dismissed. The decision stated that applicant's submitted declaration was defective because applicants submitted a composite declaration comprising of two sets of declarations. Each declaration must contain the names all inventors on it and not as the declaration that was submitted. The signatures of the inventors may be on separate declarations but each declaration must list all the inventors. Therefore the composite Declaration was defective.

On 27 December 2005, applicants filed the instant renewed petition under 37 CFR 1.137(b).

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 have still not satisfied requirements (1) under 37 CFR 1.137(b).

Applicants have not provided: (1) the proper reply because the declaration continues to be defective. Although each copy of the declaration lists the names of all the inventors, the two copies of the declaration do not list the citizenship of each inventor as required under 37 CFR §1.63(a)(3).

Accordingly, the petition is not 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 **DISMISSED** without prejudice.

A proper response to this decision is a new declaration, which must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.137(b)." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (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

22 SEP 2006

Joel N. Bock
SILLS CUMMIS RADIN TISCHMAN
EPSTEIN & GROSS, P.A.
One Riverfront Plaza
Newark, NJ 07102

In re Application of Rosenberg et al Application No.: 10/471,701 PCT No.: PCT/US02/07657 Int. Filing Date: 12 March 2002 Priority Date: 12 March 2001 Attorney's Docket No.: 01730010P001bus For: SYSTEM AND METHOD FOR PROVIDING SECURE TRANSACTIONS	DECISION ON SECOND RENEWED PETITION UNDER 37 CFR 1.137(b)

This decision is responsive to applicants' "SECOND RENWED PETITION TO REVIVE FOR UNINTENTIONAL ABANDONMENT – UNDER 37 C.F.R. §1.137(b)" filed on 15 May 2006 requesting the acceptance of the executed declaration.

BACKGROUND

In a decision from this Office on 31 March 2006, the decision dismissed the renewed petition because it was defective thus applicants did not provide the proper reply under 37 CFR 1.137(b).

On 15 May 2006 applicants submitted a second renewed petition under 37 CFR 1.137(b) and submitted a properly executed declaration that contained the citizenships of the inventors.

DISCUSSION

The declaration filed on 15 May 2006 is properly executed.

DECISION

The renewed petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **15 May 2006**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (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

SEP 0 9 2009

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of Jonathan B. Rosenberg et al. Application No. 10/471,701 Filed: September 12, 2003 For: SYSTEM AND METHOD FOR PROVIDING SECURE TRANSACTIONS	: : : : :	DECISION ON PETITION TO RESET TIME PERIOD

This is a decision in response to the submission denominated "Petition to remail Office Action and to reset period for reply under MPEP § 710.06" received October 9, 2008.

The petition is **DISMISSED as MOOT**.

Petitioner asserts that the restriction requirement mailed August 22, 2008 was never received by the applicant based on the fact that it was improperly addressed.

A review of the file record indicates that a power of attorney and a proper change of address, filed by the assignee, was received on November 18, 2007. However, it was not timely processed. Accordingly, the August 22, 2008 restriction requirement was mailed to the wrong address.

A further review of the file record indicates that the restriction requirement was remailed on October 15, 2008 and the period for reply reset.

Accordingly, petitioner's request to remail the restriction requirement and reset the period for reply set forth in the restriction requirement is dismissed as moot since the restriction requirement was remailed and prosecution has advanced.

Any questions regarding this decision should-be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

/Teri P. Luu/

Teri P. Luu
Quality Assurance Specialist
Patent Technology Center 3600
(571) 272-7045

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

DEC 2 3 2005

Daniel A. Tanner, III
Oliff & Berridge, PLC
PO Box 19928
Alexandria, VA 22320

In re Application of: WOOLSTON :
Appl. No.: 10/471,729 : DECISION ON PETITION
Filed: September 1, 2003 :
For: IMPROVEMENTS INAND RELATING TO :
AN INJECTION DEVICE :

This is a decision on the petition filed on June 14, 2005 by which petitioner requests withdrawal of a holding of abandonment for failure to file a proper and timely response to the non-final Office Action of November 26, 2005. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned for failure to file a proper and timely response to the non-final Office Action of November 26, 2005 because a proper and timely response including a Petition for Extension of Time were in fact filed on May 20, 2005. Petitioner supports his allegation by pointing to the image file wrapper available on the USPTO website, as of June 3, 3005 where petitioner states that the timely response to the non-final Office Action of November 26, 2005 appeared.

Review of office records show that a proper and timely reply was in fact received by the Office on May 20, 2005 and is present in the record of the application. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner of Technology Center 3700 to have the status restored. The application will then be forwarded to the examiner of record for consideration of the response in due course.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-8-05

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction on Patent No.: 6901854

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 claims

Thank You For Your Assistance

Ennis Young
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:

Andrew Hirshfeld
SPE

2854
Art Unit

06 JAN 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

NIXON & VANDERHYE
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of: WEIKINGER, Josef	:	
U.S. Application No.: 10/471,764	:	DECISION ON PETITION TO
PCT No.: PCT/CH01/00480	:	REVIVE ABANDONED
International Filing Date: 07 August 2001	:	APPLICATION UNDER 37
Priority Date: 15 February 2001	:	CFR 1.137(b)
Attorney's Docket No.: 4358-5	:	
For: GLASS PANE	:	

The petition to revive under 37 CFR 1.137(b) filed 16 September 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statements that "the delay in entering the national phase of above identified application caused the application to be unintentionally abandoned" and "the above identified National Phase of PCT/CH01/00480 was unintentionally abandoned by virtue of the delay in/failure to timely file a declaration and pay the filing fee" are construed as being the statement required by 37 CFR 1.137(b)(3), that is, 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." Applicant **must** notify this Office if this is **not** a correct interpretation of these statements. Based on this interpretation of the statements contained in the Petition to Revive, 37 CFR 1.137(b)(3) is considered satisfied. Applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

The petition was accompanied by a translation of the international application, payment of the processing fee for late filing of the translation, and an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 14-1140 will be charged the $65 small entity surcharge for filing the declaration later than thirty months after the priority date.

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. The 35 U.S.C. 371 date is 16 September 2003.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

01/07/2004 HKAYPAGH 00000146 141140 10471764

01 FC:2617 65.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

1781

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NIXON & VANDERHYE PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

COPY MAILED

FEB 27 2004

OFFICE OF PETITIONS

In re Application of	:	
Josef Weikinger	:	
Application No. 10/471,764	:	NOTICE
Filed: September 16, 2003	:	
Attorney Docket No. 4358-5	:	

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.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

OIPE JC77
NOV 2 1 2003
PATENT & TRADEMARK OFFICE

DAC
48

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

WEIKINGER, J.

Serial No. 10/471,764

Filed: September 16, 2003

For: GLASS PANE

Atty. Ref.: 4358-5

Group: unknown

Examiner: unassigned

RECEIVED
NOV 2 4 2003
OFFICE OF PETITIONS

* * * * * * * * * * *

November 21, 2003

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

NOTIFICATION OF CHANGE OF ENTITLEMENT TO SMALL ENTITY STATUS PURSUANT TO 37 CFR 1.28

Notification pursuant to 37 CFR 1.28(c) is hereby given of a change in status resulting in a loss of entitlement to small entity status by the inventor, which was discovered subsequent to the filing of this application. It now appears that the Applicant may not be entitled to small entity status. The deficiency between the amount paid and the amount due is enclosed herewith and is being paid within three months after the date on which the error occurred.

Although at the time of filing, small entity status was established in good faith in this application, it was discovered slightly subsequent to the filing of the application that the inventor may no longer be entitled to small entity status and in an abundance of caution Applicant has elected to forego small entity status.

Adjustment date: 11/24/2003 SLUANG1
09/26/2003 MKAYPAGH 00000096 10471764
03 FC:2453 -650.00 OP

11/24/2003 SLUANG1 00000034 10471764

01 FC:1453 1330.00 OP
02 FC:1461 420.00 OP

793709

Accordingly, notification of same pursuant to 37 CFR 1.28 along with the deficiency in the filing fees between the amount paid and that which is due is hereby furnished.

	Amount Due
International Preliminary Examination Fee ($900 – paid $450.00 on 9/16/03)	$ 450.00
Petition to Revive Unintentionally Abandoned Application Fee ($1300 – paid $650 on 9/16/03)	650.00
Total Amount Due (Change in Small Entity Status to Large Entity Status)	$1,100.00

The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140**. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____
Chris Comuntzis
Reg. No. 31,097

CC:lmr
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

Transaction List

Search by

- Accounting Date: (MMDDYY) Operator ID:
- Name/Number: 10471764
- Attrny Docket No:
- Deposit Account No.:

Accounting Date Starts: Ends:

Find...

Accounting Date	Operator ID	Seq. No.	Txn Src	Fee Code	St	Amount	Name/Number	Dep Acct
09/26/2003	MKAYPAGH	339	SALE	2453	A	650.00	10471764	
09/26/2003	MKAYPAGH	338	SALE	1618	A	130.00	10471764	
09/26/2003	MKAYPAGH	337	SALE	2613	A	450.00	10471764	

OK | Adjustment Detail | Authorization Detail | Print Screen

1.28C

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON PC
P O BOX 1022
MINNEAPOLIS, MN 55440-1022

COPY MAILED

NOV 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Dmitri Zalmanovich Garbuzov et al	:	
Application No. 10/471,794	:	DECISION GRANTING PETITION
Filed: March 11, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 14564-002US1	:	

This is a decision on the petition, filed November 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
SCHRENZEL, Jacques et al.	:	
Application No. 10/471,819	:	DECISION ON PETITION
Filed: January 07, 2004	:	TO WITHDRAW
Attorney Docket No. **080530**	:	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 23, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Foley and Lardner LLP has been revoked by the assignee of the patent application on December 30, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KRATZ, QUINTOS & HANSON, LLP**
1420 K STREET, N.W.
SUITE 400
WASHINGTON DC 20005

11 JAN 2005

#6

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

MS. GUDRUN E. HUCKETT DRAUDT
LONSSTR. 53
WUPPERTAL 42289 DE GERMANY

In re Application of	:	DECISION ON
Dietmar Zimmerlin	:	
PCT No.: PCT/DE02/00997	:	
Application No.: 10/471,821	:	PAPERS FILED
Int. Filing Date: 20 March 2002	:	
Priority Date: 21 March 2001	:	
Attorney's Docket No.: 1327	:	UNDER 37 CFR 1.42
For: Method for the Application of Mortar to an	:	
Application Surface	:	

This is a decision on the "PETITION UNDER 37 CFR 1.42" filed 20 October 2004, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 15 September 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). Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided.

On 27 August 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" must be submitted within two months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In response to the Notification mailed on 27 August 2004, applicant filed a declaration on 02 October 2004 signed by Irmgard Zimmerlin as heiress of the inventor, Dietmar Zimmerlin, now deceased

DISCUSSION

The declaration is unacceptable at this time because it is not clear that Irgmard Zimmerlin is the sole heir or the legal representative for the deceased inventor, Dietmar

Zimmerlin, in order for the application to be accepted under 37 CFR 1.42. Applicant is required to provide either 1) statement by Irgmard or her attorney which sets forth that she is in fact the sole heir of the deceased inventor if there are no other heirs or 2) a new oath or declaration executed by all of the heirs if Irgmard Zimmerlin is not the sole heir.

Moreover, 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 or is statutorily required 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(s) of the deceased inventor in response to this decision.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

Boris Milef
PCT Legal Examiner
PCT Legal Office

19 APR 2005

#16

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

MS. GUDRUN E. HUCKETT DRAUDT
LONSSTR. 53
WUPPERTAL 42289 DE GERMANY

In re Application of	:	DECISION ON RENEWED
Dietmar Zimmerlin	:	
PCT No.: PCT/DE02/00997	:	
Application No.: 10/471,821	:	PAPERS FILED
Int. Filing Date: 20 March 2002	:	
Priority Date: 21 March 2001	:	
Attorney's Docket No.: 1327	:	UNDER 37 CFR 1.42
For: Method for the Application of Mortar to an	:	
Application Surface	:	

This is a decision on the "STATEMENT REGARDING PETITION UNDER 37 CFR 1.42" filed 08 March 2005, which has been treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

In a decision from this office dated 11 January 2005, the papers filed on 20 October 2004 were not accepted under 37 CFR 1.42. The reason was that it was not clear if Irgmard Zimmerlin was the sole heir of the deceased inventor, Dietmar Zimmerlin.

On 08 March 2005, applicant submitted the renewed submission under 37 C.F.R. §1.42.

DISCUSSION

Applicant has provided a statement by her attorney, Ms. Huckett, which sets forth that Irmgard Zimmerlin is in fact the sole heir of the deceased inventor Dietmar Zimmerlin.

Accordingly, the requirements under 37 CFR 1.42 are satisfied and the declaration is acceptable at this time.

If she is executing the declaration as the sole heir of the deceased inventor then it is hereby construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required 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(s) of the deceased inventor in response to this decision.

CONCLUSION

The renewed submission filed under 37 CFR 1.42 is **ACCEPTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date of this application as **20 October 2004**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

Boris Milef
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Computer Patent Annuities,Inc.
901 N.Washington Street
Suite 305
Alexandria,, VA 22314

Mail Date: 04/21/2010

Applicant	: Oliver Schadt	: DECISION ON REQUEST FOR
Patent Number	: 7632951	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/471,836	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JAN 1 0 2007

OFFICE OF PETITIONS

YOUNG & THOMPSON
745 SOUTH 23RD STREET
ARLINGTON VA 22202

In re Patent No. 7,108,498
Issue Date: September 19, 2006
Application No. 10/471,840
Filed: September 15, 2003
Attorney Docket No. 9018-1001

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed November 17, 2006, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is granted.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 x 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8C32 (Fax 571-273-9756)

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 8910
RESTON VA 20195

COPY MAILED
DEC 0 7 2006
OFFICE OF PETITIONS

In re Application of
EIGENBRODT, et al.
Application No. 10/471,854
Filed: March 15, 2004
Attorney Docket No. 40770-000159/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 September 22, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
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

HARNESS DICKEY & PIERCE PLC
P.O. BOX 8910
RESTON, VA 20195

COPY MAILED

JUL 24 2007

OFFICE OF PETITIONS

In re Application of	:	
EIGENBRODT, et al.	:	
Application No. 10/471,854	:	DECISION ON PETITION
Filed: March 15, 2004	:	TO WITHDRAW
Attorney Docket No. **40770P-000001/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 5, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to HARNESS DICKEY & PIERCE PLC has been revoked by the assignee of the patent application on May 17, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CONNOLLY BOVE LODGE & HUTZ, LLP**
P O BOX 2207
WILMINGTON DE 19899

21 JUN 2004

#2

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Thomas P. Pavelko
STEVENS DAVIS MILLER & MOSHER LLP
1615 L Street NW, Suite 850
Washington, DC 20036

In re Application of
QUIST, Magnus *et al*
U.S. Application No.: 10/471,865
PCT No.: PCT/SE02/00453
Int. Filing Date: 13 March 2002
Priority Date: 14 March 2001
Attorney Docket No.: TPP 31704
For: A PROCESS FOR THE MANUFACTURING OF DECORATIVE BOARDS

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' petition under 37 CFR 1.47(a) filed on 30 April 2004.

BACKGROUND

On 06 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) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) & (b) was required.

On 30 April 2004, applicants submitted a response to the Notification of Missing Requirements which was accompanied by, *inter alia*, a declaration executed by two of the three named inventors; a petition under 37 CFR 1.47(a); a petition fee of $130.00; a "Declaration in Support of Petition Under 37 C.F.R. §1.47" by Agneta Petersson; a two-month extension request and a $420.00 extension fee.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be located; (3) a statement of the last known address of the non-signing joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the non-signing joint inventor.

Concerning item (1), the $130.00 petition fee has been paid.

With regards to item (3), the last known address of the nonsigning joint inventor,

Jan Ericsson, is listed as in c/o:

Fusion UV Systems, Inc.
910 Clopper Road,
Gaithersburg, Maryland 20878-1357.

Regarding item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by two of the three joint inventors on behalf of the nonsigning joint inventor. This declaration meets the requirements of section 409.03(a) of the MPEP.

Hence, items (1), (3) and (4) of 37 CFR 1.47(a) are satisfied.

Regarding item (2), the 37 CFR 1.47(a) applicant claims that Mr. Ericsson "cannot be located after a diligent search" and has provided a declaration by Agneta Petersson for the assignee in support of this claim.

A careful review of the evidence presented shows that the 37 CFR 1.47(a) has not shown that a diligent effort was made to locate the nonsigning co-inventor.

Applicants' burden in proving that an inventor cannot be located is explained in section 409.03(d) of the MPEP which states, in part:

> Where inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, an affidavit or declaration of the facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. . . .
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included [*in the*] statement of facts. It is important that the statement contain facts as opposed to conclusions.

As indicated above, a statement of facts listing the steps taken to locate the whereabouts of the nonsigning inventor must be provided for a grantable petition under 37 CFR 1.47(a). In this case, the declaration by Agneta Petersson does not list the steps used to locate Mr. Ericsson. There is no explanation given how the 37 CFR 1.47(a) applicant determined the last known address for the nonsigning joint inventor as it differs from the address for Mr. Ericsson listed on the declaration submitted with the instant petition. There is also no indication whether petitioners attempted to contact Mr.

Ericsson by telephone, or find his home address using the internet. These are not extraordinary efforts and should be attempted by petitioners to demonstrate that a diligent effort was made to locate the nonsigning joint inventor.

Moreover, there is no documentary evidence submitted as required. Such evidence would include copies of the documents sent to Mr. Ericsson at his last known address, or copies of the emails sent to the nonsigning inventor mentioned in paragraph three of the Petersson declaration.

For the reasons noted above, item (2) of 37 CFR 1.47(a) is not satisfied.

CONCLUSION

Since all of the items of 37 CFR 1.47(a) were not satisfied, 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. 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

31 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

Thomas P. Pavelko
STEVENS DAVIS MILLER & MOSHER LLP
1615 L Street NW, Suite 850
Washington, DC 20036

In re Application of QUIST, Magnus *et al* U.S. Application No.: 10/471,865 PCT No.: PCT/SE02/00453 Int. Filing Date: 13 March 2002 Priority Date: 14 March 2001 Attorney Docket No.: TPP 31704 For: A PROCESS FOR THE MANUFACTURING OF DECORATIVE BOARDS	**DECISION ON PETITION UNDER 37 CFR 1.47(a)**

This is a decision on applicants' "Renewed Petition" filed on 23 August 2004.

BACKGROUND

On 21 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 23 August 2004, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a "Declaration of Thomas P. Pavelko"; a copy of an email dated 23 August 2004; a "Declaration of Eric Robins"; and a copy of a search result for "Jan Ericsson" using the internet.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be located; (3) a statement of the last known address of the non-signing joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the non-signing joint inventor. Items (1), (3) and (4) of 37 CFR 1.47(a) have been satisfied in the original petition.

Regarding item (2), the 37 CFR 1.47(a) failed to provide a statement of facts listing the steps taken to locate the whereabouts of the nonsigning inventor in the initial petition. Moreover, there was a question concerning how the 37 CFR 1.47(a) applicant determined the last known address for the nonsigning joint inventor as it differs from the address for Mr. Ericsson listed on the declaration submitted. There is also no evidence

that petitioners attempted to contact Mr. Ericsson by telephone, or find his home address using the internet.

In the renewed petition, the 37 CFR 1.47(a) applicants "supplement the previous Declaration of Agneta Petersson" with a declaration by Thomas P. Pavelko and Eric P. Robins. In his declaration, Mr. Pavelko lists the steps taken to locate the nonsigning joint inventor which included contact with a former employer of Jan Ericsson. Mr. Pavelko also adequately explained why the last known address of the nonsigning joint inventor was different from the address listed on the declaration filed with the original petition. The 37 CFR 1.47(a) applicants included documentary evidence that an internet search was performed for the nonsigning joint inventor.

The 37 CFR 1.47(a) has now shown that a diligent effort was made to locate the nonsigning joint inventor. As such, item (2) of 37 CFR 1.47(a) is now satisfied. All the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 13 March 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 30 April 2004.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

31 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

Jan Ericsson
Fusion UV Systems, Inc.
910 Clopper Road
Gaithersburg, MD 20878-1357

In re Application of
QUIST, Magnus *et al*
U.S. Application No.: 10/471,865
PCT No.: PCT/SE02/00453
Int. Filing Date: 13 March 2002
Priority Date: 14 March 2001
Attorney Docket No.: TPP 31704
For: A PROCESS FOR THE MANUFACTURING OF DECORATIVE BOARDS

Mr. Ericsson:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

Thomas P. Pavelko
STEVENS DAVIS MILLER & MOSHER LLP
1615 L Street NW, Suite 850
Washington, DC 20036

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.
10/471,865	04/30/2004	Magnus Quist	TPP 31704	7922

7590 07/10/2008

Stevens Davis
Miller & Mosher
Suite 850
1615 L Street NW
Washington, DC 20036

EXAMINER
PARKER, FREDERICK JOHN

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
07/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: 7-10-08

In re application of	:	
Quist et al.	:	DECISION ON
Serial No. 10/471,865	:	PETITION
Filed: April 30, 2004	:	
For: Process For The Manufacturing Of Decorative Boards	:	

This is a sua sponte response to withdraw the abandonment of this application and is being considered as a PETITION UNDER RULE 37 C.F.R. 1.181(a) TO WITHDRAW NOTICE OF ABANDONMENT. A review of the record indicates that applicant has filed a request for rehearing on June 30, 2008. A review of the circumstances dictates that the application should not have been abandoned.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

The Petition is **GRANTED**.

The application is returned to pending status and forwarded to the Board of Appeal.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

Stevens Davis
Miller & Mosher
Suite 850
1615 L Street NW
Washington DC 20036

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

Kate H. Murashige
Morrison & Foerster
Suite 500
3811 Valley Centre
San Diego, CA 92130-2332

COPY MAILED

NOV 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Claus Dambmann et al.	:	
Application No. 10/471,882	:	DECISION ON PETITION
Filed: March 12, 2004	:	TO WITHDRAW
Attorney Docket No. 246152020700	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with the firm Morrison & Foerster has been revoked by the assignee of the patent application on September 29, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Nixon & Vanderhye, P.C.**
901 North Glebe Road, 11th Floor
Arlington, VA 22203

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
10/471,882	03/12/2004	Claus Dambmann	246152020700

CONFIRMATION NO. 7934

OC000000020724939

OC000000020724939

Kate H Murashige
Morrison & Foerster
Suite 500
3811 Valley Centre
San diego, CA 92130-2332

Date Mailed: 10/05/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Terri S. Williams for

BRUCE D HARRISON
1700 (571) 272-1016

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/471,882	03/12/2004	Claus Dambmann	246152020700

CONFIRMATION NO. 7934

OC000000020724939

OC000000020724939

Kate H Murashige
Morrison & Foerster
Suite 500
3811 Valley Centre
San diego, CA 92130-2332

Date Mailed: 10/05/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Terri S. Williams

BRUCE D HARRISON
1700 (571) 272-1016

NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/471,882	03/12/2004	Claus Dambmann	246152020700

CONFIRMATION NO. 7934

OC000000021352527

OC000000021352527

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Date Mailed: 11/24/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FLEIT KAIN GIBBONS GUTMAN
BONGINI & BIANCO PL
ONE BOCA COMMERCE CENTER
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON, FL 33487

COPY MAILED
MAY 0 5 2006
OFFICE OF PETITIONS

In re Application of	:
Romain Palmade	:
Application No. 10/471,883	: DECISION GRANTING PETITION
Filed: March 13, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 00-RO-379	:

This is a decision on the petition, filed May 3, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 27, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2876 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\may9\471883.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

13 FEB 2007

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John C. Han
ERICSSON INC.
6300 Legacy Drive
M/S EVW 2-C-2
Plano, TX 75024

In re Application of :
FROHM *et al* :
U.S. Application No.: 10/471,885 :
PCT No.: PCT/EP2001/002805 :
Int. Filing Date: 13 March 2001 :
Priority Date: None : **DECISION**
Docket No.: P13030-US1 :
For: ROUTING OF PEER TO PEER :
MESSAGES IN A COMMUNICATION :
NETWORK :

This decision is in response to the petition to withdraw the holding of abandonment filed on 25 May 2006 which is treated under 37 CFR 1.8(b).

BACKGROUND

On 14 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 a declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee must be provided. A two-month time period for response was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 11 March 2004, applicants purportedly filed via facsimile a reply to the Form PCT/DO/EO/905 which was accompanied by, *inter alia*, an executed declaration and authorization to charge the required fees to Deposit Account No. 50-1379.

On 15 September 2006, a Notice of Abandonment was mailed stating that no reply to the Form PCT/DO/EO/905 was received.

On 25 May 2006, applicants filed the subject petition which was accompanied by, *inter alia*, copies of the documents purportedly filed via facsimile on 11 March 2004 and a copy of a Transmission Verification Report dated 11 March 2004.

DISCUSSION

Applicants claim that a response to the Form PCT/DO/EO/905 was filed via facsimile on 11 March 2004. This response included an executed declaration and

authorization to charge the required surcharge fee. However, the declaration was not located in the file and USPTO financial records show that the surcharge fee was not charged in the subject application.

37 CFR 1.8 *Certificate of mailing or transmission*, states in part:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the 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 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.

In the subject petition, applicants request to withdraw the holding of abandonment and have provided a copy of the documents purportedly filed 11 March 2004. Applicants included a copy of the law firm's Transmission Verification Report dated 11 March 2004 and state that "a response was timely filed with the USPTO."

A review of the evidence shows that a facsimile transmission of seven pages was successfully received at telephone number "17033053230." This is an authorized number for receiving national stage responses. The communication was listed as successful. A copy of the seven-page submission was provided.

This evidence meets the requirements of 37 CFR 1.8(b) and is sufficient for a grantable petition.

CONCLUSION

Applicants' petition under 37 CFR 1.8(b) to withdraw the holding of

abandonment is **GRANTED**.

The Notice of Abandonment mailed 15 September 2006 is hereby **VACATED**.

A review of the declaration originally submitted on 11 March 2004 shows that it is in compliance with 37 CFR 1.497(a) and (b). The $130.00 surcharge fee has been charged to Deposit Account No. 50-1379 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 13 March 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 11 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.: (571) 272-3302

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

BRYAN CAVE LLP
STEPHEN M. HARACZ, ESQ.
1290 AVENUE OF THE AMERICAS, 33RD FLOOR
NEW YORK, NY 10104

Mail Date: 04/21/2010

Applicant	: Stephanie Krammer	: DECISION ON REQUEST FOR
Patent Number	: 7635692	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/471,890	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/11/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1035** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

28 SEP 2006

Gosz and Partners LLP
450 Bedford Station
Lexington, MA 02420

In re Application of DIAMOND et al. Application no.: 10/471,892 Filing Date: March 15, 2004 Attorney Docket No.: DIAM-P02-001 For: METHOD OF PREVENTING ADHESIONS WITH IFN-UPSILON	: : : : : :	DECISION

This decision is issued in response to applicants' "Request for Corrected Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on April 21, 2004, which is being treated as a Petition under 37 CFR 1.181. No petition fee is required.

The above-identified application received an Official Filing Receipt which indicated, "[t]his application is (35 U.S.C.) 371 of PCT/US02/07200 (filed) 03/08/2002*. (*) Data provided by applicant is not consistent with PTO records."

Applicants state in the present petition that application number 10/471,892 is the national stage application of PCT/US02/07290 filed March 08, 2002 as indicated on the "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" (Form PTO-1390) submitted on September 12, 2003. A review of the Image File Wrapper reveals that all papers submitted on 12 September 2003 indicated the international application as PCT/US02/07290, not PCT/US02/07200. Therefore, the filing receipt for the above-identified application will be corrected to read "This application is 371 of PCT/US02/07290 (filed) 03/08/2002." Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for: (1) issuing a corrected filing receipt; (2) issuing a corrected Notification of Acceptance (Form/DO/EO/903); and (3) correcting PALM database for application no. 10/471,892 indicating that this is the national stage application of PCT/US02/07290.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 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

HUSCH BLACKWELL SANDERS, LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

COPY MAILED

MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Trevor Sinclair, et al.	:	
Application No. 10/471,896	:	ON PETITION
Filed: September 12, 2003	:	
Attorney Docket No. 8864-90578	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 7, 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 June 8, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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. 12/206,539.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED
JUN 21 2006
OFFICE OF PETITIONS

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

In re Patent No. 7,030,147	:
Issued: April 18, 2006	: DECISION UNDER 37 CFR
Application No. 10/471,904	: 1.705(d) and NOTICE OF INTENT
Filed: September 15, 2003	: TO ISSUE CERTIFICATE OF
Attorney Docket No. 4-	: CORRECTION
31913A/31914/USN	:

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed May 1, 2006.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is hereby **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,030,147 on April 18, 2006. The patent issued with a PTA of 252 days. Patentees argue that the adjustment was improperly reduced 86 days in connection with an amendment after final that was submitted October 31, 2005.

At the time of issuance, an adjustment of 338 days was attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1). The adjustment was reduced 86 days in accordance with 37 CFR 1.704(c)(10) in connection with the Rule 312 amendment submitted October 31, 2005.

Patentees argue that submission of the amendment is not a failure to engage within the meaning of 37 CFR 1.704(c)(10), and, further argue that the amendment was submitted to correct an omission in the Examiner's Amendment mailed October 19, 2005 along with the Notice of Allowance.

Submission of a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability is not a failure to engage in reasonable efforts to engage in reasonable efforts to conclude prosecution (or processing) within the meaning of 37 CFR 1.704.

In view thereof, at the time of issuance, the patent was entitled to an adjustment of 338 days, as argued.

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 338 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

CC: Draft Certificate of Correction

2 8 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CONNOLLY BOVE LODGE AND HUTZ LLP
1007 NORTH ORANGE STREET
P.O. BOX 2207
WILMINGTON DE 19899

In re Application of KESTEN et. al. Application No.: 10/471,926 PCT No.: PCT/EP02/01710 Int. Filing Date: 18 February 2002 Priority Date: 20 February 2001 Attorney's Docket No.: MG-2436 For: Method and Device for Filling Pressure Containers With Low-Boiling Permanent Gases or Gas Mixture	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 16 February 2007 in the above-captioned application is hereby **GRANTED** as follows:

On September 30, 2004 applicants filed a petition fee of $1,330 and a basic national fee of $750. However, because the United States Patent and Trademark Office is neither the International Search Authority (ISA) nor the International Preliminary Examination Authority (IPEA) and the search report was prepared by the European Patent Office (EPO) the correct national fee as of September 30, 2004 was $950. In view of applicant's "general authorization" under 37 C.F.R. 1.25(b), the outstanding amount of $200 will be charged to Deposit Account No. 03-2775.

A translation into the English language of the international application under 35 U.S.C. 371(c)(2) and, the surcharge for filing the translation later than 30 months from the priority date, are required.

An oath or declaration of the inventors under 35 U.S.C. 371(c)(4) and 37 CFR 1.497 and, the surcharge for filing the oath or declaration later than 30 months from the priority date, are required.

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 National Stage Processing Division of the Office of PCT Operations for continued processing.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459

Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208

DATE 8/28/07 APPLICATION NUMBER 10/471,930

DOC CODE Pet.Dec DOC DATE 8-28-07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

2 8 AUG 2007

Connolly Bove Lodge & Hutz
P O Box 2207
Wilmington DE 19899-2207

In re Application of FORJAHN, Heinz-Dieter et al. Application No.: 10/471,530 PCT No.: PCT/EP02/06712 Int. Filing Date: 18 June 2002 Priority Date: 07 July 2001 Attorney Docket No.: MG-2457 For: DEVICE AND METHOD MELTING AND/OR VITRIFYING FILTER DUST	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to applicant's petition to withdraw the holding of abandonment, filed on 03 January 2006. It has been treated as a petition under 37 CFR 1.182. The petition fee will be charged to deposit account no. 03-2775, as authorized.

BACKGROUND

On 18 June 2002, applicant filed international application PCT/EP02/06712, which claimed a priority date of 07 July 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 January 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 07 January 2004.

On 16 September 2003, applicant submitted a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 21 January 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration, the surcharge for late filing of the oath or declaration, an English translation and the processing fee for late filing of the translation.

On 14 October 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 03 January 2006, applicants filed this petition under 37 CFR 1.182.

DISCUSSION

A petition to accord a receipt date to paperwork must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt for 10/417,930, but listing this application's docket number and title, stamped 01 March 2004 and listing a declaration and translation. The 01 March 2004 papers for this application were located in 10/417,930. As the papers were directed to an incorrect application, the fee for a Petition Under 37 CFR 1.182 will be charged to deposit account no. 03-2775, as authorized.

The declaration provided by applicant is a foreign language declaration, but it is not a USPTO form and is not accompanied by a statement that the English text is an accurate translation of the foreign text. See 37 CFR 1.69. A statement that the English text is an accurate translation of the German or a new declaration is required.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

Applicant is required to comply with 37 CFR 1.69 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 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.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

#4

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

2 8 AUG 2007

Connolly Bove Lodge & Hutz
P O Box 2207
Wilmington DE 19899-2207

In re Application of	:	
FORJAHN, Heinz-Dieter et al.	:	
Application No.: 10/471,530	:	DECISION ON
PCT No.: PCT/EP02/06712	:	
Int. Filing Date: 18 June 2002	:	PETITION
Priority Date: 07 July 2001	:	
Attorney Docket No.: MG-2457	:	UNDER 37 CFR 1.182
For: DEVICE AND METHOD MELTING	:	
AND/OR VITRIFYING FILTER DUST	:	

This decision is in response to applicant's petition to withdraw the holding of abandonment, filed on 03 January 2006. It has been treated as a petition under 37 CFR 1.182. The petition fee will be charged to deposit account no. 03-2775, as authorized.

BACKGROUND

On 18 June 2002, applicant filed international application PCT/EP02/06712, which claimed a priority date of 07 July 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 January 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 07 January 2004.

On 16 September 2003, applicant submitted a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 21 January 2004, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration, the surcharge for late filing of the oath or declaration, an English translation and the processing fee for late filing of the translation.

On 14 October 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 03 January 2006, applicants filed this petition under 37 CFR 1.182.

DISCUSSION

A petition to accord a receipt date to paperwork must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt for 10/4**17**,930, but listing this application's docket number and title, stamped 01 March 2004 and listing a declaration and translation. The 01 March 2004 papers for this application were located in 10/417,930. As the papers were directed to an incorrect application, the fee for a Petition Under 37 CFR 1.182 will be charged to deposit account no. 03-2775, as authorized.

The declaration provided by applicant is a foreign language declaration, but it is not a USPTO form and is not accompanied by a statement that the English text is an accurate translation of the foreign text. See 37 CFR 1.69. A statement that the English text is an accurate translation of the German or a new declaration is required.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

Applicant is required to comply with 37 CFR 1.69 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 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.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

05 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

In re Application of JUNGNICKEL et al	:	
U.S. Application No.: 10/471,938	:	
PCT Application No.: PCT/DE02/01019	:	
Int. Filing Date: 15 March 2002	:	DECISION
Priority Date Claimed: 15 March 2001	:	
Attorney Docket No.: 1454.1617	:	
For: INDOOR RADIO TRANSMISSION	:	
METHOD FOR PARALLEL RADIO	:	
TRANSMISSION OF DIGITAL DATA. . .	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 24 February 2006.

BACKGROUND

On 15 March 2002, applicant filed international application PCT/DE02/01019, which claimed priority of an earlier Germany application filed 15 March 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 26 September 2002. The thirty-month period for paying the basic national fee in the United States expired on 15 September 2003.

On 15 September 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 30 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.

International application PCT/DE02/01019 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 24 February 2006, applicant filed the present petition under 37 CFR 1.137(b).

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 15 March 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 24 February 2006.

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

2 0 FEB 2004

#4

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

Barnes & Thornburg
750 17th Street, N.W. Suite 900
Washington, D.C. 20006

In re Application of	:	
OETIKER et al.	:	DECISION ON
Application No.: 10/471,945	:	PAPERS UNDER 37 CFR 1.42
PCT No.: PCT/EP02/02655	:	
Int. Filing Date: 11 March 2002	:	
Priority Date: 20 March 2001	:	
Attorney Docket No.: 967/41474	:	
For: HOSE CLAMP AND CLOSING TOOL		

This is a response to the declaration filed 28 January 2004 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/EP02/02655, which claimed a priority date of 26 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 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, 26 September 2003.

On 17 September 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 translation of the international application; a preliminary amendment; and an unexecuted declaration.

On 20 January 2004, 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 28 January 2004, applicants filed the present petition under 37 CFR 1.42. The declaration is executed by: Ulrich Meier as inventor and "P. Nef" and "Dr. M. Lorez" on behalf of deceased inventor, Hans Oetiker.

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 28 January 2004 is executed by Ulrich Meier as an inventor and "P. Nef" and "Dr. M Lorez" as the "executors" of the deceased inventor, Hans Oetiker. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(a) and (b).

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 executors. The declaration filed on 28 January 2004 provides this information with respect to the deceased inventor, but does not include the full name of the executors, residence, citizenship, and post office address for the executors. Accordingly, the declaration is not in compliance with 37 CFR 1.497 and 37 CFR 1.63.

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."

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 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
Fax: (703) 308-6459

07 DEC 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

Mark M. Newman
Barnes & Thornburg
750 17th Street, N.W. Suite 900
Washington, D.C. 20006

In re Application of	:	
OETIKER et al.	:	
Application No.: 10/471,945	:	DECISION ON RENEWED
PCT No.: PCT/EP02/02655	:	REQUEST UNDER 37 CFR 1.42
Int. Filing Date: 11 March 2002	:	
Priority Date: 20 March 2001	:	
Attorney Docket No.: 967/41474	:	
For: HOSE CLAMP AND CLOSING TOOL		

This is a response to applicants' "Request for Reconsideration of the Decision Papers under 37 CFR 1.42 Mailed February 2004" filed 20 March 2004 which is being treated as a Renewed Request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/EP02/02655, which claimed a priority date of 26 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 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, 26 September 2003.

On 17 September 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 translation of the international application; a preliminary amendment; and an unexecuted declaration.

On 20 January 2004, 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 28 January 2004, applicants filed the present petition under 37 CFR 1.42. The declaration is executed by: Ulrich Meier as inventor and "P. Nef" and "Dr. M. Lorez" on behalf of deceased inventor, Hans Oetiker. In a decision dated 20 February 2004, applicants' request under 37 CFR 1.42 was dismissed without prejudice.

On 30 March 2004, applicants filed "Request for Reconsideration of the Decision Papers under 37 CFR 1.42 Mailed February 2004."

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 supplemental declaration filed 30 March 2004 is executed by Paul Nef and Dr. Marco Lorez as "executors" of the deceased inventor, Hans Oetiker. The present declaration taken in combination with the previously submitted declaration fulfills the requirements of 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 30 March 2004.

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

The application has an international filing date of 11 March 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **30 March 2004**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (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

CIBA SPECIALTY CHEMICALS CORPORATION
PATENT DEPARTMENT
540 WHITE PLAINS RD
P O BOX 2005
TARRYTOWN NY 10591-9005

COPY MAILED
MAY 11 2006
OFFICE OF PETITIONS

In re Application of Troutman et al. Application No. 10/471,947 Filed: September 16, 2003 Attorney Docket Number: PP/1-22452-CGC-2076	: : : : : :	ON PETITION

This is a decision on the petition filed April 7, 2006, under 37 CFR 1.137(a) to revive the above-identified application.

The petition to revive under 37 CFR § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR § 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed October 19, 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 January 19, 2006. A Notice of Abandonment was mailed on March 28, 2006.

Petitioner has submitted $130.00 petition fee. However the current fee for an unavoidable petition is $500.00. Accordingly, deposit account 03-1935 will be charged

the difference.

PETITION TO REVIVE UNDER 37 CFR § 1.137(a)

A grantable petition under 37 CFR § 1.137(a) must be accompanied by:

(1) the required reply,[1]

(2) the petition fee,

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[2] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

Petitioner contends the issue fee transmittal form with authorization to charge deposit account 03-1935 was received in the Office on December 22, 2005. The deposit

---

[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(c)(III)(c)(2) for a discussion of the requirements for a showing of unavoidable delay.

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

account was charged the $300.00 publication fee on December 27, 2005 but there were insufficient funds to charge the $1400 issue fee. Petitioner argues that when the deposit account was replenished on January 3, 2006, the issue fee should have been charged.

The petition has been considered and it has been determined the arguments presented are not convincing to establish unavoidable delay. Pursuant to 37 CFR 1.25 (b) an authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee. In this instance when the issue fee transmittal was processed on December 27, 2005 there were insufficient funds. Accordingly the issue fee was not timely submitted. There is no requirement that the Office reprocess fees when it has been previously been determined that a deposit account did not contain sufficient funds. Further an amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Accordingly, the failure to maintain sufficient funds to cover the issue fee was avoidable.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee ($750.00 for small entity, $1500 for other than small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. § 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CIBA SPECIALTY CHEMICALS CORPORATION
PATENT DEPARTMENT
540 WHITE PLAINS RD
P O BOX 2005
TARRYTOWN NY 10591-9005

COPY MAILED
JUN 0 2 2006
OFFICE OF PETITIONS

In re Application of
Troutman et al.
Application No. 10/471,947
Filed: September 16, 2003
Attorney Docket Number: PP/1-22452-CGC-2076

ON PETITION

This is a decision on the petition filed May 19, 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 October 19, 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 January 19, 2006. A Notice of Abandonment was mailed on March 28, 2006. A petition under 37 CFR 1.137(a) was dismissed on May 11, 2006.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Mail Date: 04/21/2010

Applicant	: Yuri Gleba	: DECISION ON REQUEST FOR
Patent Number	: 7667091	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/471,960	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **916** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Apr-07

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

COPY MAILED
APR 18 2007
OFFICE OF PETITIONS

In re Patent No. 7168493	:	
Issued: 01/30/2007	:	
Application No. 10/471982	:	ON PETITION
Filed: 02/12/2004	:	
Attorney Docket Number:	:	
031749/269360	:	

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 31 January, 2007.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The 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.**

Small entity status will no longer apply.

The file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3-28-07

TO SPE OF : ART UNIT 3739

SUBJECT : Request for Certificate of Correction on Patent No.: 7118587 B2 (10/471,990)

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 claim 2 be deleted?

Thank You For Your Assistance

E. James
Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments:

Claim 2 originally canceled in amendment of 9/2/05

SPE

3739
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

BEST AVAILABLE COPY

22 JAN 2004

#3

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

Kenneth Solomon
Thompson Coburn, LLP
One US Bank Plaza
St. Louis, MO 63101

In re Application of	:	
PILKINGTON	:	
U.S. Application No.: 10/472,009	:	DECISION ON PETITION
PCT No.: PCT/GB02/01100	:	
Int. Filing Date: 11 March 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 10 March 2001	:	
Attorney Docket No.: 55025/42776	:	
For: IMPROVEMENTS IN AND RELATING TO	:	
SMOKE DETECTORS	:	

The petition to revive under 37 CFR 1.137(b) filed 15 September 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" 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 is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ~~[illegible]~~ 20

DATE : 3-28-08

TO SPE OF : **Technology Center** 2877

10/472010

SUBJECT : Request for Certificate of Correction on Patent No.: 7215420 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Gregory J, Toatley, Jr.
Supervisory Patent Examiner

SPE

2877
Art Unit

09 MAR 2004

#6

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

Office of Intellectual Property Counsel
3M Innovative Properties Company
Po Box 33427
St. Paul MN 55133-3427

In re Application of	:	
OTTO et al.	:	DECISION ON
Application No.: 10/472,019	:	
PCT No.: PCT/EP01/15283	:	PAPERS
Int. Filing Date: 21 December 2001	:	
Priority Date: 16 March 2001	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 57084US016	:	
For: TERMINAL BLOCK AND DISTRIBUTION	:	
POINT	:	

This is a decision on the submission filed by applicants on 17 February 2004, which was accompanied by, *inter alia*, a declaration of inventors. The indication in this declaration that joint inventor Burmeister is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 21 December 2001, applicants filed international application PCT/EP01/15283, which claimed a priority date of 16 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 September 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 16 September 2003.

On 16 September 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 21 January 2004, the United States Patent and Trademark Office (USPTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (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 earliest priority date were required. The NOTIFICATION set a two-month extendable time period for reply.

On 17 February 2004, applicants filed the instant submission, which was accompanied

by, *inter alia*, the surcharge under 37 CFR 1.492(e) and a declaration signed by four of the five inventors and signed by Claudia Burmeister as "legal representative" of deceased inventor Klaus-Dieter Burmeister. This declaration also lists the residence, citizenship and mailing address of Claudia Burmeister (on page 3 of declaration) and Klaus-Dieter Burmeister (on page 2 of declaration).

DISCUSSION

The submission filed 17 February 2004 has been reviewed and has been found in compliance with 37 CFR 1.42. However, the declaration filed 17 February 2004 is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes pages 1-3 along with a second page 3 signed by Bettina Trenkmann. There are no accompanying second pages 1-2 for this second page 3. This suggests that the first two pages of the declaration were not associated with the second page 3 at the time of execution, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship of all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors.

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.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

#8

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Office of Intellectual Property Counsel
3M Innovative Properties Company
Po Box 33427
St. Paul MN 55133-3427

In re Application of	:	
OTTO et al.	:	DECISION
Application No.: 10/472,019	:	
PCT No.: PCT/EP01/15283	:	
Int. Filing Date: 21 December 2001	:	
Priority Date: 16 March 2001	:	
Attorney's Docket No.: 57084US016	:	
For: TERMINAL BLOCK AND DISTRIBUTION	:	
POINT	:	

This is a decision on the submission filed by applicants on 06 May 2004, which was accompanied by, *inter alia*, a declaration of inventors.

BACKGROUND

On 21 December 2001, applicants filed international application PCT/EP01/15283, which claimed a priority date of 16 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 September 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 16 September 2003.

On 16 September 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 21 January 2004, the United States Patent and Trademark Office (USPTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (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 earliest priority date were required. The NOTIFICATION set a two-month extendable time period for reply.

On 17 February 2004, applicants filed a submission, which was accompanied by, *inter alia*, the surcharge under 37 CFR 1.492(e) and a declaration signed by four of the five inventors

and signed by Claudia Burmeister as "legal representative" of deceased inventor Klaus-Dieter Burmeister. This declaration also lists the residence, citizenship and mailing address of Claudia Burmeister (on page 3 of declaration) and Klaus-Dieter Burmeister (on page 2 of declaration).

On 09 March 2004, a decision was mailed accepting applicants request for status under 37 CFR 1.42. However, the decision also indicated that the declaration of inventors filed 17 February 2004 was not in compliance with 37 CFR 1.497(a)-(b) and that a new declaration of inventors was required.

On 06 May 2004, applicants filed the instant submission which was accompanied by a declaration of inventors.

DISCUSSION

The declaration of inventors filed 17 February 2004 and the declaration of inventors filed 06 May 2004 taken together are in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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: (703) 308-2066
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
MAY 0 4 2006
OFFICE OF PETITIONS

OLIFF & BERRIDGE
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of	:	
Yasuhide Nagao et al	:	
Application No. 10/472,034	:	ON PETITION
Filed: September 17, 2003	:	
Attorney Docket No. 117217	:	

This is a decision on the petition, filed May 3, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 17, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1725 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Copied from 10474034 on 05/09/2006

24 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	
Stein et al.	:	
Application No. 10/472,036	:	
PCT No.: PCT/EP02/02365	:	
Int. Filing Date: 05 March 2002	:	COMMUNICATION
Priority Date: 21 March 2001	:	
Atty. Docket No.: 240073US0PCT	:	
For: PMI Syrup Phases And Their Use	:	
For Stabilizing Insoluble Additives	:	

This is in response to the declaration of the inventors filed on 17 September 2003, which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 05 March 2002, claimed an earliest priority date of 21 March 2001, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 3 October 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 22 September 2003 (since 21 September 2003 was a Sunday). Applicants filed, *inter alia*, the basic national fee on 17 September 2003.

DISCUSSION

Review of the declaration of the inventors filed on 17 September 2003 reveals that it indicates that joint inventor Franz Karlheinz Breitwieser is deceased. 37 CFR 1.42 provides in part that

> 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.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

> If the person making the 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 the oath or declaration is the legal representative of a deceased inventor, the oath or

declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Former § 1.44 required that proof of the authority of the legal representative be submitted. Effective 08 September 2000, § 1.44 was removed and reserved. The requirement to submit proof of legal authority was thereby eliminated. Thus, the signature and accompanying identification of the legal representative is sufficient to establish that the legal representative may make application on behalf of the deceased inventor.

Further examination of the declaration reveals that it indicates that Franz Karlheinz Breitwieser is deceased, but that it does not include "the facts which the inventor would have been required to state." The declaration does indicate that Ingrid Breitwieser, Claudia Breitwieser, Anja Breitwieser and Bianca Breitwieser are the legal representatives of Franz Karlheinz Breitwieser and is signed by Claudia Breitwieser and by Ingrid Breitwieser on her own behalf and on behalf of Anja and Bianca Breitwieser, in the capacity of "guardian." The declaration also provides the "citizenship, residence and mailing address of the legal representative" as required under 37 CFR 1.497(b)(2). Nonetheless, for the reasons stated above, it would not be appropriate to accept the declaration of the inventors under 37 CFR 1.42 at this time.

CONCLUSION

The submission under 37 CFR 1.42 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

2 5 OCT 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

In re Application of HECKER et al.	:
Application No.: 10/472,053	: DECISION ON PETITION
PCT No.: PCT/EP02/02709	:
Int. Filing: 12 March 2002	:UNDER 37 CFR 1.47(a)
Priority Date: 12 March 2001	:
Attorney Docket No.: F-7926	:
For: METHOD AND DEVICE FOR PRODUCING OXYGEN	:

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 27 August 2004, to accept the application without the signature of joint inventor, Stefan Fiedler. Applicant also requests a five month extension of time, which is granted.

BACKGROUND

On 11 September 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 26 January 2004, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration in accordance 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 26 March 2004, applicant filed a declaration, which was not signed by Stefan Fiedler.

On 09 April 2004, a Notification of Acceptance was erroneously mailed to applicant incorrectly indicating that the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) had been met. On 24 April 2004, applicant filed a request to withdraw the Notification of Acceptance.

On 27 August 2004, applicant filed the instant 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, Stefan Fiedler, alleging that Mr. Fiedler refuses to sign the appropriate forms.

DISCUSSION

At the outset, it is noted that the 09 April 2004 Notification of Acceptance was erroneously mailed to applicant and is hereby **VACATED**.

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).

The petition included the requisite petition fee, satisfying Item (1). Item (3) is satisfied because the last known address of non-signing inventor, Stefan Fiedler, was provided. With regard to item (4), the declaration was executed by the available joint inventors on their behalf and on behalf of the non-signing inventor and satisfies the requirements of 37 CFR 1.47(a).

Applicant attempted to satisfy Item (2) with the submission of a declaration under 37 CFR 1.47(a) from German attorney Udo W. Altenburg. Mr. Altenburg states that " a cover letter with instruction to sign a therewith enclosed declaration and assignment for patent application for the U.S. National Stage of PCT/EP02/02709 was sent to Stefan Fiedler by certified mail, return receipt requested on July 6, 2004 to his last known address." A copy of the letter and postal receipt was attached to the declaration along with an English translations thereof. However, Mr. Altenburg does not indicate that a copy of the application (including specification, claims and drawings) was sent to Mr. Fiedler. Moreover, the cover letter to Mr. Fiedler states that the only enclosures were the Declaration and Assignment.

Mr. Altenburg states that Mr. Fiedler has not acted on and returned the Declaration and Assignment or communicated further with him or the co-inventors, concluding that Mr. Fiedler will not sign the Declaration or other documents. (Altenburg Decl., ¶6)

Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in part:

> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.
>
> A 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 the conclusion is based should be stated in a 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 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.

First, in his declaration under 37 CFR 1.47(a), Mr. Altenburg indicates that only the declaration and assignment were sent to the inventor for his signature with no mention or proof that a copy of application papers (specification, including claims, and drawings) were also sent to the nonsigning inventor for his signature. Indeed, the copy of a letter to Mr. Fiedler outlining the documents enclosed indicates the declaration and assignment were enclosed.

There is no indication that a complete copy of the application papers including specification, claims and drawings, were mailed to Mr. Fiedler. What is required is that Mr. Fiedler be presented with a copy of all of the national stage application papers (oath and declaration, specification, including claims and drawings) for this application.

Second, the circumstances of Mr. Fiedler's refusal are unclear. As outlined above, Mr. Altenburg's statement does not provide any details of the non-signing inventor's refusal. Where a refusal to sign the application papers is alleged, the circumstances of the presentation of the 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 by the person having firsthand knowledge of the facts recited therein. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. Mr. Altenburg's declaration only indicates that Mr. Fiedler refuses to executed a Declaration and an Assignment. Thus, at this time it cannot be concluded that Mr. Fiedler refuses to sign the application.

In sum, petitioner has not demonstrated: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/472,053 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and (2) Mr. Fiedler's refusal to sign, either in writing or by telephone, these documents.

The evidence submitted does not support a finding that the nonsigning inventor refuses 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.

The 09 April 2004 Notification of Acceptance was erroneously mailed to applicant and is hereby **VACATED**. The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile (571) 272-0459

23 MAR 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

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

In re Application of HECKER et al.	:
Application No.: 10/472,053	: DECISION ON
PCT No.: PCT/EP02/02709	:
Int. Filing: 12 March 2002	:RENEWED PETITION
Priority Date: 12 March 2001	:
Attorney Docket No.: F-7926	:UNDER 37 CFR 1.47(a)
For: METHOD AND DEVICE FOR	:
PRODUCING OXYGEN	:

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 28 February 2005, to accept the application without the signature of joint inventor, Stefan Fiedler. Applicant requests a two month extension of time, which is granted.

BACKGROUND

On 27 August 2004, applicant filed the 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, Stefan Fiedler, alleging that Mr. Fiedler refuses to sign the appropriate forms.

On 25 October 2004, a decision dismissing applicant's petition was mailed indicating that petitioner had not demonstrated: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/472,053 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and (2) Mr. Fiedler's refusal to sign, either in writing or by telephone, these documents.

On 28 February 2005, applicant filed a renewed Petition under 37 CFR 1.47(a) along with a newly executed declaration.

DISCUSSION

As previously stated, 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).

Petitioner has previously satisfied Items (1) and (3).

Applicant has now satisfied Item (2) with the submission of a declaration under 37 CFR 1.47(a) from German attorney Udo W. Altenburg, dated 25 February 2005. Mr. Altenburg states that " a second cover letter with the application documents (including specification, claims and drawings) and instruction to sign a therewith enclosed declaration and assignment for patent application for the U.S. National Stage of PCT/EP02/02709 was sent to Stefan FIEDLER by

certified mail, return receipt requested on December 2, 2004 to his last known address." A copy of the letter and postal receipt was attached to the declaration along with English translations thereof. Furthermore, Mr. Altenburg states "To date, Stefan FIEDLER has not acted thereupon and has not returned an executed Declaration or Assignment regarding the U.S. National Stage of PCT/EP02/02709." This is sufficient evidence to conclude that Mr. Fiedler's conduct constitutes his refusal to execute the declaration.

However, the newly executed declaration submitted on 28 February 2005 is unacceptable because it indicates that it was executed only by Karl-Heinz Hecker on behalf of the non-signing inventor Fiedler. The earlier filed declaration (26 March 2004) was unacceptable because although it was executed by the joint inventors Hecker and Schinagl, the declaration was altered with a line drawn through the box to be signed by Stefan Fiedler.

All available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. 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). See MPEP 409.03(a). What is required is a newly executed declaration, identifying the inventors, and their respective citizenship, residency and mailing addresses and executed by the joint inventors as explained in MPEP 409.03(a).

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
PCT Legal Office

Telephone: (571) 272-3286
Facsimile (571) 272-0459

08 JUN 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

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

In re Application of HECKER et al.	:
Application No.: 10/472,053	: DECISION ON
PCT No.: PCT/EP02/02709	:
Int. Filing: 12 March 2002	:RENEWED PETITION
Priority Date: 12 March 2001	:
Attorney Docket No.: F-7926	:UNDER 37 CFR 1.47(a)
For: METHOD AND DEVICE FOR PRODUCING OXYGEN	:

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 20 May 2005, to accept the application without the signature of joint inventor, Stefan Fiedler.

BACKGROUND

On 27 August 2004, applicant filed the 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, Stefan Fiedler, alleging that Mr. Fiedler refuses to sign the appropriate forms.

On 25 October 2004, a decision dismissing applicant's petition was mailed indicating that petitioner had not demonstrated: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/472,053 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and (2) Mr. Fiedler's refusal to sign, either in writing or by telephone, these documents.

On 28 February 2005, applicant filed a renewed Petition under 37 CFR 1.47(a) along with a newly executed declaration.

On 23 March 2005, a decision dismissing the petition was mailed indicating that the declaration submitted on 28 February 2005 was unacceptable because it was executed only by Karl-Heinz Hecker on behalf of the non-signing inventor Fiedler. It was furthered explained that the declaration filed on 26 March 2004 was unacceptable because although it was executed by the joint inventors Hecker and Schinagl, the declaration was altered with a line drawn through the box to be signed by Stefan Fiedler.

DISCUSSION

As previously stated, 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).

Petitioner has previously satisfied Items (1), (2) and (3).

In the 23 March 2005 decision, applicant was advised 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). Applicant was further advised that a newly executed declaration, identifying the inventors, and their respective citizenship, residency and mailing addresses and executed by the joint inventors as explained in MPEP 409.03(a), was required.

Applicant provided a newly executed declaration on 20 May 2005. However, the declaration executed by the inventors has been altered with a line through a portion of the address of inventor Rudolf Schinagl. The USPTO does not accept a declaration that has been altered. Section 602.01 of the MPEP states the following:

> The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required....

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether non-initialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

The changes made in the declaration were not dated and initialed or signed. Therefore, a new acceptable oath or declaration executed by Karl-Heinz Hecker and Rudolf Schinagl is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The declaration of inventors submitted by applicants on 20 May 2005 cannot be accepted. The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE.**

Applicants are required to submit a new declaration executed by inventors Hecker and Schinagl **TWO (2) MONTHS** from the mail date of this decision. 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
PCT Legal Office

Telephone: (571) 272-3286
Facsimile (571) 273-0459

19 AUG 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

STEFAN FIEDLER
AUENWEG 10
85395 ATTENKIRCHEN
GERMANY

In re Application of HECKER et al.	:
Application No.: 10/472,053	: DECISION ON
PCT No.: PCT/EP02/02709	:
Int. Filing: 12 March 2002	:RENEWED PETITION
Priority Date: 12 March 2001	:
Attorney Docket No.: F-7926	:UNDER 37 CFR 1.47(a)
For: METHOD AND DEVICE FOR PRODUCING OXYGEN	:

Dear Mr. Fiedler:

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: (571)272 -3286

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

19 AUG 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

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

In re Application of HECKER et al.	:
Application No.: 10/472,053	: DECISION ON
PCT No.: PCT/EP02/02709	:
Int. Filing: 12 March 2002	:RENEWED PETITION
Priority Date: 12 March 2001	:
Attorney Docket No.: F-7926	:UNDER 37 CFR 1.47(a)
For: METHOD AND DEVICE FOR PRODUCING OXYGEN	:

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 02 August 2005.

BACKGROUND

On 27 August 2004, applicant filed the 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, Stefan Fiedler, alleging that Mr. Fiedler refuses to sign the appropriate forms.

On 25 October 2004, a decision dismissing applicant's petition was mailed indicating that petitioner had not demonstrated: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/472,053 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and (2) Mr. Fiedler's refusal to sign, either in writing or by telephone, these documents.

On 28 February 2005, applicant filed a renewed Petition under 37 CFR 1.47(a) along with a newly executed declaration.

On 23 March 2005, a decision dismissing the petition was mailed indicating that the declaration submitted on 28 February 2005 was unacceptable because it was executed only by Karl-Heinz Hecker on behalf of the non-signing inventor Fiedler. It was furthered explained that the declaration filed on 26 March 2004 was unacceptable because although it was executed by the joint inventors Hecker and Schinagl, the declaration was altered with a line drawn through the box to be signed by Stefan Fiedler.

On 20 May 2005, applicant filed a renewed petition under 37 CFR 1.47(a), which was dismissed on 03 June 2005 indicating that the declaration submitted was executed by the inventors had been altered with a line through a portion of the address of inventor Rudolf Schinagl and was unacceptable. Petitioner was advised that a newly executed declaration was required.

On 02 August 2005, Petitioner filed a renewed petition under 37 CFR 1.47(a) along with a newly executed declaration.

DISCUSSION

As previously stated, 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).

Petitioner has previously satisfied Items (1), (2) and (3).

A new acceptable oath or declaration executed by Karl-Heinz Hecker and Rudolf Schinagl, in compliance with 37 CFR 1.497, has been provided to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States. Thus, Item (4) is now satisfied.

Accordingly, it is now appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The declaration of inventors submitted by applicants on 02 August 2005 is acceptable. 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 02 August 2005. The application has an international filing date of 12 March 2002 under 35 U.S.C. 363, and a date of 02 August 2005 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 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 United States Designed/Elected Office (DO/EO/US) for processing as the U.S. National Stage of the above-identified international application.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile (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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

COPY MAILED

DEC 21 2007

OFFICE OF PETITIONS

In re Application of :
Manfred Langen :
Application No. 10/472,063 : ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. 1454.1499

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on December 6, 2007.

The petition is **DISMISSED**.

The record reflects that a final Office action mailed March 27, 2007, allowing a shortened statutory period for reply of three months from its mailing date. A response in the form of an amendment was filed on June 27, 2007. The examiner assigned to this application determined that the response of June 27, 2007, did not place the application in condition for allowance as was communicated to petitioner by an Advisory Action mailed July 31, 2007. The application became abandoned on June 28, 2007. A Notice of Abandonment was mailed November 16, 2007.

Petitioner maintains that a Request for Continued Examination was also filed on June 27, 2007, but was not noted by the USPTO.

Section 711.03 of the *Manual of Patent Examining Procedure* provides guidance where, as in this case, petitioner is arguing that a timely response to the Office action was mailed and provides, in pertinent part, that:

> 37 CFR 1.10(c) through 1.10(e) >and 1.10(g)< set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), * (e)>, or (g)< (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of

abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

The above-cited section of the MPEP explains that in order for correspondence to receive a filing date as of the date of deposit with the United States Postal Service (USPS), the correspondence must either be mailed via USPS Express Mail, or the correspondence must contain a proper certificate of mailing pursuant to 37 CFR 1.8. Correspondence may also receive the date of the receipt with the USPTO if petitioner provides an itemized Office date-stamped postcard whereby the USPTO acknowledges receipt of the item mailed. There is no evidence that petitioner used the procedures provided in 37 CFR 1.8 and 1.10, which, if properly utilized, would allow a filing to be accorded a filing date as of the date mailed or deposited, respectively, rather than the date the filing was received by the Office. The certificate of mailing procedures under 37 CFR 1.8 allow for a filing date to be accorded as of the date the filing was mailed rather than the date the filing was received by the Office provided the procedures set out in 37 CFR 1.8 are followed and the filing is not excepted under 37 CFR 1.8(2)(i). The procedures under 37 CFR 1.10 allow correspondence deposited with the United States Postal Service Express Mail Service pursuant to 37 CFR 1.10 to be accorded a filing date as of the date-in shown on the Express Mail label rather than the date the filing was received by the Office. Filings made by any other mail service, i.e., first class postage, USPS certified mail, FEDEX, Priority Mail, will not receive the benefit of 37 CFR 1.10.

The holding of abandonment will not be withdrawn because petitioner has not provided *prima facie* evidence that the Request for Continued Examination was deposited with the USPS Express Mail Service within the period for reply, and has not provided a certificate of mailing pursuant to 37 CFR 1.8, or an USPTO date-stamped postcard showing that the Request for Continued Examination was filed or deposited in the mail on, or before, June 27, 2007. The petition is dismissed accordingly.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1540.00 for a large entity and $770.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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
SEP 11 2008

In re Application of :
Manfred Langen :
Application No. 10/472,063 : ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. 1454.1499

This is a decision on the "Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment or in the Alternative to Revive under 37 CFR 1.137(a) or 1.137(b), filed on January 10, 2008.

The petition is **DISMISSED AS MOOT**.

The record reflects that a final Office action mailed March 27, 2007, allowing a shortened statutory period for reply of three months from its mailing date. A response in the form of an amendment was filed on June 27, 2007. The examiner assigned to this application determined that the response of June 27, 2007, did not place the application in condition for allowance as was communicated to petitioner by an Advisory Action mailed July 31, 2007. The application became abandoned on June 28, 2007. A Notice of Abandonment was mailed November 16, 2007. A petition to withdraw the holding of abandonment was first filed on December 6, 2007, and dismissed by a decision mailed December 21, 2007.

The instant petition is being dismissed as moot in light of the request to expressly abandon the application under 37 CFR1.138 filed January 23, 2008. It is noted that the request to expressly abandon the application has not been acknowledged by the USPTO. The instant petition is not being treated on its merits, however, because to do so would likely result in confusion regarding the disposition of the application after the request to expressly abandon the application is entered. No petition fee was charged.

Further correspondence with respect to this matter should be addressed as follows:

United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

The Application file is being directed to the Office of Pre-Grant Publications, in the Office of Data Management for treatment of the request under 37 CFR 1.138, January 23, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

15 NOV 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

James C. Lydon
100 Daingerfield Road
Suite 100
Alexandria, VA 22314

In re Application of PANGAUD, Nicolas Application No.: 10/472,066 PCT No.: PCT/FR03/00149 Int. Filing Date: 17 January 2003 Priority Date: 17 January 2002 Docket No.: ASK-008 For: METHOD FOR IDENTIFICATION BY A HOST COMPUTER AVOIDING COLLISION OF ELEMENTS	DECISION ON PETITION UNDER 37 CFR 1.181

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 in the above-captioned application on 02 November 2005. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 17 January 2003, applicant filed international application PCT/FR03/00149, claiming a priority date of 17 January 2002. A copy of the international application was transmitted to the Office on 24 July 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 17 July 2004.

On 16 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 20 January 2004, the Office mailed Notification of Missing Requirements, indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and a translation of the drawings were required. The Notification set a reply time of 2 months from the mail date of the Notification or 32 months from the priority date, whichever was later. Extensions of time were available.

On 28 October 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 18 November 2004, applicant supplied the petition fee for revival, the processing fee for late submission of the translation and the surcharge for filing the declaration later than thirty months from the priority date.

On 02 November 2005, applicant submitted a copy of a petition to revive that applicant claims was submitted on 18 November 2004. The petition bore a certificate of mailing under 37 CFR 1.8.

On 04 November 2005, applicant submitted a postcard receipt listing the petition to revive, a declaration and the corrected drawings. The postcard was stamped 18 November 2004.

DISCUSSION

The Notification of Abandonment mailed 28 October 2004 issued in error. The Notification is vacated. The application did not become abandoned until 17 September 2004, with extensions of time available for 5 months.

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

On 04 November 2005, applicant submitted a petition including a postcard for the original submission of the 37 CFR 1.137(b) petition, a copy of which was submitted on 02 November 2005. The postcard receipt lists the declaration of the inventor and the corrected drawings. However, copies of those documents did not accompany this petition. Copies of those documents are required. If they were furnished on 18 November 2004, this application was not abandoned. However, if those documents did not accompany the 18 November 2004 submission, the application went abandoned for failure to properly reply to the Notification. In such an event, the Office will then treat the petition to revive.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response in the form of the declaration of the inventor and corrected drawings 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 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

#8

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

01 FEB 2006

James C. Lydon
100 Daingerfield Road
Suite 100
Alexandria, VA 22314

In re Application of	:	
PANGAUD, Nicolas	:	
Application No.: 10/472,066	:	DECISION
PCT No.: PCT/FR03/00149	:	
Int. Filing Date: 17 January 2003	:	ON PETITION UNDER
Priority Date: 17 January 2002	:	
Docket No.: ASK-008	:	37 CFR 1.181
For: METHOD FOR IDENTIFICATION BY A HOST COMPUTER AVOIDING COLLISION OF ELEMENTS	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.181," filed in the above-captioned application on 21 November 2005 and the supplemental submission of 30 January 2006.

BACKGROUND

On 17 January 2003, applicant filed international application PCT/FR03/00149, claiming a priority date of 17 January 2002. A copy of the international application was transmitted to the Office on 24 July 2003. The deadline for entry into the national stage in the United States was thirty months from the priority date, 17 July 2004.

On 16 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 20 January 2004, the Office mailed Notification of Missing Requirements, indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and a translation of the drawings were required. The Notification set a reply time of 2 months from the mail date of the Notification or 32 months from the priority date, whichever was later. Extensions of time were available.

On 28 October 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 18 November 2004, applicant supplied the petition fee for revival, the processing fee for late submission of the translation and the surcharge for filing the declaration later than thirty months from the priority date.

On 02 November 2005, applicant submitted a copy of a petition to revive that applicant claims was submitted on 18 November 2004. The petition bore a certificate of mailing under 37 CFR 1.8.

On 04 November 2005, applicant submitted a postcard receipt listing the petition to revive, a declaration and the corrected drawings. The postcard was stamped 18 November 2004.

On 15 November 2005, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicant's petition without prejudice.

On 21 November 2005, applicant submitted the instant renewed petition.

On 30 January 2006, applicant submitted a supplemental submission of the petition under 37 CFR 1.181.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant previously supplied a postcard receipt date stamped by the USPTO, indicating that a declaration and replacement drawings were received for this application. Applicant has now submitted copies of the declaration and the drawings that applicant claims to have submitted on 18 November 2004 and has stated that they are copies of what was submitted on that day. The replacement drawings and declaration are accepted as having been received on 18 November 2004. As such, the application never became abandoned.

The fee for a two month extension of time will be charged to deposit account no. 50-1258, as authorized. The petition to revive fee of $685 paid 18 November 2004, will be refunded to deposit account no. 50-1258, as authorized.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

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.

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 **18 November 2004**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

07 SEP 2004

#6

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

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
PHILADELPHIA PA 19103-2212

In re Application of BOTT, Rainer et al. Application No.: 10/472,070 PCT No.: PCT/EP02/00906 Int. Filing Date: 29 January 2002 Priority Date: 16 March 2001 Attorney Docket No.: M1211/20016 For: METHOD FOR THE FREQUENCY AND TIME SYNCHRONIZATION OF AN OFDM RECEIVER	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is in response to applicants' "Petition Under 37 CFR §1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 03 May 2004.

BACKGROUND

On 29 January 2002, applicants filed international application PCT/EP02/00906, claiming a priority date of 16 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 11 October 2002, within nineteen months from the priority date. The deadline for paying the basic national fee in the United States expired at midnight on 16 September 2003.

On 16 September 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 04 March 2004, USPTO mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 03 May 2004, applicants submitted "Response to Notification of Missing Requirements," accompanied by a declaration executed by two of the three inventors and a petition under 37 CFR 1.47(a).

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 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 non-signing applicant.

Items (1), (3) and (4) have been satisfied. The fee under 37 CFR 1.17(h) has been paid. Applicants state that the last known address of inventor Dimitri Korobkov is Leerbachstraβe 50, 60322 Frankfurt, Germany. The declaration submitted 03 May 2004 complies with 37 CFR 1.47(a) and 37 CFR 1.497(a)-(b).

Item (2) has not been satisfied. Applicants have not supplied translations of the documentation supporting the contention that inventor Korobkov has refused to sign the declaration. Non-translated foreign language documents are not considered.

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.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

16 DEC 2004

#8

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

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA PA 19103-2212

In re Application of BOTT, Rainer et al. Application No.: 10/472,070 PCT No.: PCT/EP02/00906 Int. Filing Date: 29 January 2002 Priority Date: 16 March 2001 Attorney Docket No.: M1211/20016 For: METHOD FOR THE FREQUENCY AND TIME SYNCHRONIZATION OF AN OFDM RECEIVER	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is in response to applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 05 November 2004.

BACKGROUND

On 29 January 2002, applicants filed international application PCT/EP02/00906, claiming a priority date of 16 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 11 October 2002, within nineteen months from the priority date. The deadline for paying the basic national fee in the United States expired at midnight on 16 September 2003.

On 16 September 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 04 March 2004, USPTO mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 03 May 2004, applicants submitted "Response to Notification of Missing Requirements," accompanied by a declaration executed by two of the three inventors and a petition under 37 CFR 1.47(a).

On 07 September 2004, the Office dismissed the petition under 37 CFR 1.47(a) without prejudice.

On 05 November 2004, applicants submitted a renewed petition under 37 CFR 1.47(a).

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 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 non-signing applicant.

Items (1), (3) and (4) were previously satisfied. The fee under 37 CFR 1.17(h) has been paid. Applicants state that the last known address of inventor Dimitri Korobkov is Leerbachstraβe 50, 60322 Frankfurt, Germany. The declaration submitted 03 May 2004 complies with 37 CFR 1.47(a) and 37 CFR 1.497(a)-(b).

Item (2) has now been satisfied. Applicants have supplied translations of the documentation supporting the contention that inventor Korobkov has refused to sign the declaration.

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 **03 May 2004**.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

16 DEC 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

Dimitri Korobkov
Leerbachstraße 50
60322 Frankfurt
Germany

In re Application of
BOTT, Rainer et al.
Application No.: 10/472,070
PCT No.: PCT/EP02/00906
Int. Filing Date: 29 January 2002
Priority Date: 16 March 2001
Attorney Docket No.: M1211/20016
For: METHOD FOR THE FREQUENCY AND TIME SYNCHRONIZATION OF AN OFDM RECEIVER

Dear Mr. Korobkov:

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 M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA PA 19103-2212

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

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

COPY MAILED

DEC 01 2006

OFFICE OF PETITIONS

In re Application of	:	
Brian K. Johnson, et al.	:	
Application No. 10/472,071	:	DECISION ON PETITION
Filed: October 23, 2003	:	TO WITHDRAW
Attorney Docket No. PUEL-0030	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 10, 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, "transfer of responsibility of this application", do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: BLANK ROME LLP
ONE LOGAN SQUARE
PHILADELPHIA, PA 19103

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

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

COPY MAILED

SEP 04 2007

OFFICE OF PETITIONS

In re Application of	
James McGreevy et al.	
Application No. 10/472,077	DECISION ON PETITION
Filed: September 15, 2003	TO WITHDRAW
Attorney Docket No. 0274-7181.2US	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed July 19, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Allen C. Turner on behalf of all attorneys associated with customer number 24247. All attorneys/agents associated with customer number 24247 have been withdrawn.

There are no outstanding office actions 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. Accordingly, all correspondence will be mailed to the assignee. A courtesy copy of this decision is being mailed to the address noted on the request for withdrawal as attorney. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc: University of Utah Research Foundation
615 Arapeen Drive, Suite 100
Salt Lake City, UT 84108

cc: Heller Ehrman
275 Middlefield Road
Menlo Park, CA 94025

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
10/472,077	09/15/2003	James McGreevy	0274-7181.2US

CONFIRMATION NO. 9796

OC000000025656465

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Date Mailed: 09/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/19/2007.

- 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.

Kimberly Grabinet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199 .
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

MAILED

OCT 22 2009

OFFICE OF PETITIONS

In re Application of	:	
James McGreevy et al.	:	
Application No. 10/472,077	:	DECISION ON PETITION
Filed: September 15, 2003	:	TO WITHDRAW
Attorney Docket No. 2323-236	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed July 15, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 38706 application has been revoked by the assignee of the patent application on August 5, 2009. Accordingly, the request to withdraw under 37 CFR § 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 the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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

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
Haataja et al. :
Application No. 10/472,093 :
Filed: May 7, 2004 : NOTICE
Attorney Docket Number: STR14 P-309 :

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

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

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Vladimir Isfandeyarovich Adzhalov	: DECISION ON REQUEST FOR
Patent Number	: 7590352	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/472,102	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1766** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7021819 B2
Ser. No. : 10/472,119
Inventor(s) : SCHMIEDCHEN, CHRISTIAN
Issued : 04/04/06
Title : **TIMEPIECE INCLUDING A STRIKING WORK**
Docket No. : **ICB0156**

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 Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

GRIFFIN BUTLER WHISENHUNT & SZIPL LLP
SUITE PH-1
2300 NINTH STREET SOUTH
ARLINGTON VA 22204-2396

LMN

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

GRIFFIN BUTLER WHISENHUNT & SZIPL LLP
SUITE PH-1
2300 NINTH STREET SOUTH
ARLINGTON VA 22204-2396

COPY MAILED
SEP 12 2006
OFFICE OF PETITIONS

In re Patent of	:	
Schmiedchen	:	
Patent No. 7,021,819	:	
Issue Date: April 4, 2006	:	Decision on Petition
Application No. 10/472,119	:	
Filing Date: September 22, 2003	:	
Attorney Docket No. ICB0156	:	

This is a decision on the petition under 37 CFR § 37 CFR 3.81, filed June 12, 2006, to accept the correction of the assignee data.

The request under 37 CFR 3.81 is **dismissed**.

37 CFR 3.81(b) currently states:

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(I) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(I) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has not met the requirements set forth above because the assignment correction was submitted for recordation after issuance of the patent. Therefore, the request is dismissed.

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

The file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT
AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.g

Date Mailed: December 18, 2008
Patent No. :7,378,279 B2
Ser. No. :10/472132
Inventor(s) :Andrew Biotec
Title : EXAMINATION DEVICE AND METHOD FOR EXAMINATION OF CHEMICAL AND/OR BIOLOGICAL SAMPLES

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 is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford, CT 06901-2682

MD/mt

10 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Ronald J. Baron
Hoffmann & Barron LLP
6900 Jericho Turnpike
Syoset, New York 11791

In re Application of AUGUSTIJN, Cathelign Dine et al. Application No.:10/472,137 PCT Application No.: PCT/NL01/00690 International Filing Date: 17 September 2001 Priority Date: 15 September 2000 Attorney Docket No.: 294-159 PCT/US For: ASSEMBLY NEEDLE AND A FLUID SUPPLY DEVICE AND METHODS OF THEIR USE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

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 (USPTO) on 12 September 2003 is **GRANTED**.

BACKGROUND

On 17 September 2001, applicant filed international application number PCT/NL01/00690. This application claims priority of a Dutch application that was filed on 15 September 2000. A copy of the international application was transmitted by the International Bureau on 21 March 2002. The deadline for paying the basic national fee for the United States National Stage was thirty months from the priority date, that is 17 March 2003 (15 March 2003 fell on a Saturday).

On 12 September 2003, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, a petition to revive, a signed declaration of the inventors, and a check in the amount of $1,182, which is greater than the sum of the basic national fee for this application and the petition fee (applicant claims small entity status).

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 proper reply, (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 08 June 1995). A proper reply requires payment of the basic national fee and a copy of the international application, if such a copy has not already been communicated by the International Bureau.

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. A copy of the international application was previously communicated by the International Bureau and applicant has sent in a courtesy copy. 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 under 37 CFR 1.137(b) to revive the application abandoned is as to the National Stage in the United States of America is **GRANTED** .

The application has an international filing date of 17 September 2001 under 35 U.S.C. §363 and a date of 02 September 2003 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.

Beverly for

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Ankur Parekh
Ankur Parekh
Detailee
PCT Legal Administration

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

29 NOV 2004

#3

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

BACON & THOMAS, PLLC
625 Slaters Lane- Fourth Floor
Alexandria, Virginia 223124-1176

In re Application of	:	DECISION ON
Kotlar et al	:	
Application No.: 10/472,181	:	
PCT No.: PCT/EP02/03509	:	PETITION
Int. Filing Date: 27 March 2002	:	
Priority Date: 30 March 2001	:	
Attorney's Docket No.:KOTL3001/REF	:	UNDER 37 CFR 1.182
For: METHOD OF WELL TREATMENT	:	

This decision is in response to the "PETITION TO THE COMMISSIONER" faxed on 24 February 2004, which is being treated as a petition under 37 CFR 1.182 to accept entry of the above identified application into the national stage with the corrected PCT number of PCT/EP02/03509. Applicants have paid the petition of $130.00 by check.

BACKGROUND

On 27 March 2002, this international application was filed, claiming an earliest priority date of 30 March 2001.

On 26 September 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied, inter alia, by the requisite basic national fee as required by 35 U.S.C. 371 (c)(1). However, no oath or declaration of the inventors accompanied the transmittal letter.

On 24 Febraury 2004 faxed a copy of the petition submitted on 08 October 2003 with a stamped postcard indicating that those items were received on such date.

DISCUSSION

Applicants state that above national phase application had a typographical error in that the PCT number that was entered was incorrect. The international PCT serial number PCT/GB02/03509 was entered instead of the correct number PCT/EP02/03509.

Although applicants entered the incorrect PCT serial number in the transmittal letter, and the wrong international published application was provided, there is sufficient evidence that the correct international application is PCT/EP02/03509 because applicants submitted on 26 September 2003 a correct copy of PCT/EP02/03509.

Accordingly, applicants petition to accept these papers with the corrected PCT number of PCT/EP02/03509 for the instant application is granted.

DECISION

The petition under 37 CFR 1.182 is **GRANTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

28 APR 2004

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

In re Application of MASSEN Application No.: 10/472,203 PCT No.: PCT/EP02/02875 Int. Filing Date: 14 March 2002 Priority Date: 18 March 2001 Attorney Docket No.: 710612-183 For: METHOD AND ARRANGEMENT FOR PHOTOGRAPHICALLY DETECTING THE SPATIAL FORM OF AN OBJECT	DECISION

This is a decision on applicants' "Request for Withdrawal of An Improper Holding of Abandonment" filed in the United States Patent and Trademark Office (USPTO) on 08 March 2004.

On 22 September 2003, applicant filed a transmittal requesting entry into national stage under 35 U.S.C. 371 along with the basic national filing fee. The thirty month deadline for submitting the basic national fee for the above referenced application ended at midnight on Thursday, 18 September 2003.

On 30 January 2004, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to provide the full basic national fee by the 30 month deadline.

On 08 March 2004, applicant filed the instant petition requesting withdrawal of the improper holding of abandonment due to the official closing of the USPTO on 18 September and 19 September 2003.

Federal and District of Columbia government offices, including the United States Patent and Trademark Office (USPTO), were officially closed for the entire days of 18 and 19 September 2003, as a result of adverse weather conditions. Under such conditions, the USPTO considers each of those days as a "federal holiday within the District of Columbia" under 35 U.S.C. 21. *See* OG Notice dated 21 October 2003, entitled "Closing of the United States Patent and Trademark Office on Thursday, September 18, 2003, and Friday, September 19, 2003".

Since the PTO was officially closed on 18 and 19 September 2003, by order of the Office of Personnel Management, no papers could be deposited or accepted in the Office on that day. Any action or fee due on that day is considered timely if the action was taken, or the fee paid, on the next succeeding business day on which the USPTO was opened, i.e., 22 September 2003.

The above identified national stage application was submitted on 22 September 2003.

Pursuant to 37 CFR 1.495, the filing of the present application on 22 September 2003 is considered timely in light of the closing of the United States Patent and Trademark Office on Thursday, September 18, 2003 and Friday, September 19, 2003 due to inclement weather. Thus, the petition is **GRANTED**.

The application will be returned to United States Designated/Elected Office for further processing with a 35 U.S.C. 371(c)(1),(c)(2) and (c)(4) date of **22 September 2003.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467

10 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Nixon & Vanderhye, P.C.
1100 North Glebe Rd., 8th Floor
Arlington, VA 22201-4714

In re Application of	:	
Ward et al.	:	
Application No. 10/472,226	:	DECISION ON
PCT No.: PCT/GB01/03937	:	
Int. Filing Date: 31 August 2001	:	PETITION UNDER
Priority Date: 01 September 2000	:	
Atty. Docket No.: 604-683	:	37 CFR 1.137(b)
For: Extruded Battery Components	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 22 September 2003.

BACKGROUND

This international application was filed on 31 August 2001, claimed an earliest priority date of 01 September 2000, and designated the U.S. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. The 30 month time period for paying the basic national fee in the United States expired at midnight on 03 March 2003 (since 01 March 2003 was a Saturday). 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 required reply (in the form of the basic national fee) accompanied the petition.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes statements that this application "was unintentionally abandoned by virtue of the failure to timely file a declaration and pay the filing fee," and that "the entire delay in filing the required application papers from the due date for filing the application papers until the filing of the present grantable petition was

unintentional." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED** as to the national stage in the United States.

Counsel's Deposit Account No. 14-1140 is being charged in the amount of $130.00 for the surcharge under 37 CFR 1.492 (e), as authorized by the petition.

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 **22 September 2003**.

By authority for

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MILLEN WHITE
ZELANO & BRANIGAN
ARLINGTON COURTHOUSE PLAZA I
2200 CLARENDON BOULEVARD SUITE 1400
ARLINGTON, VA 22201

COPY MAILED

JAN 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Gerard Moinet, et al.	:	
Application No.: 10/472,228	:	ON PETITION
Filed: September 22, 2003	:	
Attorney Docket No.: MERCK-2751	:	

This is a decision on the petition, filed January 28, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 27, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

29 JUN 2004
UNITED STATES PATENT AND TRADEMARK OFFICE
29 JUN 2004

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

#6

Leslie Meter-Leon
IP Legal Strategies Group PC
1480 Falmouth Road
PO Box 1210
Centreville, MA 02632-1210

In re Application of ROBINSON, Andrew et al. Application No.: 10/472,260 PCT No.: PCT/GB02/01399 Int. Filing Date: 22 March 2002 Priority Date: 22 March 2001 Attorney's Docket No.: 0525-002US1 For: PATHOGENIC AND COMMENSAL VACCINE ANTIGENS	DECISION ON PETITION UNDER 37 CFR 1.182

This decision responds to "Response to Notification of Missing Requirements" filed in the the United States Patent and Trademark Office on 08 April 2004.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/GB02/01399 claiming a priority date of 22 March 2001. On 03 October 2002, a copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office. On 21 October 2002, applicants filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 22 September 2003.

On 22 September 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 10 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 08 April 2004, applicants submitted the instant petition, a response to the notification of missing requirements and the fee for a four month extension of time.

On 19 May 2004, applicant submitted a declaration in support of the petition under 37 CFR 1.182.

DISCUSSION

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application,

which includes any change effected under PCT Rule 92bis. Applicants have petitioned under 37 CFR 1.182 to change the name of inventor Kerry Jane Oliver. Applicants indicate that Kerry Jane Oliver and Kerry Jane Setchfield are one and the same person and that her name changed subsequent to her marriage. The requirements to change the inventor's name have been satisfied.

The declaration of the inventors submitted on 08 April 2004, does not comply with 37 CFR 1.497 (a)-(b). Applicants have supplied four pages "1 of 2", two pages "1 of 3", one page "2 of 3", two pages "3 of 3", and one page "2 of 2" for the declaration. While it is acceptable for inventors to execute different copies of the declaration, applicants must supply **the full copy of the declaration executed by each inventor**. Applicants may not piece together pages from different declarations to create a composite declaration. Applicants must supply complete declarations in compliance with 37 CFR 1.497(a)-(b).

Additionally, the declaration does not comply with 37 CFR 1.497(a) as it identifies inventor Setchfield by a name that is no longer her legal name.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.182 is **GRANTED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497(a)-(b) within a time limit of **ONE (1) MONTH** from the mail date of this decision or within the time remaining in the response set forth in the Notification of Missing Requirements (Form PCT/DO/EO/905), whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136(a), but the period for response set in the Notification of Missing Requirements may be extended up to a maximum of five months. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Response to Notification of Defective Response."

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

10 SEP 2004

#4

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

Leslie Meter-Leon
IP Legal Strategies Group PC
1480 Falmouth Road
PO Box 1210
Centreville, MA 02632-1210

In re Application of ROBINSON, Andrew et al. Application No.: 10/472,260 PCT No.: PCT/GB02/01399 Int. Filing Date: 22 March 2002 Priority Date: 22 March 2001 Attorney's Docket No.: 0525-002US1 For: PATHOGENIC AND COMMENSAL VACCINE ANTIGENS	DECISION

This decision responds to "Submission of Signed Declarations in Compliance with 37 CFR 1.497(a)-(b)" filed in the United States Patent and Trademark Office on 26 July 2004.

BACKGROUND

On 22 March 2002, applicants filed international application PCT/GB02/01399 claiming a priority date of 22 March 2001. On 03 October 2002, a copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office. On 21 October 2002, applicants filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 22 September 2003.

On 22 September 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 10 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 08 April 2004, applicants submitted the instant petition, a response to the notification of missing requirements and the fee for a four month extension of time.

On 19 May 2004, applicant submitted a declaration in support of the petition under 37 CFR 1.182.

On 29 June 2004, the Office mailed Decision On Petition Under 37 CFR 1.182, granting applicants' petition under 37 CFR 1.182, but requiring a new declaration in compliance with 37 CFR 1.497(a)-(b).

DISCUSSION

The declarations submitted 26 July 2004 comply with 37 CFR 1.497(a)-(b).

CONCLUSION

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 26 July 2004 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

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

10 MAR 2004

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Patent Department
Bayer CropScience LP
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of	:	
PLANT, Andrew, et al.	:	
Application No.: 10/472,270	:	DECISION ON
PCT No.: PCT/EP02/02684	:	
Int. Filing Date: 12 March 2002	:	REQUEST
Priority Date: 22 March 2001	:	
Attorney's Docket No.: CS-7911/LeA 34,884	:	UNDER 37 CFR 1.42
For: Δ^1-PYRROLINES	:	

This is a decision on applicants' "Submission of Missing Parts of Application Under 37 CFR 1.53," filed 12 December 2003, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 12 March 2002, applicants filed international application PCT/EP02/02684, claiming a priority date of 22 March 2001. A Demand electing the United States was filed on 17 July 2002, within nineteen months of the priority date. The deadline for submitting the basic national fee to prevent abandonment of the international application as to the United States expired at midnight of 22 September 2003.

On 19 September 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 20 October 2003, the office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors and the surcharge for late filing of the oath or declaration were required.

On 12 December 2003, applicants filed the instant request accompanied by a declaration of the inventors.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 C.F.R. 1.42.

The declaration provided does not state that the heir, Angelika Lubos-Erdelen is the sole heir of Christoph Erdelen. If a legal representative has been or is required to be appointed under applicable law, such person must sign the declaration and indicate the relationship, e.g., "legal representative of inventor Christoph Erdelen.". Otherwise, all heirs of Christoph Erdelen must sign the declaration and indicate the relationship, *e.g.*, "sole heir of Christoph Erdelen," or "legal representative of Christoph Erdelen." The indication that Angelika Lubos-Erdelen is an heir leaves open the possibility that there are other non-signing joint heirs. Applicant has furnished a Certificate of Inheritance, but it is in German and a translation has not been furnished. Only evidence presented in English will be considered.

CONCLUSION

For the above reasons, the request for status under 37 C.F.R. 1.42 is **REFUSED**.

Applicants are required to submit an oath or declaration in compliance with 37 C.F.R. 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 C.F.R. 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

31 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Patent Department
Bayer CropScience LP
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of	:	
PLANT, Andrew, et al.	:	
Application No.: 10/472,270	:	DECISION ON
PCT No.: PCT/EP02/02684	:	
Int. Filing Date: 12 March 2002	:	REQUEST
Priority Date: 22 March 2001	:	
Attorney's Docket No.: CS-7911/LeA 34,884	:	UNDER 37 CFR 1.42
For: Δ^1-PYRROLINES	:	

This is a decision on applicants' "Response to Decision On Request Under 37 CFR 1.42," filed in the United States Patent and Trademark Office on 19 March 2004.

BACKGROUND

On 12 March 2002, applicants filed international application PCT/EP02/02684, claiming a priority date of 22 March 2001. A Demand electing the United States was filed on 17 July 2002, within nineteen months of the priority date. The deadline for submitting the basic national fee to prevent abandonment of the international application as to the United States expired at midnight of 22 September 2003.

On 19 September 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 20 October 2003, the office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors and the surcharge for late filing of the oath or declaration were required.

On 12 December 2003, applicants filed a request under 37 CFR 1.42, accompanied by a declaration of the inventors.

On 10 March 2004, the Office mailed Decision On Request Under 37 CFR 1.42, dismissing applicants' request without prejudice.

On 19 March 2004, applicants submitted the instant renewed request.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 C.F.R. 1.42.

The translation of the deed of inheritance indicates that Angelika Lubos-Erdelen is the legal representative of the estate of deceased inventor Christoph Erdelen. 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 12 March 2002 under 35 U.S.C. §363 and a date of 12 December 2003 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.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

19 FEB 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

#3

Ross T. Robinson
Jenkens & Gilchrist, P.C.
1445 Ross Avenue, Suite 3200
Dallas, Texas 75202-2799

In re Application of	:	
BOWLES, Angela	:	
Application No.: 10/472,287	:	
PCT Application No.: PCT/AU02/00195	:	DECISION ON
International Filing Date: 25 February 2002	:	
Priority Date: 26 February 2001	:	PETITION
Attorney Docket No.: 61229-00002	:	
For: PRIMARY PRODUCTS	:	UNDER 37 CFR 1.137(b)
PRODUCTION SYSTEM	:	
AND METHOD	:	

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 United States Patent and Trademark Office on 19 September 2003 is **GRANTED**.

BACKGROUND

On 25 February 2002, applicant filed international application number PCT/AU02/00195, claiming priority of an earlier Australian application, filed on 26 February 2001. A copy of the international application was transmitted by the International Bureau on 06 September 2002. The United States of America was designated in the Request, and the Demand was filed on 23 September 2002. The thirty month period for paying the basic national fee in the United States expired at midnight on 26 August 2003, with the result that the international application became abandoned as to the United States of America on that date.

On 19 September 2003, the present petition to revive was submitted with authorization to pay the petition fee. On 19 September 2003, applicant also filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. On 21 October 2003, applicant filed an inventor declaration.

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, applicant's statement that "the entire delay in entering the U.S. National phase from the due date for entering the U.S. National Phase until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3).

With regard to item (2) above, applicant filed the national stage filing papers and fees on 19 September 2003.

With regard to item (3) above, applicant has authorized the required petition fee.

With regard to item (4), a terminal disclaimer is not required as application was filed after 08 June 1995.

Accordingly, all requirements 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 National Stage in the United States of America.

The application has an international filing date of 25 February 2002 under 35 U.S.C. 363 and a date of 21 October 2003 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.

Michael La Villa
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) 308-3659
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

15 AUG 2007

KNOBLE, YOSHIDA & DUNLEAVY, LLC
EIGHT PENN CENTER, SUITE 1350
1628 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PA 19103

In re Application of STANLEY BABOWICZ Application No.: 10/472,293 PCT No.: PCT/US03/07558 Int. Filing Date: 13 March 2002 Priority Date: 19 March 2001 Attorney's Docket No.: SUNX-0009US For: APPARATUS AND METHOD FOR DIGITAL CONTENT CONCEALMENT	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

This is a decision on Applicant's "Submission of Declaration", treated as a renewed Petition under 37 CFR 1.47(b)", filed 21 October 2005 to permit petitioner (applicant) to file the above-captioned application. Petitioner's request for a four month extension of time is granted.

BACKGROUND

On 15 April 2004, 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 15 November 2004, in response to the Notification of Missing Requirements, Petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b).

On 18 April 2005, a decision dismissing applicant's petition was mailed. On 21 October 2005, applicant submitted a declaration executed by the previously nonsigning inventor, along with a request for a four month extension of time.

DISCUSSION

A review of the declaration reveals that the declaration identifies and is executed by the previously nonsigning inventor, and states the residency, citizenship and mailing address of the sole inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b).

The renewed petition under 37 CFR 1.47(b) is considered moot as declaration executed by the previously unavailable inventor has now been submitted and is acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(b) is considered **MOOT**.

The declaration executed by the sole inventor and submitted on 21 October 2005 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **21 October 2005.**

Cynthia M. Kratz

/Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3286
Fax: 571-273-0459

18 APR 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

KNOBLE, YOSHIDA & DUNLEAVY, LLC
EIGHT PENN CENTER, SUITE 1350
1628 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PA 19103

In re Application of STANLEY BABOWICZ Application No.: 10/472,293 PCT No.: PCT/US03/07558 Int. Filing Date: 13 March 2002 Priority Date: 19 March 2001 Attorney's Docket No.: SUNX-0009US For: APPARATUS AND METHOD FOR DIGITAL CONTENT CONCEALMENT	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

This is a decision on Applicant's "Petition under 37 CFR 1.47(b)", filed 15 November 2004 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing sole inventor, Stanley Babowicz. Petitioner's request for a five month extension of time is granted.

BACKGROUND

On 15 April 2004, 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 15 November 2004, in response to the Notification of Missing Requirements, Petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by a Statement of Facts under 37 CFR 1.47 of John L. Knoble, regarding inventor Babowicz's refusal to sign the application. The combined declaration and power of attorney submitted was executed under 37 CFR 1.47(b), on behalf of the non-signing inventor. Petitioner also submitted the Statement of Peter Jacobs, based upon his first hand knowledge, to establish proprietary interest, along with a copy of the Master Development Agreement accepted and signed by Stanley Babowicz as President of BTEK Software, Inc.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (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 Item (1) with the payment of the petition fee. Item (3) is satisfied by providing the last known address of the nonsigning inventor. Item (6) is satisfied with the statement that "In the above listed Application the filing date of September 17, 2003 is necessary in order to preserve the rights of the party involved."

Regarding Item (4), as stated in the MPEP §409.03(b), the 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. The declaration submitted is executed by the Chief Executive Officer of the corporation and thus, satisfies Item (4).

However, with respect to Item (2), petitioner has provided the email communications between the nonsigning inventor's attorney (Joel Sannes) and the attorney for the 1.47(b) applicant (James Wees). The emails do not identify any patent application number and thus, do not show that the inventor refuses to sign this application. The 1.47(b) applicant has not provided a statement of facts from James Wees, the person involved in the electronic communications with first hand knowledge of these communications with Mr. Sannes. A statement from Mr. Wees providing the specific facts on the actions referred to by the emails is required.

Regarding Item (5), petitioner is attempting to prove that the 37 CFR 1.47(b) applicant (SunnComm) has sufficient proprietary interest in the subject matter to justify filing the application. The Master Development Agreement between SunnComm and BTEK was signed by Mr. Babowicz as President of BTEK, attached to the petition and referenced in Peter Jacobs' statement. The agreement pertains to development of programming materials on behalf of SunnComm by BTEK.

The Master Development Agreement is not an assignment or employment agreement between Mr. Babowicz and BTEK or SunnComm. It is a contract between SunnComm and BTEK. According, the 1.47(b) applicant must prove that BTEK has rights to this invention. The 1.47(b) applicant must also show that the Master Development Agreement encompasses this invention.

MPEP Section 409.03 (f) states, in part, where the invention has <u>not</u> been assigned, and there is <u>no written agreement to assign</u>, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Furthermore, the certificate under 37 CFR 3.73 was not provided and is required. Thus, Item (5) is not satisfied.

Accordingly, Item (2) and (5) above has not been satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

<u>CONCLUSION</u>

The petition under 37 CFR 1.47(b) is **<u>DISMISSED WITHOUT PREJUDICE</u>**.

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.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3286
Fax: 571-273-0459

#8

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

15 AUG 2007

KNOBLE, YOSHIDA & DUNLEAVY, LLC
EIGHT PENN CENTER, SUITE 1350
1628 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PA 19103

In re Application of STANLEY BABOWICZ Application No.: 10/472,293 PCT No.: PCT/US03/07558 Int. Filing Date: 13 March 2002 Priority Date: 19 March 2001 Attorney's Docket No.: SUNX-0009US For: APPARATUS AND METHOD FOR DIGITAL CONTENT CONCEALMENT	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

This is a decision on Applicant's "Submission of Declaration", treated as a renewed Petition under 37 CFR 1.47(b)", filed 21 October 2005 to permit petitioner (applicant) to file the above-captioned application. Petitioner's request for a four month extension of time is granted.

BACKGROUND

On 15 April 2004, 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 15 November 2004, in response to the Notification of Missing Requirements, Petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b).

On 18 April 2005, a decision dismissing applicant's petition was mailed. On 21 October 2005, applicant submitted a declaration executed by the previously nonsigning inventor, along with a request for a four month extension of time.

DISCUSSION

A review of the declaration reveals that the declaration identifies and is executed by the previously nonsigning inventor, and states the residency, citizenship and mailing address of the sole inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b).

The renewed petition under 37 CFR 1.47(b) is considered moot as declaration executed by the previously unavailable inventor has now been submitted and is acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(b) is considered **MOOT**.

The declaration executed by the sole inventor and submitted on 21 October 2005 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **21 October 2005.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3286
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

9/19/05

In re Application of	:	
Stephen B. Leighton	:	
Serial Number: 10/472,298	:	WITHDRAWAL
Filed: February 27, 2004	:	FROM
For: TISSUE ARRAY INSTRUMENT	:	ISSUE

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 to 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. Telephone inquires may be directed to John Kim at 571-272-1142.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

28 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

Sidley Austin Brown & Wood
717 N. Harwood, Suite 3400
Dallas, TX 75201

In re Application of	:	
SUMNER, Lloyd W. et al.	:	
Application No.: 10/472,300	:	
PCT No.: PCT/US02/10079	:	DECISION
Int. Filing Date: 01 April 2002	:	
Priority Date: 30 March 2001	:	
Attorney's Docket No.: 11137/05904	:	
For: SILVER DESTAINING METHOD	:	

This decision is in response to applicants' "Response to Notification of Missing Requirements," filed in the United States Patent and Trademark Office on 05 May 2004.

BACKGROUND

On 01 April 2002, applicants filed international application PCT/US02/10079, which claimed a priority date of 30 March 2001. On 29 October 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 30 September 2003.

On 17 September 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 09 February 2004, 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 05 May 2004, applicant submitted a declaration and the fee for a one month extension of time.

DISCUSSION

The third inventor on the declaration and his information are illegible and applicant indicates that the declaration is signed on behalf of Lloyd Sumner, not by Lloyd Sumner. As such, the declaration does not comply with 37 CFR 1.497.

Additionally, the declaration includes impermissible, non-initialed, non-dated alterations. See 37 CFR 1.52(c)(1). The date on page "6" was clearly added subsequent to the execution of the declaration by the inventor. It is improper for anyone to alter the declaration after execution by the applicant. MPEP605.04(a). Applicants must supply a declaration in compliance with 37 CFR 1.497(a)-(b).

Further, it appears that at least two copies of the declaration were executed. While it is acceptable for inventors to execute different copies of the declaration, applicants must supply **the full copy of the declaration executed by each inventor**. Applicants may not piece together pages from different

declarations to create a composite declaration. It appears that two copies of the declaration were executed. Applicants must supply complete declarations in compliance with 37 CFR 1.497(a)-(b).

Applicants have supplied a power of attorney by the assignee under 37 CFR 3.73. It is signed by Steven Rhines, "Director of Legal Affairs". The title is not one that conveys apparent authority to bind the assignee and Mr. Rhines did not certify that he has the authority to bind the assignee. As such, the power of attorney is defective.

CONCLUSION

Applicants are required to submit a declaration in compliance with 37 CFR 1.497(a)-(b) 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 1.497."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

cc: Robert E. Hanson
Fulbright & Jaworski LLP
600 Congress Avenue, Suite 2400
Austin, TX 78701

14 JAN 2005

#9

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

Sidley Austin Brown & Wood
717 N. Harwood, Suite 3400
Dallas, TX 75201

In re Application of	:	
SUMNER, Lloyd W. et al.	:	
Application No.: 10/472,300	:	
PCT No.: PCT/US02/10079	:	DECISION
Int. Filing Date: 01 April 2002	:	
Priority Date: 30 March 2001	:	
Attorney's Docket No.: 11137/05904	:	
For: SILVER DESTAINING METHOD	:	

This decision is in response to applicants' "Response to Decision," filed in the United States Patent and Trademark Office on 29 November 2004.

BACKGROUND

On 01 April 2002, applicants filed international application PCT/US02/10079, which claimed a priority date of 30 March 2001. On 29 October 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 30 September 2003.

On 17 September 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 09 February 2004, 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 05 May 2004, applicants submitted a declaration and the fee for a one month extension of time.

On 28 July 2004, the Office mailed Decision, dismissing applicant's response without prejudice.

On 29 November 2004, applicants submitted a Petition Under 37 CFR 1.47(a).

On 11 January 2005, applicants submitted a supplement to the Petition Under 37 CFR 1.47(a).

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 $200 has been paid. (3) Applicants list the nonsigning inventor's last known address as 11047 Oak Forest Parkway D, Saint Louis, MO 63146-6407. (4) The 29 November 2004 petition indicated that the declaration was not executed by the actual inventors, but rather had been signed on their behalf. In the 11 January 2005 submission, applicants indicate that this was in error and that the declaration is signed by Mr. Sumner and Ms. Wolf-Sumner. The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47.

Item (2) has not been satisfied. Applicants claim that they have been unable to locate the nonsigning inventor, but applicants do not indicate that they have sent a complete copy of the application papers, including the declaration and specification to inventor's last known address and that it has been returned as undeliverable. As such, applicants do not know whether the address is valid or whether there is a forwarding address in place. Additionally, applicants have not supplied a statement from someone with firsthand knowledge of the internet searches to locate the inventor. Copies of documentary evidence, such as internet searches, should be provided. MPEP 409.03(d).

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.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

cc: Robert E. Hanson
Fulbright & Jaworski LLP
600 Congress Avenue, Suite 2400
Austin, TX 78701

04 APR 2005

#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

Robert E. Hanson
Fulbright & Jaworski LLP
600 Congress Avenue, Suite 2400
Austin, TX 78701

In re Application of	:	
SUMNER, Lloyd W. et al.	:	
Application No.: 10/472,300	:	
PCT No.: PCT/US02/10079	:	DECISION
Int. Filing Date: 01 April 2002	:	
Priority Date: 30 March 2001	:	
Attorney's Docket No.: 11137/05904	:	
For: SILVER DESTAINING METHOD	:	

This decision is in response to applicants' "Renewed Petition Under 37 C.F.R. §1.47(a)," filed in the United States Patent and Trademark Office on 14 March 2005.

BACKGROUND

On 01 April 2002, applicants filed international application PCT/US02/10079, which claimed a priority date of 30 March 2001. On 29 October 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 30 September 2003.

On 17 September 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 09 February 2004, 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 05 May 2004, applicants submitted a declaration and the fee for a one month extension of time.

On 28 July 2004, the Office mailed Decision, dismissing applicant's response without prejudice.

On 29 November 2004, applicants submitted a Petition Under 37 CFR 1.47(a).

On 11 January 2005, applicants submitted a supplement to the Petition Under 37 CFR 1.47(a).

On 14 January 2005, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 14 March 2005, applicants filed the instant renewed petition.

DISCUSSION

Applicants' petition under 37 CFR 1.47(a) is dismissed as moot as applicants have supplied a declaration executed the previously non-signing inventor.

The 14 March 2005 declaration and the 29 November 2004 declaration, in combination, comply with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

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. The application has a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **14 March 2005**.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 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

ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE, LYONS AND KITZINGER, LLC
SUITE 5450 SEARS TOWER
CHICAGO IL 60606-6306

COPY MAILED
JAN 30 2007
OFFICE OF PETITIONS

In re Application of	:	
Abe et al.	:	
Application No. 10/472312	:	DECISION
Filing or 371(c) Date: 02/17/2004	:	ON PETITION
Patent No.: 6,953,939	:	
Issue Date: 10/11/2005	:	
Attorney Docket No.	:	
075834.00330	:	

This is a decision on the "Petition for Certificate of Correction", filed April 28, 2006. The petition is properly treated under 37 CFR 3.81(b) [1]. The delay in treating this petition is regretted.

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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

NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Johnathan A Napier	: DECISION ON REQUEST FOR
Patent Number	: 7601889	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/472,321	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **262** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

Mail Date: 05/18/2010

Applicant : Johnathan A Napier
Patent Number : 7601889
Issue Date : 10/13/2009
Application No : 10/472,321
Filed : 09/22/2003

: 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 **344** 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).

2 FEB 2004

#5

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

Schlumberger Sema, Inc.
30000 Mill Creek Ave.
Suite 100
Alpharetta, GA 30022

In re Application of FOUGEROUX et al. Serial No.: 10/472,323 PCT No.: PCT/FR01/04122 Int. Filing Date: 20 December 2001 Priority Date: 21 December 2000 Attorney's Docket No.: 71.03926 For: OPTIMISED MANAGEMENT METHOD FOR ALLOCATING MEMORY WORKSPACE OF AN ON-BOARD SYSTEM AND CORRESPONDING ONBOARD SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 18 September 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 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. The date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is **18 September 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration Office

Telephone: (703) 306-5467
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

Westman Champlin & Kelly
International Centre Suite 1600
900 Second Avenue South
Minneapolis, MN 55402-3319

Mail Date: 04/21/2010

Applicant	: Jacques Montes	: DECISION ON REQUEST FOR
Patent Number	: 7653382	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/472,333	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1183** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GARY A SMITH
FORD GLOBAL TECHNOLOGIES
ONE PARKLANE BOULEVARD
600 PARKLANE TOWERS EAST
DEARBORN, MI 48126

COPY MAILED

FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Hill, Christopher Stephen	:	
Application No. 10/472,336	:	ON PETITION
Filed: September 22, 2003	:	
Attorney Docket No. 200-1701	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 9, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment under 37 CFR 1.111; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3600 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

Pet. Dec.

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

dss

Mailed: JUL 14 2005

Paper Number

In re application of
Ryu Sato
Serial No.10/472,376
Filed: September 23, 2003
For: POLYCAPTOPOLYPHENYL AND PROCESS FOR PREPARATION THEREOF

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION UNDER 37 CFR 711.03(c) II, originally filed May 06, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed May 16, 2005, be withdrawn since the applicant did not receive the Office Action mailed September 10, 2004.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the Office Action , mailed September 10, 2004. The evidence provided includes a statement by the petitioner that the Office Action, mailed September 10, 2004 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 was not received. Also provided is a copy of the attorney's application docket records where the Office Action would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Office Action originally mailed September 10, 2004 and restarting of the period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Roger C. Hahn
Sherman and Shalloway
415 N. Alfred Street
Alexandria VA 22314

13 JAN 2004

#3

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

Pavan K. Agarwal
Foley & Lardner
Washington Harbour
3000 K Street, N.W. Suite 500
Washington, D.C. 20007-5143

In re Application of	:	
YOSHIZAWA et al.	:	
Application No.: 10/472,392	:	NOTIFICATION
Filing Date: 22 September 2003	:	
Attorney Docket No.: 024536-0132	:	
For: AIR-FUEL RATIO CONTROL APPARATUS OF INTERNAL COMBUSTION ENGINE AND METHOD THEREOF	:	

The above-identified application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 19 March 2002, applicants filed international application no. PCT/JP02/02617 which claimed a priority date of 19 March 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, 22 September 2003. (The United States Patent and Trademark was closed on 19 September 2003.)

On 22 September 2001, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application; and an executed declaration.

On 17 November 2003, applicants filed an unsigned facsimile communication which included a copy of "Petition under 37 CFR 1.182 and Accompanying Request for Continuation of Application" which was dated 29 October 2003.

DISCUSSION

International application PCT/JP02/02617 became abandoned as to the United States of America at midnight on 19 September 2003 for failure to pay the basic national fee 30 months from the priority date.

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a), page 1800-148 of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

On 22 September 2003, applicant submitted a specification which stated "this application is a continuing application, filed under 35 U.S.C. 111(a), of international application PCT/JP02/02617, filed March 19, 2002." The reference in the specification to "35 U.S.C. 111" is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, the original papers deposited on 22 September 2003 will be treated as a filing under 35 U.S.C. 111(a).

CONCLUSION

The petition to convert the application from a national stage application under 35 U.S.C. 371 to a 35 U.S.C. 111 filing is **GRANTED**.

The application will be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a).

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

30 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
MCHALE et al.	:	
Application No.: 10/472,399	:	DECISION
PCT No.: PCT/IE02/00037	:	
Int. Filing Date: 22 March 2002	:	
Priority Date: 22 March 2001	:	
Attorney's Docket No.: Q77616	:	
For: A COMBINED BALER/BALE WRAPPER	:	

This decision is in response to applicants' "PETITION FOR NEW OFFICE ACTION AND WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER MPEP SECTION 711.03(c)(I)" filed in the United States Patent and Trademark Office (USPTO) on 04 January 2005.

BACKGROUND

On 22 March 2002, applicant filed international application PCT/IE02/00037, which designated the United States and claimed a priority date of 22 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office 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 22 September 2003.

On 22 September 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 and an assertion of small entity status.

On 05 February 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 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 20 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 timely respond to the Notification mailed 05 February 2004.

On 04 January 2005, applicant submitted the instant "PETITION FOR NEW OFFICE ACTION AND WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER MPEP SECTION 711.03(c)(I)."

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).

Items (1) and (2) have been met.

As to item (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." Such a docket record has been provided. Thus, item (3) has been met as well. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 20 October 2004 is hereby VACATED.

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 re-mailing of the NOTIFICATION OF MISSING REQUIREMENTS requiring 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.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs

Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (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

MOSER, PATTERSON & SHERIDAN L.L.P.
595 SHREWSBURY AVE, STE 100
FIRST FLOOR
SHREWSBURY NJ 07702

COPY MAILED

JUL 26 2005

OFFICE OF PETITIONS

Applicant: Klingberg
Appl. No.: 10/472,403
International Filing Date: August 22, 2001
Title: METHOD AND ARRANGEMENT IN A COMPUTER TRAINING SYSTEM
Pub. No.: US 2004/0081944 A1
Pub. Date: April 29, 2004

This is a decision on the request for corrected patent applications publication under 37 CFR 1.221 (b), filed on October 4, 2004, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication includes the abstract, specification and claims of another application.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable."

The request for corrected publication received on October 4, 2004, was not timely filed under 37 CFR 1.221 (b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
For Patent Examination Policy